Rep. Marcus C. Evans, Jr.

Filed: 5/21/2026

AMENDMENT TO SENATE BILL 3393

AMENDMENT NO. ______. Amend Senate Bill 3393 by replacing everything after the enacting clause with the following:

"Section 5. The Freedom of Information Act is amended by changing Section 7.5 as follows:

(5 ILCS 140/7.5)

(Text of Section before amendment by P.A. 104-441 and 104-457)

Sec. 7.5. Statutory exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

(a) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(b) Library circulation and order records identifying library users with specific materials under the Library

Records Confidentiality Act.

(c) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(d) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmitted infection or any information the disclosure of which is restricted under the Illinois Sexually Transmitted Infection Control Act.

(e) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(f) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(g) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(h) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

(i) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(j) Information and data concerning the distribution of surcharge moneys collected and remitted by carriers under the Emergency Telephone System Act.

(k) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(l) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(m) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(n) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act (repealed). This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(o) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(p) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Department of Transportation under Sections 2705-300 and 2705-616 of the Department of Transportation Law of the Civil Administrative Code of Illinois, the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act, or the St. Clair County Transit District under the Bi-State Transit Safety Act (repealed).

(q) Information prohibited from being disclosed by the Personnel Record Review Act.

(r) Information prohibited from being disclosed by the Illinois School Student Records Act.

(s) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(t) (Blank).

(u) Records and information provided to an independent team of experts under the Developmental Disability and Mental Health Safety Act (also known as Brian's Law).

(v) Names and information of people who have applied for or received Firearm Owner's Identification Cards under the Firearm Owners Identification Card Act or applied for or received a concealed carry license under the Firearm Concealed Carry Act, unless otherwise authorized by the Firearm Concealed Carry Act; and databases under the Firearm Concealed Carry Act, records of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act, and law enforcement agency objections under the Firearm Concealed Carry Act.

(v-5) Records of the Firearm Owner's Identification Card Review Board that are exempted from disclosure under Section 10 of the Firearm Owners Identification Card Act.

(w) Personally identifiable information which is exempted from disclosure under subsection (g) of Section 19.1 of the Toll Highway Act.

(x) Information which is exempted from disclosure under Section 5-1014.3 of the Counties Code or Section 8-11-21 of the Illinois Municipal Code.

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(aa) Information which is exempted from disclosure under Section 2.37 of the Wildlife Code.

(bb) Information which is or was prohibited from disclosure by the Juvenile Court Act of 1987.

(cc) Recordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act.

(dd) Information that is prohibited from being disclosed under Section 45 of the Condominium and Common Interest Community Ombudsperson Act.

(ee) Information that is exempted from disclosure under Section 30.1 of the Pharmacy Practice Act.

(ff) Information that is exempted from disclosure under the Revised Uniform Unclaimed Property Act.

(gg) Information that is prohibited from being disclosed under Section 7-603.5 of the Illinois Vehicle Code.

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(pp) Names and all identifying information relating to an employee of an emergency services provider or law enforcement agency under the First Responders Suicide Prevention Act.

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(rr) Information that is exempt from disclosure under the Cannabis Regulation and Tax Act.

(ss) Data reported by an employer to the Department of Human Rights pursuant to Section 2-108 of the Illinois Human Rights Act.

(tt) Recordings made under the Children's Advocacy Center Act, except to the extent authorized under that Act.

(uu) Information that is exempt from disclosure under Section 50 of the Sexual Assault Evidence Submission Act.

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(fff) Images from cameras under the Expressway Camera Act and all automated license plate reader (ALPR) information used and collected by the Illinois State Police. "ALPR information" means information gathered by an ALPR or created from the analysis of data generated by an ALPR. This subsection (fff) is inoperative on and after July 1, 2028.

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(ttt) Audio recordings made under Section 30 of the

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(uuu) Information prohibited from being disclosed under Section 30-5 of the Digital Assets Regulation Act.

(www) Information prohibited from being disclosed under Section 1505-230 of the Department of Labor Law of the Civil Administrative Code of Illinois.

(Source: P.A. 103-8, eff. 6-7-23; 103-34, eff. 6-9-23; 103-142, eff. 1-1-24; 103-372, eff. 1-1-24; 103-472, eff. 8-1-24; 103-508, eff. 8-4-23; 103-580, eff. 12-8-23; 103-592, eff. 6-7-24; 103-605, eff. 7-1-24; 103-636, eff. 7-1-24; 103-724, eff. 1-1-25; 103-786, eff. 8-7-24; 103-859, eff. 8-9-24; 103-991, eff. 8-9-24; 103-1049, eff. 8-9-24; 103-1081, eff. 3-21-25; 104-10, eff. 6-16-25; 104-18, eff. 6-30-25; 104-417, eff. 8-15-25; 104-428, eff. 8-18-25; revised 9-10-25.)

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(uuu) Information prohibited from being disclosed under Section 30-5 of the Digital Assets Regulation Act.

(vvv) ~~(uuu)~~ Information exempt from disclosure under Section 70 of the End-of-Life Options for Terminally Ill Patients Act.

(www) Information prohibited from being disclosed under Section 1505-230 of the Department of Labor Law of the Civil Administrative Code of Illinois.

(Source: P.A. 103-8, eff. 6-7-23; 103-34, eff. 6-9-23; 103-142, eff. 1-1-24; 103-372, eff. 1-1-24; 103-472, eff. 8-1-24; 103-508, eff. 8-4-23; 103-580, eff. 12-8-23; 103-592, eff. 6-7-24; 103-605, eff. 7-1-24; 103-636, eff. 7-1-24; 103-724, eff. 1-1-25; 103-786, eff. 8-7-24; 103-859, eff. 8-9-24; 103-991, eff. 8-9-24; 103-1049, eff. 8-9-24; 103-1081, eff. 3-21-25; 104-10, eff. 6-16-25; 104-18, eff. 6-30-25; 104-417, eff. 8-15-25; 104-428, eff. 8-18-25; 104-441, eff. 9-12-26; 104-457, eff. 6-1-26; revised 1-7-26.)

Section 10. The Illinois Public Labor Relations Act is amended by changing Sections 14 and 17 as follows:

(5 ILCS 315/14) (from Ch. 48, par. 1614)

Sec. 14. Security employee, peace officer and fire fighter disputes.

(a) In the case of collective bargaining agreements involving units of security employees of a public employer, Peace Officer Units, or units of fire fighters or paramedics, and in the case of disputes under Section 18, unless the parties mutually agree to some other time limit, mediation shall commence 30 days prior to the expiration date of such agreement or at such later time as the mediation services chosen under subsection (b) of Section 12 can be provided to the parties. In the case of negotiations for an initial collective bargaining agreement, mediation shall commence upon 15 days notice from either party or at such later time as the mediation services chosen pursuant to subsection (b) of Section 12 can be provided to the parties. In mediation under this Section, if either party requests the use of mediation services from the Federal Mediation and Conciliation Service or, if the Federal Mediation and Conciliation Service is unable to provide mediation services, from the Illinois Department of Labor, the other party shall either join in such request or bear the additional cost of mediation services from another source. The mediator shall have a duty to keep the Board informed on the progress of the mediation. If any dispute has not been resolved within 15 days after the first meeting of the parties and the mediator, or within such other time limit as may be mutually agreed upon by the parties, either the exclusive representative or employer may request of the other, in writing, arbitration, and shall submit a copy of the request to the Board.

(b) Within 10 days after such a request for arbitration has been made, the employer shall choose a delegate and the employees' exclusive representative shall choose a delegate to a panel of arbitration as provided in this Section. The employer and employees shall forthwith advise the other and the Board of their selections.

(c) Within 7 days after the request of either party, the parties shall request a panel of impartial arbitrators from which they shall select the neutral chairman according to the procedures provided in this Section. If the parties have agreed to a contract that contains a grievance resolution procedure as provided in Section 8, the chairman shall be selected using their agreed contract procedure unless they mutually agree to another procedure. If the parties fail to notify the Board of their selection of neutral chairman within 7 days after receipt of the list of impartial arbitrators, the Board shall appoint, at random, a neutral chairman from the list. In the absence of an agreed contract procedure for selecting an impartial arbitrator, either party may request a panel from the Board. Within 7 days of the request of either party, the Board shall select from the Public Employees Labor Mediation Roster 7 persons who are on the labor arbitration panels of either the American Arbitration Association or the Federal Mediation and Conciliation Service, or who are members of the National Academy of Arbitrators, as nominees for impartial arbitrator of the arbitration panel. The parties may select an individual on the list provided by the Board or any other individual mutually agreed upon by the parties. Within 7 days following the receipt of the list, the parties shall notify the Board of the person they have selected. Unless the parties agree on an alternate selection procedure, they shall alternatively strike one name from the list provided by the Board until only one name remains. A coin toss shall determine which party shall strike the first name. If the parties fail to notify the Board in a timely manner of their selection for neutral chairman, the Board shall appoint a neutral chairman from the Illinois Public Employees Mediation/Arbitration Roster.

(d) The chairman shall call a hearing to begin within 15 days and give reasonable notice of the time and place of the hearing. The hearing shall be held at the offices of the Board or at such other location as the Board deems appropriate. The chairman shall preside over the hearing and shall take testimony. Any oral or documentary evidence and other data deemed relevant by the arbitration panel may be received in evidence. The proceedings shall be informal. Technical rules of evidence shall not apply and the competency of the evidence shall not thereby be deemed impaired. A verbatim record of the proceedings shall be made and the arbitrator shall arrange for the necessary recording service. Transcripts may be ordered at the expense of the party ordering them, but the transcripts shall not be necessary for a decision by the arbitration panel. The expense of the proceedings, including a fee for the chairman, shall be borne equally by each of the parties to the dispute. The delegates, if public officers or employees, shall continue on the payroll of the public employer without loss of pay. The hearing conducted by the arbitration panel may be adjourned from time to time, but unless otherwise agreed by the parties, shall be concluded within 30 days of the time of its commencement. Majority actions and rulings shall constitute the actions and rulings of the arbitration panel. Arbitration proceedings under this Section shall not be interrupted or terminated by reason of any unfair labor practice charge filed by either party at any time.

(e) The arbitration panel may administer oaths, require the attendance of witnesses, and the production of such books, papers, contracts, agreements and documents as may be deemed by it material to a just determination of the issues in dispute, and for such purpose may issue subpoenas. If any person refuses to obey a subpoena, or refuses to be sworn or to testify, or if any witness, party or attorney is guilty of any contempt while in attendance at any hearing, the arbitration panel may, or the attorney general if requested shall, invoke the aid of any circuit court within the jurisdiction in which the hearing is being held, which court shall issue an appropriate order. Any failure to obey the order may be punished by the court as contempt.

(f) At any time before the rendering of an award, the chairman of the arbitration panel, if he is of the opinion that it would be useful or beneficial to do so, may remand the dispute to the parties for further collective bargaining for a period not to exceed 2 weeks. If the dispute is remanded for further collective bargaining the time provisions of this Act shall be extended for a time period equal to that of the remand. The chairman of the panel of arbitration shall notify the Board of the remand.

(g) At or before the conclusion of the hearing held pursuant to subsection (d), the arbitration panel shall identify the economic issues in dispute, and direct each of the parties to submit, within such time limit as the panel shall prescribe, to the arbitration panel and to each other its last offer of settlement on each economic issue. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive. The arbitration panel, within 30 days after the conclusion of the hearing, or such further additional periods to which the parties may agree, shall make written findings of fact and promulgate a written opinion and shall mail or otherwise deliver a true copy thereof to the parties and their representatives and to the Board. As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).

(h) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

(1) The lawful authority of the employer.

(2) Stipulations of the parties.

(3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.

(4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:

(A) In public employment in comparable communities.

(B) In private employment in comparable communities.

(5) The average consumer prices for goods and services, commonly known as the cost of living.

(6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.

(7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

(i) In the case of peace officers, the arbitration decision shall be limited to wages, hours, and conditions of employment (which may include residency requirements in municipalities with a population under 100,000, but those residency requirements shall not allow residency outside of Illinois) and shall not include the following: i) residency requirements in municipalities with a population of at least 100,000; ii) the type of equipment, other than uniforms, issued or used; iii) manning; iv) the total number of employees employed by the department; v) mutual aid and assistance agreements to other units of government; and vi) the criterion pursuant to which force, including deadly force, can be used; provided, nothing herein shall preclude an arbitration decision regarding equipment or manning levels if such decision is based on a finding that the equipment or manning considerations in a specific work assignment involve a serious risk to the safety of a peace officer beyond that which is inherent in the normal performance of police duties. Limitation of the terms of the arbitration decision pursuant to this subsection shall not be construed to limit the factors upon which the decision may be based, as set forth in subsection (h).

In the case of fire fighter, and fire department or fire district paramedic matters, the arbitration decision shall be limited to wages, hours, and conditions of employment (including manning and also including residency requirements in municipalities with a population under 1,000,000, but those residency requirements shall not allow residency outside of Illinois) and shall not include the following matters: i) residency requirements in municipalities with a population of at least 1,000,000; ii) the type of equipment (other than uniforms and fire fighter turnout gear) issued or used; iii) the total number of employees employed by the department; iv) mutual aid and assistance agreements to other units of government; and v) the criterion pursuant to which force, including deadly force, can be used; provided, however, nothing herein shall preclude an arbitration decision regarding equipment levels if such decision is based on a finding that the equipment considerations in a specific work assignment involve a serious risk to the safety of a fire fighter beyond that which is inherent in the normal performance of fire fighter duties. Limitation of the terms of the arbitration decision pursuant to this subsection shall not be construed to limit the facts upon which the decision may be based, as set forth in subsection (h).

The changes to this subsection (i) made by Public Act 90-385 (relating to residency requirements) do not apply to persons who are employed by a combined department that performs both police and firefighting services; these persons shall be governed by the provisions of this subsection (i) relating to peace officers, as they existed before the amendment by Public Act 90-385.

To preserve historical bargaining rights, this subsection shall not apply to any provision of a fire fighter collective bargaining agreement in effect and applicable on the effective date of this Act; provided, however, nothing herein shall preclude arbitration with respect to any such provision.

(j) Arbitration procedures shall be deemed to be initiated by the filing of a letter requesting mediation as required under subsection (a) of this Section. The commencement of a new municipal fiscal year after the initiation of arbitration procedures under this Act, but before the arbitration decision, or its enforcement, shall not be deemed to render a dispute moot, or to otherwise impair the jurisdiction or authority of the arbitration panel or its decision. Increases in rates of compensation awarded by the arbitration panel may be effective only at the start of the fiscal year next commencing after the date of the arbitration award. If a new fiscal year has commenced either since the initiation of arbitration procedures under this Act or since any mutually agreed extension of the statutorily required period of mediation under this Act by the parties to the labor dispute causing a delay in the initiation of arbitration, the foregoing limitations shall be inapplicable, and such awarded increases may be retroactive to the commencement of the fiscal year, any other statute or charter provisions to the contrary, notwithstanding. At any time the parties, by stipulation, may amend or modify an award of arbitration.

(k) Orders of the arbitration panel shall be reviewable, upon appropriate petition by either the public employer or the exclusive bargaining representative, by the circuit court for the county in which the dispute arose or in which a majority of the affected employees reside, but only for reasons that the arbitration panel was without or exceeded its statutory authority; the order is arbitrary, or capricious; or the order was procured by fraud, collusion or other similar and unlawful means. Such petitions for review must be filed with the appropriate circuit court within 90 days following the issuance of the arbitration order. The pendency of such proceeding for review shall not automatically stay the order of the arbitration panel. The party against whom the final decision of any such court shall be adverse, if such court finds such appeal or petition to be frivolous, shall pay reasonable attorneys' fees and costs to the successful party as determined by said court in its discretion. If said court's decision affirms the award of money, such award, if retroactive, shall bear interest at the rate of 12 percent per annum from the effective retroactive date.

(l) During the pendency of proceedings before the arbitration panel, existing wages, hours, and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his rights or position under this Act. The proceedings are deemed to be pending before the arbitration panel upon the initiation of arbitration procedures under this Act.

(m) Security officers of public employers, and Peace Officers, Fire Fighters and fire department and fire protection district paramedics, covered by this Section may not withhold services, nor may public employers lock out or prevent such employees from performing services at any time.

(n) All of the terms decided upon by the arbitration panel shall be included in an agreement to be submitted to the public employer's governing body for ratification and adoption by law, ordinance or the equivalent appropriate means.

The governing body shall review each term decided by the arbitration panel. If the governing body fails to reject one or more terms of the arbitration panel's decision by a 3/5 vote of those duly elected and qualified members of the governing body, within 20 days of issuance, or in the case of firefighters employed by a state university, at the next regularly scheduled meeting of the governing body after issuance, such term or terms shall become a part of the collective bargaining agreement of the parties. If the governing body affirmatively rejects one or more terms of the arbitration panel's decision, it must provide reasons for such rejection with respect to each term so rejected, within 20 days of such rejection and the parties shall return to the arbitration panel for further proceedings and issuance of a supplemental decision with respect to the rejected terms. Any supplemental decision by an arbitration panel or other decision maker agreed to by the parties shall be submitted to the governing body for ratification and adoption in accordance with the procedures and voting requirements set forth in this Section. The voting requirements of this subsection shall apply to all disputes submitted to arbitration pursuant to this Section notwithstanding any contrary voting requirements contained in any existing collective bargaining agreement between the parties.

(o) If the governing body of the employer votes to reject the panel's decision, the parties shall return to the panel within 30 days from the issuance of the reasons for rejection for further proceedings and issuance of a supplemental decision. All reasonable costs of such supplemental proceeding including the exclusive representative's reasonable attorney's fees, as established by the Board, shall be paid by the employer.

(p) Notwithstanding the provisions of this Section the employer and exclusive representative may agree to submit unresolved disputes concerning wages, hours, terms and conditions of employment to an alternative form of impasse resolution.

The amendatory changes to this Section made by Public Act 101-652 take effect July 1, 2022.

(Source: P.A. 101-652, eff. 7-1-21; 102-28, eff. 6-25-21.)

(5 ILCS 315/17) (from Ch. 48, par. 1617)

Sec. 17. Right to strike.

(a) Nothing in this Act shall make it unlawful or make it an unfair labor practice for public employees, other than security employees, as defined in Section 3(p), peace officers, fire fighters, and paramedics employed by fire departments and fire protection districts, to strike except as otherwise provided in this Act. Public employees who are permitted to strike may strike only if:

(1) the employees are represented by an exclusive

bargaining representative;

(2) the collective bargaining agreement between the public employer and the public employees, if any, has expired, or such collective bargaining agreement does not prohibit the strike;

(3) the public employer and the labor organization have not mutually agreed to submit the disputed issues to final and binding arbitration;

(4) the exclusive representative has requested a mediator pursuant to Section 12 for the purpose of mediation or conciliation of a dispute between the public employer and the exclusive representative and mediation has been used; and

(5) at least 5 days have elapsed after a notice of intent to strike has been given by the exclusive bargaining representative to the public employer.

In mediation under this Section, if either party requests the use of mediation services from the Federal Mediation and Conciliation Service or, if the Federal Mediation and Conciliation Service is unable to provide mediation services, from the Illinois Department of Labor, the other party shall either join in such request or bear the additional cost of mediation services from another source.

(b) An employee who participates in a strike, work stoppage or slowdown, in violation of this Act shall be subject to discipline by the employer. No employer may pay or

cause such employee to be paid any wages or other compensation for such periods of participation, except for wages or compensation earned before participation in such strike.
(Source: P.A. 86-412.)

Section 15. The Department of Labor Law of the Civil Administrative Code of Illinois is amended by adding Section 1505-230 as follows:

(20 ILCS 1505/1505-230 new)

Sec. 1505-230. Labor mediation services program.

(a) Subject to appropriation, no later than 120 days after the effective date of this amendatory Act of the 104th General Assembly, the Department shall establish a labor mediation services program to facilitate the settlement of disputes between employers and labor organizations. The program shall be operated independently of all divisions of the Department. A party to a controversy between an employer and a labor organization may invoke the services of the Department under the program, or the Department may proffer its services under the program, in circumstances involving grievances arising under a collective bargaining agreement or the negotiation of an initial or successor collective bargaining agreement between an employer and a labor organization concerning wages, hours, or conditions of employment.

(b) If the Federal Mediation and Conciliation Service is unable to provide mediation services and the services of the Department have been invoked by a party or have been proffered by the Department, then the Department shall assign a mediator appointed under subsection (d) to facilitate a settlement to the dispute. All information disclosed by a party to a mediator in the performance of mediation functions under the program shall not be divulged unless required by law.

(c) The Department may establish policies granting priority services under the program to: (i) bargaining units for which mediation is a statutory requirement, (ii) disputes involving initial or successor collective bargaining agreements, (iii) disputes involving the health and safety of the public, (iv) disputes that both parties certify may result in a lockout or strike, or (v) any other matters deemed to be of significance by the Department.

(d) The Department may appoint mediators who have demonstrated experience in labor and employment matters. Mediators may be appointed to a term of 2 years beginning on the effective date of the appointment or renewal. Mediators may be removed by the Director during the term only for good cause, including, but not limited to, incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance. The Director may elect to renew the term of a mediator upon the expiration of the term. The Department may provide for compensation for mediators appointed under this Section. The mediators appointed under this Section shall not be subject to the Personnel Code.

(e) All mediation communications, including, but not limited to, files, records, reports, documents, or other papers received or prepared by a mediator as part of the program, shall be classified as confidential and shall be exempt from disclosure under Section 7.5 of the Freedom of Information Act. The mediator shall not produce any confidential records of, or testify in regard to, any mediation conducted by the mediator in any civil or administrative proceeding.

(f) No later than December 31, 2027, the Department shall submit a report to the General Assembly summarizing initial aggregate data for the program, including the number of mediations performed and the outcome of those mediations. As part of the report, the Department shall consult with representatives of labor and employers to outline possible improvements to the program and provide recommendations for improvements as the Director deems appropriate.

Section 20. The Illinois Housing Development Act is amended by changing Section 7.28 as follows:

(20 ILCS 3805/7.28)

Sec. 7.28. Tax credit for donation to sponsors. The Authority may administer and adopt rules for an affordable housing tax donation credit program to provide tax credits for donations as set forth in this Section.

(a) In this Section:

"Administrative housing agency" means either the Authority or an agency of the City of Chicago.

"Affordable housing project" means either:

(1) a rental project in which at least 25% of the units have rents (including tenant-paid heat) that do not exceed, on a monthly basis, maximum gross rent figures, as published by the Authority, that are:

(i) based on data published annually by the U.S. Department of Housing and Urban Development;

(ii) based on the annual income of households earning 60% of the area median income;

(iii) computed using a 30% of gross monthly income standard; and

(iv) adjusted for unit size and at least 25% of the units are occupied by persons and families whose incomes do not exceed 60% of the median family income for the geographic area in which the residential unit is located; or

(2) a unit for sale to homebuyers whose gross household income is at or below (A) 60% of the area median income (for taxable years beginning prior to January 1, 2022) or (B) 120% of the area median income (for taxable years beginning on or after January 1, 2022) and who pay no more than 30% of their gross household income for mortgage

principal, interest, property taxes, and property insurance (PITI).

"Donation" means money, securities, or real or personal property that is donated to a not-for-profit sponsor that is used solely for costs associated with either (i) purchasing, constructing, or rehabilitating an affordable housing project in this State, (ii) an employer-assisted housing project in this State, (iii) general operating support, or (iv) technical assistance as defined by this Section.

"Employer-assisted housing project" means either down-payment assistance, reduced-interest mortgages, mortgage guarantee programs, rental subsidies, or individual development account savings plans that are provided by employers to employees to assist in securing affordable housing near the workplace, that are restricted to housing near the workplace, and that are restricted to employees whose gross household income is at or below 120% of the area median income.

"General operating support" means any cost incurred by a sponsor that is a part of its general program costs and is not limited to costs directly incurred by the affordable housing project.

"Geographical area" means the metropolitan area or county designated as an area by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, for purposes of determining fair market rental rates.

"Median income" means the incomes that are determined by the federal Department of Housing and Urban Development guidelines and adjusted for family size.

"Project" means an affordable housing project, an employer-assisted housing project, general operating support, or technical assistance.

"Sponsor" means a not-for-profit organization that (i) is organized as a not-for-profit organization under the laws of this State or another state and (1) for an affordable housing project, has as one of its purposes the development of affordable housing; (2) for an employer-assisted housing project, has as one of its purposes home ownership education; and (3) for a technical assistance project, has as one of its purposes either the development of affordable housing or home ownership education; (ii) is organized for the purpose of constructing or rehabilitating affordable housing units and has been issued a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under provisions of the Internal Revenue Code; or (iii) is an organization designated as a community development corporation by the United States government under Title VII of the Economic Opportunity Act of 1964.

"Tax credit" means a tax credit allowed under Section 214 of the Illinois Income Tax Act.

"Technical assistance" means any cost incurred by a sponsor for project planning, assistance with applying for financing, or counseling services provided to prospective homebuyers.

(b) A sponsor must apply to an administrative housing agency for approval of the project. The administrative housing agency must reserve a specific amount of tax credits for each approved project. Tax credits for general operating support can only be reserved as part of a reservation of tax credits for an affordable housing project, an employer-assisted housing project, or technical assistance. No tax credits shall be allowed for a project without a reservation of such tax credits by an administrative housing agency for that project.

(c) The Authority must adopt rules establishing criteria for eligible costs and donations, issuing and verifying tax credits, and selecting projects that are eligible for a tax credit. The Authority shall notify sponsors and donors that any project funded in part through the sale or transfer of the credit, when the sale or transfer occurs before construction begins and is made under subsection (c) of Section 214 of the Illinois Income Tax Act, qualifies as a public work under the Prevailing Wage Act.

(d) Tax credits for employer-assisted housing projects are limited to that pool of tax credits that have been set aside for employer-assisted housing. Tax credits for general operating support are limited to 10% of the total tax credit reservation for the related project (other than general operating support) and are also limited to that pool of tax credits that have been set aside for general operating support. Tax credits for technical assistance are limited to that pool of tax credits that have been set aside for technical assistance.

(e) The amount of tax credits reserved by the administrative housing agency for an approved project is limited to $32,850,352 in State fiscal years 2022 and 2023 and shall increase by 5% each fiscal year thereafter. The City of Chicago shall receive 24.5% of total tax credits authorized for each fiscal year. The Authority shall receive the balance of the tax credits authorized for each fiscal year. The tax credits may be used anywhere in this State. The tax credits have the following set-asides:

(1) for employer-assisted housing projects, $2 million; and

(2) for general operating support and technical assistance, $1 million.

The balance of the funds must be used for affordable housing projects. During the first 9 months of a fiscal year, if an administrative housing agency is unable to reserve the tax credits set aside for the purposes described in subsection (e), the administrative housing agency may reserve the tax credits for any approved projects.

(f) The administrative housing agency that reserves tax credits for an affordable housing project must record against the land upon which the affordable housing project is located an instrument to assure that the property maintains its affordable housing compliance for a minimum of 10 years. The Authority has flexibility to assure that the instrument does not cause undue hardship on homeowners.

(Source: P.A. 102-175, eff. 7-29-21.)

Section 25. The Illinois Power Agency Act is amended by changing Section 1-75 as follows:

(20 ILCS 3855/1-75)

(Text of Section before amendment by P.A. 104-458)

Sec. 1-75. Planning and Procurement Bureau. The Planning and Procurement Bureau has the following duties and responsibilities:

(a) The Planning and Procurement Bureau shall each year, beginning in 2008, develop procurement plans and conduct competitive procurement processes in accordance with the requirements of Section 16-111.5 of the Public Utilities Act for the eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois. Beginning with the delivery year commencing on June 1, 2017, the Planning and Procurement Bureau shall develop plans and processes for the procurement of zero emission credits from zero emission facilities in accordance with the requirements of subsection (d-5) of this Section. Beginning on the effective date of this amendatory Act of the 102nd General Assembly, the Planning and Procurement Bureau shall develop plans and processes for the procurement of carbon mitigation credits from carbon-free energy resources in accordance with the requirements of subsection (d-10) of this Section. The Planning and Procurement Bureau shall also develop procurement plans and conduct competitive procurement processes in accordance with the requirements of Section 16-111.5 of the Public Utilities Act for the eligible retail customers of small multi-jurisdictional electric utilities that (i) on December 31, 2005 served less than 100,000 customers in Illinois and (ii) request a procurement plan for their Illinois jurisdictional load. This Section shall not apply to a small multi-jurisdictional utility until such time as a small multi-jurisdictional utility requests the Agency to prepare a procurement plan for their Illinois jurisdictional load. For the purposes of this Section, the term "eligible retail customers" has the same definition as found in Section 16-111.5(a) of the Public Utilities Act.

Beginning with the plan or plans to be implemented in the 2017 delivery year, the Agency shall no longer include the procurement of renewable energy resources in the annual procurement plans required by this subsection (a), except as provided in subsection (q) of Section 16-111.5 of the Public

Utilities Act, and shall instead develop a long-term renewable resources procurement plan in accordance with subsection (c) of this Section and Section 16-111.5 of the Public Utilities Act.

In accordance with subsection (c-5) of this Section, the Planning and Procurement Bureau shall oversee the procurement by electric utilities that served more than 300,000 retail customers in this State as of January 1, 2019 of renewable energy credits from new utility-scale solar projects to be installed, along with energy storage facilities, at or adjacent to the sites of electric generating facilities that, as of January 1, 2016, burned coal as their primary fuel source.

(1) The Agency shall each year, beginning in 2008, as needed, issue a request for qualifications for experts or expert consulting firms to develop the procurement plans in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

(A) direct previous experience assembling large-scale power supply plans or portfolios for end-use customers;

(B) an advanced degree in economics, mathematics, engineering, risk management, or a related area of study;

(C) 10 years of experience in the electricity sector, including managing supply risk;

(D) expertise in wholesale electricity market rules, including those established by the Federal Energy Regulatory Commission and regional transmission organizations;

(E) expertise in credit protocols and familiarity with contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(2) The Agency shall each year, as needed, issue a request for qualifications for a procurement administrator to conduct the competitive procurement processes in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

(A) direct previous experience administering a large-scale competitive procurement process;

(B) an advanced degree in economics, mathematics, engineering, or a related area of study;

(C) 10 years of experience in the electricity sector, including risk management experience;

(D) expertise in wholesale electricity market rules, including those established by the Federal

Energy Regulatory Commission and regional transmission organizations;

(E) expertise in credit and contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(3) The Agency shall provide affected utilities and other interested parties with the lists of qualified experts or expert consulting firms identified through the request for qualifications processes that are under consideration to develop the procurement plans and to serve as the procurement administrator. The Agency shall also provide each qualified expert's or expert consulting firm's response to the request for qualifications. All information provided under this subparagraph shall also be provided to the Commission. The Agency may provide by rule for fees associated with supplying the information to utilities and other interested parties. These parties shall, within 5 business days, notify the Agency in writing if they object to any experts or expert consulting firms on the lists. Objections shall be based on:

(A) failure to satisfy qualification criteria;

(B) identification of a conflict of interest; or

(C) evidence of inappropriate bias for or against potential bidders or the affected utilities.

The Agency shall remove experts or expert consulting firms from the lists within 10 days if there is a reasonable basis for an objection and provide the updated lists to the affected utilities and other interested parties. If the Agency fails to remove an expert or expert consulting firm from a list, an objecting party may seek review by the Commission within 5 days thereafter by filing a petition, and the Commission shall render a ruling on the petition within 10 days. There is no right of appeal of the Commission's ruling.

(4) The Agency shall issue requests for proposals to the qualified experts or expert consulting firms to develop a procurement plan for the affected utilities and to serve as procurement administrator.

(5) The Agency shall select an expert or expert consulting firm to develop procurement plans based on the proposals submitted and shall award contracts of up to 5 years to those selected.

(6) The Agency shall select an expert or expert consulting firm, with approval of the Commission, to serve as procurement administrator based on the proposals submitted. If the Commission rejects, within 5 days, the Agency's selection, the Agency shall submit another recommendation within 3 days based on the proposals submitted. The Agency shall award a 5-year contract to the

expert or expert consulting firm so selected with Commission approval.

(b) The experts or expert consulting firms retained by the Agency shall, as appropriate, prepare procurement plans, and conduct a competitive procurement process as prescribed in Section 16-111.5 of the Public Utilities Act, to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in the State of Illinois, and for eligible Illinois retail customers of small multi-jurisdictional electric utilities that (i) on December 31, 2005 served less than 100,000 customers in Illinois and (ii) request a procurement plan for their Illinois jurisdictional load.

(c) Renewable portfolio standard.

(1)(A) The Agency shall develop a long-term renewable resources procurement plan that shall include procurement programs and competitive procurement events necessary to meet the goals set forth in this subsection (c). The initial long-term renewable resources procurement plan shall be released for comment no later than 160 days after June 1, 2017 (the effective date of Public Act 99-906). The Agency shall review, and may revise on an expedited basis, the long-term renewable resources procurement plan at least every 2 years, which shall be conducted in conjunction with the procurement plan under Section 16-111.5 of the Public Utilities Act to the extent practicable to minimize administrative expense. No later than 120 days after the effective date of this amendatory Act of the 103rd General Assembly, the Agency shall release for comment a revision to the long-term renewable resources procurement plan, updating elements of the most recently approved plan as needed to comply with this amendatory Act of the 103rd General Assembly, and any long-term renewable resources procurement plan update published by the Agency but not yet approved by the Illinois Commerce Commission shall be withdrawn. The long-term renewable resources procurement plans shall be subject to review and approval by the Commission under Section 16-111.5 of the Public Utilities Act.

(B) Subject to subparagraph (F) of this paragraph (1), the long-term renewable resources procurement plan shall attempt to meet the goals for procurement of renewable energy credits at levels of at least the following overall percentages: 13% by the 2017 delivery year; increasing by at least 1.5% each delivery year thereafter to at least 25% by the 2025 delivery year; increasing by at least 3% each delivery year thereafter to at least 40% by the 2030 delivery year, and continuing at no less than 40% for each delivery year thereafter. The Agency shall attempt to procure 50% by delivery year 2040. The Agency shall determine the annual increase between delivery year 2030 and delivery year 2040, if any, taking into account energy demand, other energy resources, and other public policy goals. In the event of a conflict between these goals and the new wind, new photovoltaic, and hydropower procurement requirements described in items (i) through (iii) of subparagraph (C) of this paragraph (1), the long-term plan shall prioritize compliance with the new wind, new photovoltaic, and hydropower procurement requirements described in items (i) through (iii) of subparagraph (C) of this paragraph (1) over the annual percentage targets described in this subparagraph (B). The Agency shall not comply with the annual percentage targets described in this subparagraph (B) by procuring renewable energy credits that are unlikely to lead to the development of new renewable resources or new, modernized, or retooled hydropower facilities.

For the delivery year beginning June 1, 2017, the procurement plan shall attempt to include, subject to the prioritization outlined in this subparagraph (B), cost-effective renewable energy resources equal to at least 13% of each utility's load for eligible retail customers and 13% of the applicable portion of each utility's load for retail customers who are not eligible retail customers, which applicable portion shall equal 50%

of the utility's load for retail customers who are not eligible retail customers on February 28, 2017.

For the delivery year beginning June 1, 2018, the procurement plan shall attempt to include, subject to the prioritization outlined in this subparagraph (B), cost-effective renewable energy resources equal to at least 14.5% of each utility's load for eligible retail customers and 14.5% of the applicable portion of each utility's load for retail customers who are not eligible retail customers, which applicable portion shall equal 75% of the utility's load for retail customers who are not eligible retail customers on February 28, 2017.

For the delivery year beginning June 1, 2019, and for each year thereafter, the procurement plans shall attempt to include, subject to the prioritization outlined in this subparagraph (B), cost-effective renewable energy resources equal to a minimum percentage of each utility's load for all retail customers as follows: 16% by June 1, 2019; increasing by 1.5% each year thereafter to 25% by June 1, 2025; and 25% by June 1, 2026; increasing by at least 3% each delivery year thereafter to at least 40% by the 2030 delivery year, and continuing at no less than 40% for each delivery year thereafter. The Agency shall attempt to procure 50% by delivery year 2040. The Agency shall determine the annual increase between delivery year 2030 and delivery year 2040, if any, taking into account energy demand, other energy resources, and other public policy goals.

For each delivery year, the Agency shall first recognize each utility's obligations for that delivery year under existing contracts. Any renewable energy credits under existing contracts, including renewable energy credits as part of renewable energy resources, shall be used to meet the goals set forth in this subsection (c) for the delivery year.

(C) The long-term renewable resources procurement plan described in subparagraph (A) of this paragraph (1) shall include the procurement of renewable energy credits from new projects pursuant to the following terms:

(i) At least 10,000,000 renewable energy credits delivered annually by the end of the 2021 delivery year, and increasing ratably to reach 45,000,000 renewable energy credits delivered annually from new wind and solar projects, from repowered wind projects, or from retooled hydropower facilities by the end of delivery year 2030 such that the goals in subparagraph (B) of this paragraph (1) are met entirely by procurements of renewable energy credits from new wind and photovoltaic projects. Of that amount, to the extent possible, the Agency shall endeavor to procure 45% from new and repowered wind and hydropower projects and shall procure at least 55% from photovoltaic projects. Of the amount to be procured from photovoltaic projects, the Agency shall procure: at least 50% from solar photovoltaic projects using the program outlined in subparagraph (K) of this paragraph (1) from distributed renewable energy generation devices or community renewable generation projects; at least 47% from utility-scale solar projects; at least 3% from brownfield site photovoltaic projects that are not community renewable generation projects. The Agency may propose adjustments to these percentages, including establishing percentage-based goals for the procurement of renewable energy credits from modernized or retooled hydropower facilities and repowered wind projects, through its long-term renewable resources plan described in subparagraph (A) of this paragraph (1) as necessary based on developer interest, market conditions, budget considerations, resource adequacy needs, or other factors.

In developing the long-term renewable resources procurement plan, the Agency shall consider other approaches, in addition to competitive procurements, that can be used to procure renewable energy credits from brownfield site photovoltaic projects and thereby help return blighted or contaminated land to productive use while enhancing public health and the well-being of Illinois residents, including those in environmental justice communities, as defined using existing methodologies and findings used by the Agency and its Administrator in its Illinois Solar for All Program. The Agency shall also consider other approaches, in addition to competitive procurements, to procure renewable energy credits from new and existing hydropower facilities to support the development and maintenance of these facilities. The Agency shall explore options to convert existing dams but shall not consider approaches to develop new dams where they do not already exist. To encourage the continued operation of utility-scale wind projects, the Agency shall consider and may propose other approaches in addition to competitive procurements to procure renewable energy credits from repowered wind projects.

(ii) In any given delivery year, if forecasted expenses are less than the maximum budget available under subparagraph (E) of this paragraph (1), the Agency shall continue to procure new renewable energy credits until that budget is exhausted in the manner outlined in item (i) of this subparagraph (C).

(iii) For purposes of this Section:

"New wind projects" means wind renewable energy facilities that are energized after June 1, 2017 for the delivery year commencing June 1, 2017.

"New photovoltaic projects" means photovoltaic renewable energy facilities that are energized after June 1, 2017. Photovoltaic projects developed under Section 1-56 of this Act shall not apply towards the new photovoltaic project requirements in this subparagraph (C).

"Repowered wind projects" means utility-scale wind projects featuring the removal, replacement, or expansion of turbines at an existing project site, as defined in the long-term renewable resources procurement plan, after the effective date of this amendatory Act of the 103rd General Assembly. Renewable energy credit contract awards used to support repowered wind projects shall only cover the incremental increase in facility electricity production resultant from repowering.

For purposes of calculating whether the Agency has procured enough new wind and solar renewable energy credits required by this subparagraph (C), renewable energy facilities that have a multi-year renewable energy credit delivery contract with the utility through at least delivery year 2030 shall be considered new, however no renewable energy credits from contracts entered into before June 1, 2021 shall be used to calculate whether the Agency has procured the correct proportion of new wind and new solar contracts described in this subparagraph (C) for delivery year 2021 and thereafter.

(D) Renewable energy credits shall be cost effective. For purposes of this subsection (c), "cost effective" means that the costs of procuring renewable energy resources do not cause the limit stated in subparagraph (E) of this paragraph (1) to be exceeded and, for renewable energy credits procured through a competitive procurement event, do not exceed benchmarks based on market prices for like products in the region. For purposes of this subsection (c), "like products" means contracts for renewable energy credits from the same or substantially similar technology, same or substantially similar vintage (new or existing), the same or substantially similar quantity, and the same or substantially similar contract length and structure. Benchmarks shall reflect development, financing, or related costs resulting from requirements imposed through other provisions of State law, including, but not limited to, requirements in subparagraphs (P) and (Q) of this paragraph (1) and the Renewable Energy Facilities Agricultural Impact Mitigation Act. Confidential benchmarks shall be developed by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval. If price benchmarks for like products in the region are not available, the procurement administrator shall establish price benchmarks based on publicly available data on regional technology costs and expected current and future regional energy prices. The benchmarks in this Section shall not be used to curtail or otherwise reduce contractual obligations entered into by or through the Agency prior to June 1, 2017 (the effective date of Public Act 99-906).

(E) For purposes of this subsection (c), the required procurement of cost-effective renewable energy resources for a particular year commencing prior to June 1, 2017 shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the delivery year ending immediately prior to the procurement, and, for delivery years commencing on and after June 1, 2017, the required procurement of cost-effective renewable energy resources for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) delivered by the electric utility in the delivery year ending immediately prior to the procurement, to all retail customers in its service territory. For purposes of this subsection (c), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (c), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, capacity, distribution, surcharges, and add-on taxes.

Notwithstanding the requirements of this subsection (c), and except as provided in subparagraph (E-5) of paragraph (1) of this subsection (c), the total of renewable energy resources procured under the procurement plan for any single year shall be subject to the limitations of this subparagraph (E). Such procurement shall be reduced for all retail customers based on the amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than 4.25% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009. To arrive at a maximum dollar amount of renewable energy resources to be procured for the particular delivery year, the resulting per kilowatthour amount shall be applied to the actual amount of kilowatthours of electricity delivered, or applicable portion of such amount as specified in paragraph (1) of this subsection (c), as applicable, by the electric utility in the delivery year immediately prior to the procurement to all retail customers in its service territory. The calculations required by this subparagraph (E) shall be made only once for each delivery year at the time that the renewable energy resources are procured. Once the determination as to the amount of renewable energy resources to procure is made based on the calculations set forth in this subparagraph (E) and the contracts procuring those amounts are executed between the seller and applicable electric utility, no subsequent rate impact determinations shall be made and no adjustments to those contract amounts shall be allowed. As provided in subparagraph (E-5) of paragraph (1) of this subsection (c), the seller shall be entitled to full, prompt, and uninterrupted payment under the applicable contract notwithstanding the application of this subparagraph (E), and all costs incurred under such contracts shall be fully recoverable by the electric utility as provided in this Section.

(E-5) If, for a particular delivery year, the limitation on the amount of renewable energy resources to be procured, as calculated pursuant to subparagraph (E) of paragraph (1) of this subsection (c), would result in an insufficient collection of funds to fully pay amounts due to a seller under existing contracts executed under this Section or executed under Section 1-56 of this Act, then the following provisions shall apply to ensure full and uninterrupted payment is made to such seller or sellers:

(i) If the electric utility has retained unspent funds in an interest-bearing account as prescribed in subsection (k) of Section 16-108 of the Public Utilities Act, then the utility shall use those funds to remit full payment to the sellers to ensure prompt and uninterrupted payment of existing contractual obligation.

(ii) If the funds described in item (i) of this subparagraph (E-5) are insufficient to satisfy all existing contractual obligations, then the electric utility shall, nonetheless, remit full payment to the sellers to ensure prompt and uninterrupted payment of existing contractual obligations, provided that the full costs shall be recoverable by the utility in accordance with part (ee) of item (iv) of this subsection (E-5).

(iii) The Agency shall promptly notify the Commission that existing contractual obligations are reasonably expected to exceed the maximum collection authorized under subparagraph (E) of paragraph (1) of this subsection (c) for the applicable delivery year. The Agency shall also explain and confirm how the operation of items (i) and (ii) of this subparagraph (E-5) ensures that the electric utility will continue to make prompt and uninterrupted payment under existing contractual obligations. The Agency shall provide this information to the Commission through a notice filed in the Commission docket approving the Agency's operative Long-Term Renewable Resources Procurement Plan that includes the applicable delivery year.

(iv) The Agency shall suspend or reduce new contract awards for the procurement of renewable energy credits until an Agency determination is made under subparagraph (E) that additional procurements would not cause the rate impact limitation of subparagraph (E) to be exceeded. At least once annually after the notice provided for in item (iii) of this subparagraph (E-5) is made, the Agency shall analyze existing contract obligations, projected prices for indexed renewable energy credit contracts executed under item (v) of subparagraph (G) of paragraph (1) of subsection (c) of Section 1-75 of this Act, and expected collections authorized under subparagraph (E) to determine whether and to what extent the limitations of subparagraph (E) would be exceeded by additional renewable energy credit procurement contract awards.

(aa) If the Agency determines that additional renewable energy credit procurement contract awards could be made without exceeding the limitations of subparagraph (E), then the procurements shall be authorized at a scale determined not to exceed the limitations of subparagraph (E) in a manner consistent with the priorities of this Section.

(bb) If the Agency determines that additional renewable energy credit procurement contract awards cannot be made without exceeding the limitations of subparagraph (E), then the Agency shall suspend any new contract awards for the procurement of renewable energy credits until a new rate impact determination is made under subparagraph (E).

(cc) Agency determinations made under this item (iv) shall be detailed and comprehensive and, if not made through the Agency's Long-Term Renewable Resources Procurement Plan, shall be filed as a compliance filing in the most recent docketed proceeding approving the Agency's Long-Term Renewable Resources Procurement Plan.

(dd) With respect to the procurement of renewable energy credits authorized through programs administered under subsection (b) of Section 1-56 and subparagraphs (K) through (M) of paragraph (1) of subsection (k) of Section 1-75 of this Act, the award of contracts for the procurement of renewable energy credits shall be suspended or reduced only at the conclusion of the program year in which the notice provided for under item (iii) of this subparagraph (E-5) is made.

(ee) The contract shall provide that, so long as at least one of: (i) the cost recovery mechanisms referenced in subsection (k) of Section 16-108 and subsection (l) of Section 16-111.5 of the Public Utilities Act remains in full force without limitation or (ii) the utility is otherwise authorized and or entitled to full, prompt, and uninterrupted recovery of its costs through any other mechanism, then such seller shall be entitled to full, prompt, and uninterrupted payment under the applicable contract notwithstanding the application of this subparagraph (E).

(F) If the limitation on the amount of renewable energy resources procured in subparagraph (E) of this paragraph (1) prevents the Agency from meeting all of the goals in this subsection (c), the Agency's long-term plan shall prioritize compliance with the requirements of this subsection (c) regarding renewable energy credits in the following order:

(i) renewable energy credits under existing contractual obligations as of June 1, 2021;

(i-5) funding for the Illinois Solar for All Program, as described in subparagraph (O) of this paragraph (1);

(ii) renewable energy credits necessary to comply with the new wind and new photovoltaic procurement requirements described in items (i) through (iii) of subparagraph (C) of this paragraph (1); and

(iii) renewable energy credits necessary to meet the remaining requirements of this subsection (c).

(G) The following provisions shall apply to the Agency's procurement of renewable energy credits under this subsection (c):

(i) Notwithstanding whether a long-term renewable resources procurement plan has been approved, the Agency shall conduct an initial forward procurement for renewable energy credits from new utility-scale wind projects within 160 days after June 1, 2017 (the effective date of Public Act 99-906). For the purposes of this initial forward procurement, the Agency shall solicit 15-year contracts for delivery of 1,000,000 renewable energy credits delivered annually from new utility-scale wind projects to begin delivery on June 1, 2019, if available, but not later than June 1, 2021, unless the project has delays in the establishment of an operating interconnection with the applicable transmission or distribution system as a result of the actions or inactions of the transmission or distribution provider, or other causes for force majeure as outlined in the procurement contract, in which case, not later than June 1, 2022. Payments to suppliers of renewable energy credits shall commence upon delivery. Renewable energy credits procured under this initial procurement shall be included in the Agency's long-term plan and shall apply to all renewable energy goals in this subsection (c).

(ii) Notwithstanding whether a long-term renewable resources procurement plan has been approved, the Agency shall conduct an initial forward procurement for renewable energy credits from new utility-scale solar projects and brownfield site photovoltaic projects within one year after June 1, 2017 (the effective date of Public Act 99-906). For the purposes of this initial forward procurement, the Agency shall solicit 15-year contracts for delivery of 1,000,000 renewable energy credits delivered annually from new utility-scale solar projects and brownfield site photovoltaic projects to begin delivery on June 1, 2019, if available, but not later than June 1, 2021, unless the project has delays in the establishment of an operating interconnection with the applicable transmission or distribution system as a result of the actions or inactions of the transmission or distribution provider, or other causes for force majeure as outlined in the procurement contract, in which case, not later than June 1, 2022. The Agency may structure this initial procurement in one or more discrete procurement events. Payments to suppliers of renewable energy credits shall commence upon delivery. Renewable energy credits procured under this initial procurement shall be included in the Agency's long-term plan and shall apply to all renewable energy goals in this subsection (c).

(iii) Notwithstanding whether the Commission has approved the periodic long-term renewable resources procurement plan revision described in Section 16-111.5 of the Public Utilities Act, the Agency shall conduct at least one subsequent forward procurement for renewable energy credits from new utility-scale wind projects, new utility-scale solar projects, and new brownfield site photovoltaic projects within 240 days after the effective date of this amendatory Act of the 102nd General Assembly in quantities necessary to meet the requirements of subparagraph (C) of this paragraph (1) through the delivery year beginning June 1, 2021.

(iv) Notwithstanding whether the Commission has approved the periodic long-term renewable resources procurement plan revision described in Section

16-111.5 of the Public Utilities Act, the Agency shall open capacity for each category in the Adjustable Block program within 90 days after the effective date of this amendatory Act of the 102nd General Assembly manner:

(1) The Agency shall open the first block of annual capacity for the category described in item (i) of subparagraph (K) of this paragraph (1). The first block of annual capacity for item (i) shall be for at least 75 megawatts of total nameplate capacity. The price of the renewable energy credit for this block of capacity shall be 4% less than the price of the last open block in this category. Projects on a waitlist shall be awarded contracts first in the order in which they appear on the waitlist. Notwithstanding anything to the contrary, for those renewable energy credits that qualify and are procured under this subitem (1) of this item (iv), the renewable energy credit delivery contract value shall be paid in full, based on the estimated generation during the first 15 years of operation, by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized and in compliance by the

Program Administrator. The electric utility shall receive and retire all renewable energy credits generated by the project for the first 15 years of operation. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility.

(2) The Agency shall open the first block of annual capacity for the category described in item (ii) of subparagraph (K) of this paragraph (1). The first block of annual capacity for item (ii) shall be for at least 75 megawatts of total nameplate capacity.

(A) The price of the renewable energy credit for any project on a waitlist for this category before the opening of this block shall be 4% less than the price of the last open block in this category. Projects on the waitlist shall be awarded contracts first in the order in which they appear on the waitlist. Any projects that are less than or equal to 25 kilowatts in size on the waitlist for this capacity shall be moved to the waitlist for paragraph (1) of this item (iv). Notwithstanding anything to the contrary, projects that were on the waitlist prior to opening of this block shall not be required to be in compliance with the requirements of subparagraph (Q) of this paragraph (1) of this subsection (c). Notwithstanding anything to the contrary, for those renewable energy credits procured from projects that were on the waitlist for this category before the opening of this block 20% of the renewable energy credit delivery contract value, based on the estimated generation during the first 15 years of operation, shall be paid by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized by the Program Administrator. The remaining portion shall be paid ratably over the subsequent 4-year period. The electric utility shall receive and retire all renewable energy credits generated by the project during the first 15 years of operation. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility.

(B) The price of renewable energy credits for any project not on the waitlist for this category before the opening of the block shall be determined and published by the Agency. Projects not on a waitlist as of the opening of this block shall be subject to the requirements of subparagraph (Q) of this paragraph (1), as applicable. Projects not on a waitlist as of the opening of this block shall be subject to the contract provisions outlined in item (iii) of subparagraph (L) of this paragraph (1). The Agency shall strive to publish updated prices and an updated renewable energy credit delivery contract as quickly as possible.

(3) For opening the first 2 blocks of annual capacity for projects participating in item (iii) of subparagraph (K) of paragraph (1) of subsection (c), projects shall be selected exclusively from those projects on the ordinal waitlists of community renewable generation projects established by the Agency based on the status of those ordinal waitlists as of December 31, 2020, and only those projects previously determined to be eligible for the Agency's April 2019 community solar project selection process.

The first 2 blocks of annual capacity for item

(iii) shall be for 250 megawatts of total nameplate capacity, with both blocks opening simultaneously under the schedule outlined in the paragraphs below. Projects shall be selected as follows:

(A) The geographic balance of selected projects shall follow the Group classification found in the Agency's Revised Long-Term Renewable Resources Procurement Plan, with 70% of capacity allocated to projects on the Group B waitlist and 30% of capacity allocated to projects on the Group A waitlist.

(B) Contract awards for waitlisted projects shall be allocated proportionate to the total nameplate capacity amount across both ordinal waitlists associated with that applicant firm or its affiliates, subject to the following conditions.

(i) Each applicant firm having a waitlisted project eligible for selection shall receive no less than 500 kilowatts in awarded capacity across all groups, and no approved vendor may receive more than 20% of each Group's waitlist allocation.

(ii) Each applicant firm, upon receiving an award of program capacity proportionate to its waitlisted capacity, may then determine which waitlisted projects it chooses to be selected for a contract award up to that capacity amount.

(iii) Assuming all other program requirements are met, applicant firms may adjust the nameplate capacity of applicant projects without losing waitlist eligibility, so long as no project is greater than 2,000 kilowatts in size.

(iv) Assuming all other program requirements are met, applicant firms may adjust the expected production associated with applicant projects, subject to verification by the Program Administrator.

(C) After a review of affiliate information and the current ordinal waitlists, the Agency shall announce the nameplate capacity award amounts associated with applicant firms no later than 90 days after the effective date of this amendatory Act of the 102nd General Assembly.

(D) Applicant firms shall submit their portfolio of projects used to satisfy those contract awards no less than 90 days after the Agency's announcement. The total nameplate capacity of all projects used to satisfy that portfolio shall be no greater than the Agency's nameplate capacity award amount associated with that applicant firm. An applicant firm may decline, in whole or in part, its nameplate capacity award without penalty, with such unmet capacity rolled over to the next block opening for project selection under item (iii) of subparagraph (K) of this subsection (c). Any projects not included in an applicant firm's portfolio may reapply without prejudice upon the next block reopening for project selection under item (iii) of subparagraph (K) of this subsection (c).

(E) The renewable energy credit delivery contract shall be subject to the contract and payment terms outlined in item (iv) of subparagraph (L) of this subsection (c). Contract instruments used for this subparagraph shall contain the following terms:

(i) Renewable energy credit prices shall be fixed, without further adjustment under any other provision of this Act or for any other reason, at 10% lower than prices applicable to the last open block for this category, inclusive of any adders available for achieving a minimum of 50% of subscribers to the project's nameplate capacity being residential or small commercial customers with subscriptions of below 25 kilowatts in size;

(ii) A requirement that a minimum of 50% of subscribers to the project's nameplate capacity be residential or small commercial customers with subscriptions of below 25 kilowatts in size;

(iii) Permission for the ability of a contract holder to substitute projects with other waitlisted projects without penalty should a project receive a non-binding estimate of costs to construct the interconnection facilities and any required distribution upgrades associated with that project of greater than 30 cents per watt AC of that project's nameplate capacity. In developing the applicable contract instrument, the Agency may consider whether other circumstances outside of the control of the applicant firm should also warrant project substitution rights.

The Agency shall publish a finalized updated renewable energy credit delivery contract developed consistent with these terms and conditions no less than 30 days before applicant firms must submit their portfolio of projects pursuant to item (D).

(F) To be eligible for an award, the applicant firm shall certify that not less than prevailing wage, as determined pursuant to the Illinois Prevailing Wage Act, was or will be paid to employees who are engaged in construction activities associated with a selected project.

(4) The Agency shall open the first block of annual capacity for the category described in item (iv) of subparagraph (K) of this paragraph (1). The first block of annual capacity for item (iv) shall be for at least 50 megawatts of total nameplate capacity. Renewable energy credit prices shall be fixed, without further adjustment under any other provision of this Act or for any other reason, at the price in the last open block in the category described in item (ii) of subparagraph (K) of this paragraph (1). Pricing for future blocks of annual capacity for this category may be

adjusted in the Agency's second revision to its Long-Term Renewable Resources Procurement Plan. Projects in this category shall be subject to the contract terms outlined in item (iv) of subparagraph (L) of this paragraph (1).

(5) The Agency shall open the equivalent of 2 years of annual capacity for the category described in item (v) of subparagraph (K) of this paragraph (1). The first block of annual capacity for item (v) shall be for at least 10 megawatts of total nameplate capacity. Notwithstanding the provisions of item (v) of subparagraph (K) of this paragraph (1), for the purpose of this initial block, the agency shall accept new project applications intended to increase the diversity of areas hosting community solar projects, the business models of projects, and the size of projects, as described by the Agency in its long-term renewable resources procurement plan that is approved as of the effective date of this amendatory Act of the 102nd General Assembly. Projects in this category shall be subject to the contract terms outlined in item (iii) of subsection (L) of this paragraph (1).

(6) The Agency shall open the first blocks of annual capacity for the category described in item

(vi) of subparagraph (K) of this paragraph (1), with allocations of capacity within the block generally matching the historical share of block capacity allocated between the category described in items (i) and (ii) of subparagraph (K) of this paragraph (1). The first two blocks of annual capacity for item (vi) shall be for at least 75 megawatts of total nameplate capacity. The price of renewable energy credits for the blocks of capacity shall be 4% less than the price of the last open blocks in the categories described in items (i) and (ii) of subparagraph (K) of this paragraph (1). Pricing for future blocks of annual capacity for this category may be adjusted in the Agency's second revision to its Long-Term Renewable Resources Procurement Plan. Projects in this category shall be subject to the applicable contract terms outlined in items (ii) and (iii) of subparagraph (L) of this paragraph (1).

(v) Upon the effective date of this amendatory Act of the 102nd General Assembly, for all competitive procurements and any procurements of renewable energy credit from new utility-scale wind and new utility-scale photovoltaic projects, the Agency shall procure indexed renewable energy credits and direct respondents to offer a strike price.

(1) The purchase price of the indexed renewable energy credit payment shall be calculated for each settlement period. That payment, for any settlement period, shall be equal to the difference resulting from subtracting the strike price from the index price for that settlement period. If this difference results in a negative number, the indexed REC counterparty shall owe the seller the absolute value multiplied by the quantity of energy produced in the relevant settlement period. If this difference results in a positive number, the seller shall owe the indexed REC counterparty this amount multiplied by the quantity of energy produced in the relevant settlement period.

(2) Parties shall cash settle every month, summing up all settlements (both positive and negative, if applicable) for the prior month.

(3) To ensure funding in the annual budget established under subparagraph (E) for indexed renewable energy credit procurements for each year of the term of such contracts, which must have a minimum tenure of 20 calendar years, the procurement administrator, Agency, Commission staff, and procurement monitor shall quantify the annual cost of the contract by utilizing an

industry-standard, third-party forward price curve for energy at the appropriate hub or load zone, including the estimated magnitude and timing of the price effects related to federal carbon controls. Each forward price curve shall contain a specific value of the forecasted market price of electricity for each annual delivery year of the contract. For procurement planning purposes, the impact on the annual budget for the cost of indexed renewable energy credits for each delivery year shall be determined as the expected annual contract expenditure for that year, equaling the difference between (i) the sum across all relevant contracts of the applicable strike price multiplied by contract quantity and (ii) the sum across all relevant contracts of the forward price curve for the applicable load zone for that year multiplied by contract quantity. The contracting utility shall not assume an obligation in excess of the estimated annual cost of the contracts for indexed renewable energy credits. Forward curves shall be revised on an annual basis as updated forward price curves are released and filed with the Commission in the proceeding approving the Agency's most recent long-term renewable resources procurement plan. If the expected contract spend is higher or lower than the total quantity of contracts multiplied by the forward price curve value for that year, the forward price curve shall be updated by the procurement administrator, in consultation with the Agency, Commission staff, and procurement monitors, using then-currently available price forecast data and additional budget dollars shall be obligated or reobligated as appropriate.

(4) To ensure that indexed renewable energy credit prices remain predictable and affordable, the Agency may consider the institution of a price collar on REC prices paid under indexed renewable energy credit procurements establishing floor and ceiling REC prices applicable to indexed REC contract prices. Any price collars applicable to indexed REC procurements shall be proposed by the Agency through its long-term renewable resources procurement plan.

(vi) All procurements under this subparagraph (G), including the procurement of renewable energy credits from hydropower facilities, shall comply with the geographic requirements in subparagraph (I) of this paragraph (1) and shall follow the procurement processes and procedures described in this Section and Section 16-111.5 of the Public Utilities Act to the extent practicable, and these processes and procedures may be expedited to accommodate the schedule established by this subparagraph (G).

(vii) On and after the effective date of this amendatory Act of the 103rd General Assembly, for all procurements of renewable energy credits from hydropower facilities, the Agency shall establish contract terms designed to optimize existing hydropower facilities through modernization or retooling and establish new hydropower facilities at existing dams. Procurements made under this item (vii) shall prioritize projects located in designated environmental justice communities, as defined in subsection (b) of Section 1-56 of this Act, or in projects located in units of local government with median incomes that do not exceed 82% of the median income of the State.

(H) The procurement of renewable energy resources for a given delivery year shall be reduced as described in this subparagraph (H) if an alternative retail electric supplier meets the requirements described in this subparagraph (H).

(i) Within 45 days after June 1, 2017 (the effective date of Public Act 99-906), an alternative retail electric supplier or its successor shall submit an informational filing to the Illinois Commerce

Commission certifying that, as of December 31, 2015, the alternative retail electric supplier owned one or more electric generating facilities that generates renewable energy resources as defined in Section 1-10 of this Act, provided that such facilities are not powered by wind or photovoltaics, and the facilities generate one renewable energy credit for each megawatthour of energy produced from the facility.

The informational filing shall identify each facility that was eligible to satisfy the alternative retail electric supplier's obligations under Section 16-115D of the Public Utilities Act as described in this item (i).

(ii) For a given delivery year, the alternative retail electric supplier may elect to supply its retail customers with renewable energy credits from the facility or facilities described in item (i) of this subparagraph (H) that continue to be owned by the alternative retail electric supplier.

(iii) The alternative retail electric supplier shall notify the Agency and the applicable utility, no later than February 28 of the year preceding the applicable delivery year or 15 days after June 1, 2017 (the effective date of Public Act 99-906), whichever is later, of its election under item (ii) of this subparagraph (H) to supply renewable energy credits to retail customers of the utility. Such election shall identify the amount of renewable energy credits to be supplied by the alternative retail electric supplier to the utility's retail customers and the source of the renewable energy credits identified in the informational filing as described in item (i) of this subparagraph (H), subject to the following limitations:

For the delivery year beginning June 1, 2018, the maximum amount of renewable energy credits to be supplied by an alternative retail electric supplier under this subparagraph (H) shall be 68% multiplied by 25% multiplied by 14.5% multiplied by the amount of metered electricity (megawatt-hours) delivered by the alternative retail electric supplier to Illinois retail customers during the delivery year ending May 31, 2016.

For delivery years beginning June 1, 2019 and each year thereafter, the maximum amount of renewable energy credits to be supplied by an alternative retail electric supplier under this subparagraph (H) shall be 68% multiplied by 50% multiplied by 16% multiplied by the amount of metered electricity (megawatt-hours) delivered by the alternative retail electric supplier to

Illinois retail customers during the delivery year ending May 31, 2016, provided that the 16% value shall increase by 1.5% each delivery year thereafter to 25% by the delivery year beginning June 1, 2025, and thereafter the 25% value shall apply to each delivery year.

For each delivery year, the total amount of renewable energy credits supplied by all alternative retail electric suppliers under this subparagraph (H) shall not exceed 9% of the Illinois target renewable energy credit quantity. The Illinois target renewable energy credit quantity for the delivery year beginning June 1, 2018 is 14.5% multiplied by the total amount of metered electricity (megawatt-hours) delivered in the delivery year immediately preceding that delivery year, provided that the 14.5% shall increase by 1.5% each delivery year thereafter to 25% by the delivery year beginning June 1, 2025, and thereafter the 25% value shall apply to each delivery year.

If the requirements set forth in items (i) through (iii) of this subparagraph (H) are met, the charges that would otherwise be applicable to the retail customers of the alternative retail electric supplier under paragraph (6) of this subsection (c) for the applicable delivery year shall be reduced by the ratio of the quantity of renewable energy credits supplied by the alternative retail electric supplier compared to that supplier's target renewable energy credit quantity. The supplier's target renewable energy credit quantity for the delivery year beginning June 1, 2018 is 14.5% multiplied by the total amount of metered electricity (megawatt-hours) delivered by the alternative retail supplier in that delivery year, provided that the 14.5% shall increase by 1.5% each delivery year thereafter to 25% by the delivery year beginning June 1, 2025, and thereafter the 25% value shall apply to each delivery year.

On or before April 1 of each year, the Agency shall annually publish a report on its website that identifies the aggregate amount of renewable energy credits supplied by alternative retail electric suppliers under this subparagraph (H).

(I) The Agency shall design its long-term renewable energy procurement plan to maximize the State's interest in the health, safety, and welfare of its residents, including but not limited to minimizing sulfur dioxide, nitrogen oxide, particulate matter and other pollution that adversely affects public health in this State, increasing fuel and resource diversity in this State, enhancing the reliability and resiliency of the electricity distribution system in this State, meeting goals to limit carbon dioxide emissions under federal or

State law, and contributing to a cleaner and healthier environment for the citizens of this State. In order to further these legislative purposes, renewable energy credits shall be eligible to be counted toward the renewable energy requirements of this subsection (c) if they are generated from facilities located in this State. The Agency may qualify renewable energy credits from facilities located in states adjacent to Illinois or renewable energy credits associated with the electricity generated by a utility-scale wind energy facility or utility-scale photovoltaic facility and transmitted by a qualifying direct current project described in subsection (b-5) of Section 8-406 of the Public Utilities Act to a delivery point on the electric transmission grid located in this State or a state adjacent to Illinois, if the generator demonstrates and the Agency determines that the operation of such facility or facilities will help promote the State's interest in the health, safety, and welfare of its residents based on the public interest criteria described above. For the purposes of this Section, renewable resources that are delivered via a high voltage direct current converter station located in Illinois shall be deemed generated in Illinois at the time and location the energy is converted to alternating current by the high voltage direct current converter station if the high voltage direct current transmission line: (i) after the effective date of this amendatory Act of the 102nd General Assembly, was constructed with a project labor agreement; (ii) is capable of transmitting electricity at 525kv; (iii) has an Illinois converter station located and interconnected in the region of the PJM Interconnection, LLC; (iv) does not operate as a public utility; and (v) if the high voltage direct current transmission line was energized after June 1, 2023. To ensure that the public interest criteria are applied to the procurement and given full effect, the Agency's long-term procurement plan shall describe in detail how each public interest factor shall be considered and weighted for facilities located in states adjacent to Illinois.

(J) In order to promote the competitive development of renewable energy resources in furtherance of the State's interest in the health, safety, and welfare of its residents, renewable energy credits shall not be eligible to be counted toward the renewable energy requirements of this subsection (c) if they are sourced from a generating unit whose costs were being recovered through rates regulated by this State or any other state or states on or after January 1, 2017. Each contract executed to purchase renewable energy credits under this subsection (c) shall provide for the contract's termination if the costs of the generating unit supplying the renewable energy credits subsequently begin to be recovered through rates regulated by this State or any other state or states; and each contract shall further provide that, in that event, the supplier of the credits must return 110% of all payments received under the contract. Amounts returned under the requirements of this subparagraph (J) shall be retained by the utility and all of these amounts shall be used for the procurement of additional renewable energy credits from new wind or new photovoltaic resources as defined in this subsection (c). The long-term plan shall provide that these renewable energy credits shall be procured in the next procurement event.

Notwithstanding the limitations of this subparagraph (J), renewable energy credits sourced from generating units that are constructed, purchased, owned, or leased by an electric utility as part of an approved project, program, or pilot under Section 1-56 of this Act shall be eligible to be counted toward the renewable energy requirements of this subsection (c), regardless of how the costs of these units are recovered. As long as a generating unit or an identifiable portion of a generating unit has not had and does not have its costs recovered through rates regulated by this State or any other state, HVDC renewable energy credits associated with that generating unit or identifiable portion thereof shall be eligible to be counted toward the renewable energy requirements of this subsection (c).

(K) The long-term renewable resources procurement plan developed by the Agency in accordance with subparagraph (A) of this paragraph (1) shall include an Adjustable Block program for the procurement of renewable energy credits from new photovoltaic projects that are distributed renewable energy generation devices or new photovoltaic community renewable generation projects. The Adjustable Block program shall be generally designed to provide for the steady, predictable, and sustainable growth of new solar photovoltaic development in Illinois. To this end, the Adjustable Block program shall provide a transparent annual schedule of prices and quantities to enable the photovoltaic market to scale up and for renewable energy credit prices to adjust at a predictable rate over time. The prices set by the Adjustable Block program can be reflected as a set value or as the product of a formula.

The Adjustable Block program shall include for each category of eligible projects for each delivery year: a single block of nameplate capacity, a price for renewable energy credits within that block, and the terms and conditions for securing a spot on a waitlist once the block is fully committed or reserved. Except as outlined below, the waitlist of projects in a given year will carry over to apply to the subsequent year when another block is opened. Only projects energized on or after June 1, 2017 shall be eligible for the Adjustable Block program. For each category for each delivery year the Agency shall determine the amount of generation capacity in each block, and the purchase price for each block, provided that the purchase price provided and the total amount of generation in all blocks for all categories shall be sufficient to meet the goals in this subsection (c). The Agency shall strive to issue a single block sized to provide for stability and market growth. The Agency shall establish program eligibility requirements that ensure that projects that enter the program are sufficiently mature to indicate a demonstrable path to completion. The Agency may periodically review its prior decisions establishing the amount of generation capacity in each block, and the purchase price for each block, and may propose, on an expedited basis, changes to these previously set values, including but not limited to redistributing these amounts and the available funds as necessary and appropriate, subject to Commission approval as part of the periodic plan revision process described in Section 16-111.5 of the Public Utilities Act. The Agency may define different block sizes, purchase prices, or other distinct terms and conditions for projects located in different utility service territories if the Agency deems it necessary to meet the goals in this subsection (c).

The Adjustable Block program shall include the following categories in at least the following amounts:

(i) At least 20% from distributed renewable energy generation devices with a nameplate capacity of no more than 25 kilowatts.

(ii) At least 20% from distributed renewable energy generation devices with a nameplate capacity of more than 25 kilowatts and no more than 5,000 kilowatts. The Agency may create sub-categories within this category to account for the differences between projects for small commercial customers, large commercial customers, and public or non-profit customers.

(iii) At least 30% from photovoltaic community renewable generation projects. Capacity for this category for the first 2 delivery years after the effective date of this amendatory Act of the 102nd General Assembly shall be allocated to waitlist projects as provided in paragraph (3) of item (iv) of subparagraph (G). Starting in the third delivery year after the effective date of this amendatory Act of the 102nd General Assembly or earlier if the Agency determines there is additional capacity needed ~~for~~ to meet previous delivery year requirements, the following shall apply:

(1) the Agency shall select projects on a first-come, first-serve basis, however the Agency

may suggest additional methods to prioritize projects that are submitted at the same time, including prioritization for projects that commit to and demonstrate a meaningful level of labor hours performed by apprentices from registered apprenticeship programs;

(2) projects shall have subscriptions of 25 kW or less for at least 50% of the facility's nameplate capacity and the Agency shall price the renewable energy credits with that as a factor;

(3) projects shall not be colocated with one or more other community renewable generation projects, as defined in the Agency's first revised long-term renewable resources procurement plan approved by the Commission on February 18, 2020, such that the aggregate nameplate capacity exceeds 5,000 kilowatts; and

(4) projects greater than 2 MW may not apply until after the approval of the Agency's revised Long-Term Renewable Resources Procurement Plan after the effective date of this amendatory Act of the 102nd General Assembly.

(iv) At least 15% from distributed renewable generation devices or photovoltaic community renewable generation projects installed on public school land. The Agency may create subcategories within this category to account for the differences between project size or location. Projects located within environmental justice communities or within Organizational Units that fall within Tier 1 or Tier 2 shall be given priority. Each of the Agency's periodic updates to its long-term renewable resources procurement plan to incorporate the procurement described in this subparagraph (iv) shall also include the proposed quantities or blocks, pricing, and contract terms applicable to the procurement as indicated herein. In each such update and procurement, the Agency shall set the renewable energy credit price and establish payment terms for the renewable energy credits procured pursuant to this subparagraph (iv) that make it feasible and affordable for public schools to install photovoltaic distributed renewable energy devices on their premises, including, but not limited to, those public schools subject to the prioritization provisions of this subparagraph. For the purposes of this item (iv):

"Environmental Justice Community" shall have the same meaning set forth in the Agency's long-term renewable resources procurement plan;

"Organization Unit", "Tier 1" and "Tier 2" shall have the meanings set forth ~~for~~ in Section 18-8.15 of the School Code;

"Public schools" shall have the meaning set forth in Section 1-3 of the School Code and includes public institutions of higher education, as defined in the Board of Higher Education Act.

(v) At least 5% from community-driven community solar projects intended to provide more direct and tangible connection and benefits to the communities which they serve or in which they operate and, additionally, to increase the variety of community solar locations, models, and options in Illinois. As part of its long-term renewable resources procurement plan, the Agency shall develop selection criteria for projects participating in this category. Nothing in this Section shall preclude the Agency from creating a selection process that maximizes community ownership and community benefits in selecting projects to receive renewable energy credits. Selection criteria shall include:

(1) community ownership or community wealth-building;

(2) additional direct and indirect community benefit, beyond project participation as a subscriber, including, but not limited to, economic, environmental, social, cultural, and physical benefits;

(3) meaningful involvement in project

organization and development by community members or nonprofit organizations or public entities located in or serving the community;

(4) engagement in project operations and management by nonprofit organizations, public entities, or community members; and

(5) whether a project is developed in response to a site-specific RFP developed by community members or a nonprofit organization or public entity located in or serving the community.

Selection criteria may also prioritize projects that:

(1) are developed in collaboration with or to provide complementary opportunities for the Clean Jobs Workforce Network Program, the Illinois Climate Works Preapprenticeship Program, the Returning Residents Clean Jobs Training Program, the Clean Energy Contractor Incubator Program, or the Clean Energy Primes Contractor Accelerator Program;

(2) increase the diversity of locations of community solar projects in Illinois, including by locating in urban areas and population centers;

(3) are located in Equity Investment Eligible Communities;

(4) are not greenfield projects;

(5) serve only local subscribers;

(6) have a nameplate capacity that does not exceed 500 kW;

(7) are developed by an equity eligible contractor; or

(8) otherwise meaningfully advance the goals of providing more direct and tangible connection and benefits to the communities which they serve or in which they operate and increasing the variety of community solar locations, models, and options in Illinois.

For the purposes of this item (v):

"Community" means a social unit in which people come together regularly to effect change; a social unit in which participants are marked by a cooperative spirit, a common purpose, or shared interests or characteristics; or a space understood by its residents to be delineated through geographic boundaries or landmarks.

"Community benefit" means a range of services and activities that provide affirmative, economic, environmental, social, cultural, or physical value to a community; or a mechanism that enables economic development, high-quality employment, and education opportunities for local workers and residents, or formal monitoring and oversight structures such that community members may ensure that those services and activities respond to local knowledge and needs.

"Community ownership" means an arrangement in which an electric generating facility is, or over time will be, in significant part, owned collectively by members of the community to which an electric generating facility provides benefits; members of that community participate in decisions regarding the governance, operation, maintenance, and upgrades of and to that facility; and members of that community benefit from regular use of that facility.

Terms and guidance within these criteria that are not defined in this item (v) shall be defined by the Agency, with stakeholder input, during the development of the Agency's long-term renewable resources procurement plan. The Agency shall develop regular opportunities for projects to submit applications for projects under this category, and develop selection criteria that gives preference to projects that better meet individual criteria as well as projects that address a higher number of criteria.

(vi) At least 10% from distributed renewable energy generation devices, which includes distributed renewable energy devices with a nameplate capacity under 5,000 kilowatts or photovoltaic community renewable generation projects, from applicants that are equity eligible contractors. The Agency may create subcategories within this category to account for the differences between project size and type. The Agency shall propose to increase the percentage in this item (vi) over time to 40% based on factors, including, but not limited to, the number of equity eligible contractors and capacity used in this item (vi) in previous delivery years.

The Agency shall propose a payment structure for contracts executed pursuant to this paragraph under which, upon a demonstration of qualification or need, applicant firms are advanced capital disbursed after contract execution but before the contracted project's energization. The amount or percentage of capital advanced prior to project energization shall be sufficient to both cover any increase in development costs resulting from prevailing wage requirements or project-labor agreements, and designed to overcome barriers in access to capital faced by equity eligible contractors. The amount or percentage of advanced capital may vary by subcategory within this category and by an applicant's demonstration of need, with such levels to be established through the Long-Term Renewable Resources Procurement Plan authorized under subparagraph (A) of paragraph (1) of subsection (c) of this Section.

Contracts developed featuring capital advanced prior to a project's energization shall feature provisions to ensure both the successful development of applicant projects and the delivery of the renewable energy credits for the full term of the contract, including ongoing collateral requirements and other provisions deemed necessary by the Agency, and may include energization timelines longer than for comparable project types. The percentage or amount of capital advanced prior to project energization shall not operate to increase the overall contract value, however contracts executed under this subparagraph may feature renewable energy credit prices higher than those offered to similar projects participating in other categories. Capital advanced prior to energization shall serve to reduce the ratable payments made after energization under items (ii) and (iii) of subparagraph (L) or payments made for each renewable energy credit delivery under item (iv) of subparagraph (L).

(vii) The remaining capacity shall be allocated by the Agency in order to respond to market demand. The Agency shall allocate any discretionary capacity prior to the beginning of each delivery year.

To the extent there is uncontracted capacity from any block in any of categories (i) through (vi) at the end of a delivery year, the Agency shall redistribute that capacity to one or more other categories giving priority to categories with projects on a waitlist. The redistributed capacity shall be added to the annual capacity in the subsequent delivery year, and the price for renewable energy credits shall be the price for the new delivery year. Redistributed capacity shall not be considered redistributed when determining whether the goals in this subsection (K) have been met.

Notwithstanding anything to the contrary, as the Agency increases the capacity in item (vi) to 40% over time, the Agency may reduce the capacity of items (i) through (v) proportionate to the capacity of the categories of projects in item (vi), to achieve a balance of project types.

The Adjustable Block program shall be designed to ensure that renewable energy credits are procured from projects in diverse locations and are not concentrated in a few regional areas.

(L) Notwithstanding provisions for advancing capital prior to project energization found in item (vi) of subparagraph (K), the procurement of photovoltaic renewable energy credits under items (i) through (vi) of subparagraph (K) of this paragraph (1) shall otherwise be subject to the following contract and payment terms:

(i) (Blank).

(ii) For those renewable energy credits that qualify and are procured under item (i) of subparagraph (K) of this paragraph (1), and any similar category projects that are procured under item (vi) of subparagraph (K) of this paragraph (1) that qualify and are procured under item (vi), the contract length shall be 15 years. The renewable energy credit delivery contract value shall be paid in full, based on the estimated generation during the first 15 years of operation, by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized and compliant by the Program Administrator. The electric utility shall receive and retire all renewable energy credits generated by the project for the first 15 years of operation. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility.

(iii) For those renewable energy credits that qualify and are procured under item (ii) and (v) of subparagraph (K) of this paragraph (1) and any like projects of a similar category that qualify and are procured under item (vi), the contract length shall be 15 years. 15% of the renewable energy credit delivery contract value, based on the estimated generation during the first 15 years of operation, shall be paid by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized and compliant by the Program Administrator. The remaining portion shall be paid ratably over the subsequent 6-year period. The electric utility shall receive and retire all renewable energy credits generated by the project for the first 15 years of operation. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility.

(iv) For those renewable energy credits that qualify and are procured under items (iii) and (iv) of subparagraph (K) of this paragraph (1), and any like projects that qualify and are procured under item (vi), the renewable energy credit delivery contract length shall be 20 years and shall be paid over the delivery term, not to exceed during each delivery year the contract price multiplied by the estimated annual renewable energy credit generation amount. If generation of renewable energy credits during a delivery year exceeds the estimated annual generation amount, the excess renewable energy credits shall be carried forward to future delivery years and shall not expire during the delivery term. If generation of renewable energy credits during a delivery year, including carried forward excess renewable energy credits, if any, is less than the estimated annual generation amount, payments during such delivery year will not exceed the quantity generated plus the quantity carried forward multiplied by the contract price. The electric utility shall receive all renewable energy credits generated by the project during the first 20 years of operation and retire all renewable energy credits paid for under this item (iv) and return at the end of the delivery term all renewable energy credits that were not paid for. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility. Notwithstanding the preceding, for those projects participating under item (iii) of subparagraph (K), the contract price for a delivery year shall be based on subscription levels as measured on the higher of the first business day of the delivery year or the first business day 6 months after the first business day of the delivery year. Subscription of 90% of nameplate capacity or greater shall be deemed to be fully subscribed for the purposes of this item (iv). For projects receiving a 20-year delivery contract, REC prices shall be adjusted downward for consistency with the incentive levels previously determined to be necessary to support projects under 15-year delivery contracts, taking into consideration any additional new requirements placed on the projects, including, but not limited to, labor standards.

(v) Each contract shall include provisions to ensure the delivery of the estimated quantity of renewable energy credits and ongoing collateral requirements and other provisions deemed appropriate by the Agency.

(vi) The utility shall be the counterparty to the contracts executed under this subparagraph (L) that are approved by the Commission under the process described in Section 16-111.5 of the Public Utilities Act. No contract shall be executed for an amount that is less than one renewable energy credit per year.

(vii) If, at any time, approved applications for the Adjustable Block program exceed funds collected by the electric utility or would cause the Agency to exceed the limitation described in subparagraph (E) of this paragraph (1) on the amount of renewable energy resources that may be procured, then the Agency may consider future uncommitted funds to be reserved for these contracts on a first-come, first-served basis.

(viii) Nothing in this Section shall require the utility to advance any payment or pay any amounts that exceed the actual amount of revenues anticipated to be collected by the utility under paragraph (6) of this subsection (c) and subsection (k) of Section 16-108 of the Public Utilities Act inclusive of eligible funds collected in prior years and alternative compliance payments for use by the utility.

(ix) Notwithstanding other requirements of this subparagraph (L), no modification shall be required to Adjustable Block program contracts if they were already executed prior to the establishment, approval, and implementation of new contract forms as a result of this amendatory Act of the 102nd General Assembly.

(x) Contracts may be assignable, but only to entities first deemed by the Agency to have met program terms and requirements applicable to direct program participation. In developing contracts for the delivery of renewable energy credits, the Agency shall be permitted to establish fees applicable to each contract assignment.

(M) The Agency shall be authorized to retain one or more experts or expert consulting firms to develop, administer, implement, operate, and evaluate the

Adjustable Block program described in subparagraph (K) of this paragraph (1), and the Agency shall retain the consultant or consultants in the same manner, to the extent practicable, as the Agency retains others to administer provisions of this Act, including, but not limited to, the procurement administrator. The selection of experts and expert consulting firms and the procurement process described in this subparagraph (M) are exempt from the requirements of Section 20-10 of the Illinois Procurement Code, under Section 20-10 of that Code. The Agency shall strive to minimize administrative expenses in the implementation of the Adjustable Block program.

The Program Administrator may charge application fees to participating firms to cover the cost of program administration. Any application fee amounts shall initially be determined through the long-term renewable resources procurement plan, and modifications to any application fee that deviate more than 25% from the Commission's approved value must be approved by the Commission as a long-term plan revision under Section 16-111.5 of the Public Utilities Act. The Agency shall consider stakeholder feedback when making adjustments to application fees and shall notify stakeholders in advance of any planned changes.

In addition to covering the costs of program administration, the Agency, in conjunction with its

Program Administrator, may also use the proceeds of such fees charged to participating firms to support public education and ongoing regional and national coordination with nonprofit organizations, public bodies, and others engaged in the implementation of renewable energy incentive programs or similar initiatives. This work may include developing papers and reports, hosting regional and national conferences, and other work deemed necessary by the Agency to position the State of Illinois as a national leader in renewable energy incentive program development and administration.

The Agency and its consultant or consultants shall monitor block activity, share program activity with stakeholders and conduct quarterly meetings to discuss program activity and market conditions. If necessary, the Agency may make prospective administrative adjustments to the Adjustable Block program design, such as making adjustments to purchase prices as necessary to achieve the goals of this subsection (c). Program modifications to any block price that do not deviate from the Commission's approved value by more than 10% shall take effect immediately and are not subject to Commission review and approval. Program modifications to any block price that deviate more than 10% from the Commission's approved value must be approved by the Commission as a long-term plan amendment under Section 16-111.5 of the Public Utilities

Act. The Agency shall consider stakeholder feedback when making adjustments to the Adjustable Block design and shall notify stakeholders in advance of any planned changes.

The Agency and its program administrators for both the Adjustable Block program and the Illinois Solar for All Program, consistent with the requirements of this subsection (c) and subsection (b) of Section 1-56 of this Act, shall propose the Adjustable Block program terms, conditions, and requirements, including the prices to be paid for renewable energy credits, where applicable, and requirements applicable to participating entities and project applications, through the development, review, and approval of the Agency's long-term renewable resources procurement plan described in this subsection (c) and paragraph (5) of subsection (b) of Section 16-111.5 of the Public Utilities Act. Terms, conditions, and requirements for program participation shall include the following:

(i) The Agency shall establish a registration process for entities seeking to qualify for program-administered incentive funding and establish baseline qualifications for vendor approval. The Agency must maintain a list of approved entities on each program's website, and may revoke a vendor's ability to receive program-administered incentive funding status upon a determination that the vendor failed to comply with contract terms, the law, or other program requirements.

(ii) The Agency shall establish program requirements and minimum contract terms to ensure projects are properly installed and produce their expected amounts of energy. Program requirements may include on-site inspections and photo documentation of projects under construction. The Agency may require repairs, alterations, or additions to remedy any material deficiencies discovered. Vendors who have a disproportionately high number of deficient systems may lose their eligibility to continue to receive State-administered incentive funding through Agency programs and procurements.

(iii) To discourage deceptive marketing or other bad faith business practices, the Agency may require direct program participants, including agents operating on their behalf, to provide standardized disclosures to a customer prior to that customer's execution of a contract for the development of a distributed generation system or a subscription to a community solar project.

(iv) The Agency shall establish one or multiple Consumer Complaints Centers to accept complaints regarding businesses that participate in, or otherwise benefit from, State-administered incentive funding through Agency-administered programs. The Agency shall maintain a public database of complaints with any confidential or particularly sensitive information redacted from public entries.

(v) Through a filing in the proceeding for the approval of its long-term renewable energy resources procurement plan, the Agency shall provide an annual written report to the Illinois Commerce Commission documenting the frequency and nature of complaints and any enforcement actions taken in response to those complaints.

(vi) The Agency shall schedule regular meetings with representatives of the Office of the Attorney General, the Illinois Commerce Commission, consumer protection groups, and other interested stakeholders to share relevant information about consumer protection, project compliance, and complaints received.

(vii) To the extent that complaints received implicate the jurisdiction of the Office of the Attorney General, the Illinois Commerce Commission, or local, State, or federal law enforcement, the Agency shall also refer complaints to those entities as appropriate.

(N) The Agency shall establish the terms, conditions, and program requirements for photovoltaic community renewable generation projects with a goal to expand access to a broader group of energy consumers, to ensure robust participation opportunities for residential and small commercial customers and those who cannot install renewable energy on their own properties. Subject to reasonable limitations, any plan approved by the Commission shall allow subscriptions to community renewable generation projects to be portable and transferable. For purposes of this subparagraph (N), "portable" means that subscriptions may be retained by the subscriber even if the subscriber relocates or changes its address within the same utility service territory; and "transferable" means that a subscriber may assign or sell subscriptions to another person within the same utility service territory.

Through the development of its long-term renewable resources procurement plan, the Agency may consider whether community renewable generation projects utilizing technologies other than photovoltaics should be supported through State-administered incentive funding, and may issue requests for information to gauge market demand.

Electric utilities shall provide a monetary credit to a subscriber's subsequent bill for service for the proportional output of a community renewable generation project attributable to that subscriber as specified in Section 16-107.5 of the Public Utilities Act.

The Agency shall purchase renewable energy credits from subscribed shares of photovoltaic community renewable generation projects through the Adjustable Block program described in subparagraph (K) of this paragraph (1) or through the Illinois Solar for All Program described in Section 1-56 of this Act. The electric utility shall purchase any unsubscribed energy from community renewable generation projects that are Qualifying Facilities ("QF") under the electric utility's tariff for purchasing the output from QFs under Public Utilities Regulatory Policies Act of 1978.

The owners of and any subscribers to a community renewable generation project shall not be considered public utilities or alternative retail electricity suppliers under the Public Utilities Act solely as a result of their interest in or subscription to a community renewable generation project and shall not be required to become an alternative retail electric supplier by participating in a community renewable generation project with a public utility.

(O) For the delivery year beginning June 1, 2018, the long-term renewable resources procurement plan required by this subsection (c) shall provide for the Agency to procure contracts to continue offering the Illinois Solar for All Program described in subsection (b) of Section 1-56 of this Act, and the contracts approved by the

Commission shall be executed by the utilities that are subject to this subsection (c). The long-term renewable resources procurement plan shall allocate up to $50,000,000 per delivery year to fund the programs, and the plan shall determine the amount of funding to be apportioned to the programs identified in subsection (b) of Section 1-56 of this Act; provided that for the delivery years beginning June 1, 2021, June 1, 2022, and June 1, 2023, the long-term renewable resources procurement plan may average the annual budgets over a 3-year period to account for program ramp-up. For the delivery years beginning June 1, 2021, June 1, 2024, June 1, 2027, and June 1, 2030 and additional $10,000,000 shall be provided to the Department of Commerce and Economic Opportunity to implement the workforce development programs and reporting as outlined in Section 16-108.12 of the Public Utilities Act. In making the determinations required under this subparagraph (O), the Commission shall consider the experience and performance under the programs and any evaluation reports. The Commission shall also provide for an independent evaluation of those programs on a periodic basis that are funded under this subparagraph (O).

(P) All programs and procurements under this subsection (c) shall be designed to encourage participating projects to use a diverse and equitable workforce and a diverse set of contractors, including minority-owned businesses, disadvantaged businesses, trade unions, graduates of any workforce training programs administered under this Act, and small businesses.

The Agency shall develop a method to optimize procurement of renewable energy credits from proposed utility-scale projects that are located in communities eligible to receive Energy Transition Community Grants pursuant to Section 10-20 of the Energy Community Reinvestment Act. If this requirement conflicts with other provisions of law or the Agency determines that full compliance with the requirements of this subparagraph (P) would be unreasonably costly or administratively impractical, the Agency is to propose alternative approaches to achieve development of renewable energy resources in communities eligible to receive Energy Transition Community Grants pursuant to Section 10-20 of the Energy Community Reinvestment Act or seek an exemption from this requirement from the Commission.

(Q) Each facility listed in subitems (i) through (ix) of item (1) of this subparagraph (Q) for which a renewable energy credit delivery contract is signed after the effective date of this amendatory Act of the 102nd General Assembly is subject to the following requirements through the Agency's long-term renewable resources procurement plan:

(1) Each facility shall be subject to the prevailing wage requirements included in the Prevailing Wage Act. The Agency shall require verification that all construction performed on the facility by the renewable energy credit delivery contract holder, its contractors, or its subcontractors relating to construction of the facility is performed by construction employees receiving an amount for that work equal to or greater than the general prevailing rate, as that term is defined in Section 3 of the Prevailing Wage Act. For purposes of this item (1), "house of worship" means property that is both (1) used exclusively by a religious society or body of persons as a place for religious exercise or religious worship and (2) recognized as exempt from taxation pursuant to Section 15-40 of the Property Tax Code. This item (1) shall apply to any the following:

(i) all new utility-scale wind projects;

(ii) all new utility-scale photovoltaic projects and repowered wind projects;

(iii) all new brownfield photovoltaic projects;

(iv) all new photovoltaic community renewable energy facilities that qualify for item (iii) of subparagraph (K) of this paragraph (1);

(v) all new community driven community photovoltaic projects that qualify for item (v) of subparagraph (K) of this paragraph (1);

(vi) all new photovoltaic projects on public school land that qualify for item (iv) of subparagraph (K) of this paragraph (1);

(vii) all new photovoltaic distributed renewable energy generation devices that (1) qualify for item (i) of subparagraph (K) of this paragraph (1); (2) are not projects that serve single-family or multi-family residential buildings; and (3) are not houses of worship where the aggregate capacity including collocated projects would not exceed 100 kilowatts;

(viii) all new photovoltaic distributed renewable energy generation devices that (1) qualify for item (ii) of subparagraph (K) of this paragraph (1); (2) are not projects that serve single-family or multi-family residential buildings; and (3) are not houses of worship where the aggregate capacity including collocated projects would not exceed 100 kilowatts;

(ix) all new, modernized, or retooled hydropower facilities.

(2) Renewable energy credits procured from new utility-scale wind projects, new utility-scale solar

projects, new brownfield solar projects, repowered wind projects, and retooled hydropower facilities pursuant to Agency procurement events occurring after the effective date of this amendatory Act of the 102nd General Assembly must be from facilities built by general contractors that must enter into a project labor agreement, as defined by this Act, prior to construction. The project labor agreement shall be filed with the Director in accordance with procedures established by the Agency through its long-term renewable resources procurement plan. Any information submitted to the Agency in this item (2) shall be considered commercially sensitive information. At a minimum, the project labor agreement must provide the names, addresses, and occupations of the owner of the plant and the individuals representing the labor organization employees participating in the project labor agreement consistent with the Project Labor Agreements Act. The agreement must also specify the terms and conditions as defined by this Act.

(3) It is the intent of this Section to ensure that economic development occurs across Illinois communities, that emerging businesses may grow, and that there is improved access to the clean energy economy by persons who have greater economic burdens to success. The Agency shall take into consideration

the unique cost of compliance of this subparagraph (Q) that might be borne by equity eligible contractors, shall include such costs when determining the price of renewable energy credits in the Adjustable Block program, and shall take such costs into consideration in a nondiscriminatory manner when comparing bids for competitive procurements. The Agency shall consider costs associated with compliance whether in the development, financing, or construction of projects. The Agency shall periodically review the assumptions in these costs and may adjust prices, in compliance with subparagraph (M) of this paragraph (1).

(4) The Agency shall create a public resource that identifies the holders of REC delivery contracts and any contractors, developers, and subcontractors that contribute significantly to project completion and employ workers performing construction activities for utility-scale wind projects, new utility-scale solar projects, new brownfield solar projects, repowered wind projects, and retooled hydropower facilities and that is:

(i) publicly accessible;

(ii) easy for people to find and use;

(iii) populated with information that includes, but is not limited to, project names, project size, and contact information of subcontractors who employ workers performing construction activities on the projects; and

(iv) updated regularly.

Approved vendors shall notify the Agency if subcontractors are removed or added to the project workforce and the changes shall be reflected in the public resource.

For community solar projects that receive a renewable energy credit delivery contract under the program described in subparagraph (K) of paragraph (1), if an approved vendor or the approved vendor's contractor intends to solicit bids for the construction or development of the project, the approved vendor or the contractor shall post the solicitation on a public website for the duration of the solicitation period and for 30 days after the close of the solicitation period. The approved vendor shall provide the URL for the public website to the Agency and the Agency shall make one URL for each approved vendor publicly available on the Agency's website. Each bid solicitation by an approved vendor shall be posted to the same URL.

(5) Through its long-term renewable resource procurement plan, the Agency shall develop bid application requirements or a bid evaluation methodology that facilitates the use of registered

apprentices on facilities listed in subitems (i), (ii), (iii), and (ix) of item (1).

(6) Through its long-term renewable resource procurement plan, the Agency shall develop selection criteria for projects listed in subitems (iv) and (v) of item (1) that prioritize facilities that commit to and demonstrate employment of registered apprentices for a meaningful percentage of labor hours. For new photovoltaic community renewable energy facilities that qualify under item (iii) of subparagraph (K), the criteria shall apply when selecting projects submitted at the same time.

(R) In its long-term renewable resources procurement plan, the Agency shall establish a self-direct renewable portfolio standard compliance program for eligible self-direct customers that purchase renewable energy credits from utility-scale wind and solar projects through long-term agreements for purchase of renewable energy credits as described in this Section. Such long-term agreements may include the purchase of energy or other products on a physical or financial basis and may involve an alternative retail electric supplier as defined in Section 16-102 of the Public Utilities Act. This program shall take effect in the delivery year commencing June 1, 2023.

(1) For the purposes of this subparagraph:

"Eligible self-direct customer" means any retail customers of an electric utility that serves 3,000,000 or more retail customers in the State and whose total highest 30-minute demand was more than 10,000 kilowatts, or any retail customers of an electric utility that serves less than 3,000,000 retail customers but more than 500,000 retail customers in the State and whose total highest 15-minute demand was more than 10,000 kilowatts.

"Retail customer" has the meaning set forth in Section 16-102 of the Public Utilities Act and multiple retail customer accounts under the same corporate parent may aggregate their account demands to meet the 10,000 kilowatt threshold. The criteria for determining whether this subparagraph is applicable to a retail customer shall be based on the 12 consecutive billing periods prior to the start of the year in which the application is filed.

(2) For renewable energy credits to count toward the self-direct renewable portfolio standard compliance program, they must:

(i) qualify as renewable energy credits as defined in Section 1-10 of this Act;

(ii) be sourced from one or more renewable energy generating facilities that comply with the geographic requirements as set forth in subparagraph (I) of paragraph (1) of subsection (c) as interpreted through the Agency's long-term renewable resources procurement plan, or, where applicable, the geographic requirements that governed utility-scale renewable energy credits at the time the eligible self-direct customer entered into the applicable renewable energy credit purchase agreement;

(iii) be procured through long-term contracts with term lengths of at least 10 years either directly with the renewable energy generating facility or through a bundled power purchase agreement, a virtual power purchase agreement, an agreement between the renewable generating facility, an alternative retail electric supplier, and the customer, or such other structure as is permissible under this subparagraph (R);

(iv) be equivalent in volume to at least 40% of the eligible self-direct customer's usage, determined annually by the eligible self-direct customer's usage during the previous delivery year, measured to the nearest megawatt-hour;

(v) be retired by or on behalf of the large energy customer;

(vi) be sourced from new utility-scale wind projects or new utility-scale solar projects; and

(vii) if the contracts for renewable energy credits are entered into after the effective date of this amendatory Act of the 102nd General Assembly, the new utility-scale wind projects or new utility-scale solar projects must comply with the requirements established in subparagraphs (P) and (Q) of paragraph (1) of this subsection (c) and subsection (c-10).

(3) The self-direct renewable portfolio standard compliance program shall be designed to allow eligible self-direct customers to procure new renewable energy credits from new utility-scale wind projects or new utility-scale photovoltaic projects. The Agency shall annually determine the amount of utility-scale renewable energy credits it will include each year from the self-direct renewable portfolio standard compliance program, subject to receiving qualifying applications. In making this determination, the Agency shall evaluate publicly available analyses and studies of the potential market size for utility-scale renewable energy long-term purchase agreements by commercial and industrial energy customers and make that report publicly available. If demand for participation in the self-direct renewable portfolio standard compliance program exceeds availability, the Agency shall ensure participation is evenly split

between commercial and industrial users to the extent there is sufficient demand from both customer classes. Each renewable energy credit procured pursuant to this subparagraph (R) by a self-direct customer shall reduce the total volume of renewable energy credits the Agency is otherwise required to procure from new utility-scale projects pursuant to subparagraph (C) of paragraph (1) of this subsection (c) on behalf of contracting utilities where the eligible self-direct customer is located. The self-direct customer shall file an annual compliance report with the Agency pursuant to terms established by the Agency through its long-term renewable resources procurement plan to be eligible for participation in this program. Customers must provide the Agency with their most recent electricity billing statements or other information deemed necessary by the Agency to demonstrate they are an eligible self-direct customer.

(4) The Commission shall approve a reduction in the volumetric charges collected pursuant to Section 16-108 of the Public Utilities Act for approved eligible self-direct customers equivalent to the anticipated cost of renewable energy credit deliveries under contracts for new utility-scale wind and new utility-scale solar entered for each delivery year after the large energy customer begins retiring

eligible new utility scale renewable energy credits for self-compliance. The self-direct credit amount shall be determined annually and is equal to the estimated portion of the cost authorized by subparagraph (E) of paragraph (1) of this subsection (c) that supported the annual procurement of utility-scale renewable energy credits in the prior delivery year using a methodology described in the long-term renewable resources procurement plan, expressed on a per kilowatthour basis, and does not include (i) costs associated with any contracts entered into before the delivery year in which the customer files the initial compliance report to be eligible for participation in the self-direct program, and (ii) costs associated with procuring renewable energy credits through existing and future contracts through the Adjustable Block Program, subsection (c-5) of this Section 1-75, and the Solar for All Program. The Agency shall assist the Commission in determining the current and future costs. The Agency must determine the self-direct credit amount for new and existing eligible self-direct customers and submit this to the Commission in an annual compliance filing. The Commission must approve the self-direct credit amount by June 1, 2023 and June 1 of each delivery year thereafter.

(5) Customers described in this subparagraph (R) shall apply, on a form developed by the Agency, to the Agency to be designated as a self-direct eligible customer. Once the Agency determines that a self-direct customer is eligible for participation in the program, the self-direct customer will remain eligible until the end of the term of the contract. Thereafter, application may be made not less than 12 months before the filing date of the long-term renewable resources procurement plan described in this Act. At a minimum, such application shall contain the following:

(i) the customer's certification that, at the time of the customer's application, the customer qualifies to be a self-direct eligible customer, including documents demonstrating that qualification;

(ii) the customer's certification that the customer has entered into or will enter into by the beginning of the applicable procurement year, one or more bilateral contracts for new wind projects or new photovoltaic projects, including supporting documentation;

(iii) certification that the contract or contracts for new renewable energy resources are long-term contracts with term lengths of at least

10 years, including supporting documentation;

(iv) certification of the quantities of renewable energy credits that the customer will purchase each year under such contract or contracts, including supporting documentation;

(v) proof that the contract is sufficient to produce renewable energy credits to be equivalent in volume to at least 40% of the large energy customer's usage from the previous delivery year, measured to the nearest megawatt-hour; and

(vi) certification that the customer intends to maintain the contract for the duration of the length of the contract.

(6) If a customer receives the self-direct credit but fails to properly procure and retire renewable energy credits as required under this subparagraph (R), the Commission, on petition from the Agency and after notice and hearing, may direct such customer's utility to recover the cost of the wrongfully received self-direct credits plus interest through an adder to charges assessed pursuant to Section 16-108 of the Public Utilities Act. Self-direct customers who knowingly fail to properly procure and retire renewable energy credits and do not notify the Agency are ineligible for continued participation in the self-direct renewable portfolio standard compliance

program.

(2) (Blank).

(3) (Blank).

(4) The electric utility shall retire all renewable energy credits used to comply with the standard.

(5) Beginning with the 2010 delivery year and ending June 1, 2017, an electric utility subject to this subsection (c) shall apply the lesser of the maximum alternative compliance payment rate or the most recent estimated alternative compliance payment rate for its service territory for the corresponding compliance period, established pursuant to subsection (d) of Section 16-115D of the Public Utilities Act to its retail customers that take service pursuant to the electric utility's hourly pricing tariff or tariffs. The electric utility shall retain all amounts collected as a result of the application of the alternative compliance payment rate or rates to such customers, and, beginning in 2011, the utility shall include in the information provided under item (1) of subsection (d) of Section 16-111.5 of the Public Utilities Act the amounts collected under the alternative compliance payment rate or rates for the prior year ending May 31. Notwithstanding any limitation on the procurement of renewable energy resources imposed by item (2) of this subsection (c), the Agency shall increase its spending on the purchase of renewable energy resources to

be procured by the electric utility for the next plan year by an amount equal to the amounts collected by the utility under the alternative compliance payment rate or rates in the prior year ending May 31.

(6) The electric utility shall be entitled to recover all of its costs associated with the procurement of renewable energy credits under plans approved under this Section and Section 16-111.5 of the Public Utilities Act. These costs shall include associated reasonable expenses for implementing the procurement programs, including, but not limited to, the costs of administering and evaluating the Adjustable Block program, through an automatic adjustment clause tariff in accordance with subsection (k) of Section 16-108 of the Public Utilities Act.

(7) Renewable energy credits procured from new photovoltaic projects or new distributed renewable energy generation devices under this Section after June 1, 2017 (the effective date of Public Act 99-906) must be procured from devices installed by a qualified person in compliance with the requirements of Section 16-128A of the Public Utilities Act and any rules or regulations adopted thereunder.

In meeting the renewable energy requirements of this subsection (c), to the extent feasible and consistent with State and federal law, the renewable energy credit procurements, Adjustable Block solar program, and community renewable generation program shall provide employment opportunities for all segments of the population and workforce, including minority-owned and female-owned business enterprises, and shall not, consistent with State and federal law, discriminate based on race or socioeconomic status.

(c-5) Procurement of renewable energy credits from new renewable energy facilities installed at or adjacent to the sites of electric generating facilities that burn or burned coal as their primary fuel source.

(1) In addition to the procurement of renewable energy credits pursuant to long-term renewable resources procurement plans in accordance with subsection (c) of this Section and Section 16-111.5 of the Public Utilities Act, the Agency shall conduct procurement events in accordance with this subsection (c-5) for the procurement by electric utilities that served more than 300,000 retail customers in this State as of January 1, 2019 of renewable energy credits from new renewable energy facilities to be installed at or adjacent to the sites of electric generating facilities that, as of January 1, 2016, burned coal as their primary fuel source and meet the other criteria specified in this subsection (c-5). For purposes of this subsection (c-5), "new renewable energy facility" means a new utility-scale solar project as defined in this Section 1-75. The renewable energy credits procured

pursuant to this subsection (c-5) may be included or counted for purposes of compliance with the amounts of renewable energy credits required to be procured pursuant to subsection (c) of this Section to the extent that there are otherwise shortfalls in compliance with such requirements. The procurement of renewable energy credits by electric utilities pursuant to this subsection (c-5) shall be funded solely by revenues collected from the Coal to Solar and Energy Storage Initiative Charge provided for in this subsection (c-5) and subsection (i-5) of Section 16-108 of the Public Utilities Act, shall not be funded by revenues collected through any of the other funding mechanisms provided for in subsection (c) of this Section, and shall not be subject to the limitation imposed by subsection (c) on charges to retail customers for costs to procure renewable energy resources pursuant to subsection (c), and shall not be subject to any other requirements or limitations of subsection (c).

(2) The Agency shall conduct 2 procurement events to select owners of electric generating facilities meeting the eligibility criteria specified in this subsection (c-5) to enter into long-term contracts to sell renewable energy credits to electric utilities serving more than 300,000 retail customers in this State as of January 1, 2019. The first procurement event shall be conducted no later than March 31, 2022, unless the Agency elects to

delay it, until no later than May 1, 2022, due to its overall volume of work, and shall be to select owners of electric generating facilities located in this State and south of federal Interstate Highway 80 that meet the eligibility criteria specified in this subsection (c-5). The second procurement event shall be conducted no sooner than September 30, 2022 and no later than October 31, 2022 and shall be to select owners of electric generating facilities located anywhere in this State that meet the eligibility criteria specified in this subsection (c-5). The Agency shall establish and announce a time period, which shall begin no later than 30 days prior to the scheduled date for the procurement event, during which applicants may submit applications to be selected as suppliers of renewable energy credits pursuant to this subsection (c-5). The eligibility criteria for selection as a supplier of renewable energy credits pursuant to this subsection (c-5) shall be as follows:

(A) The applicant owns an electric generating facility located in this State that: (i) as of January 1, 2016, burned coal as its primary fuel to generate electricity; and (ii) has, or had prior to retirement, an electric generating capacity of at least 150 megawatts. The electric generating facility can be either: (i) retired as of the date of the procurement event; or (ii) still operating as of the date of the procurement event.

(B) The applicant is not (i) an electric cooperative as defined in Section 3-119 of the Public Utilities Act, or (ii) an entity described in subsection (b)(1) of Section 3-105 of the Public Utilities Act, or an association or consortium of or an entity owned by entities described in (i) or (ii); and the coal-fueled electric generating facility was at one time owned, in whole or in part, by a public utility as defined in Section 3-105 of the Public Utilities Act.

(C) If participating in the first procurement event, the applicant proposes and commits to construct and operate, at the site, and if necessary for sufficient space on property adjacent to the existing property, at which the electric generating facility identified in paragraph (A) is located: (i) a new renewable energy facility of at least 20 megawatts but no more than 100 megawatts of electric generating capacity, and (ii) an energy storage facility having a storage capacity equal to at least 2 megawatts and at most 10 megawatts. If participating in the second procurement event, the applicant proposes and commits to construct and operate, at the site, and if necessary for sufficient space on property adjacent to the existing property, at which the electric generating facility identified in paragraph (A) is located: (i) a new renewable energy facility of at least 5 megawatts but no more than 20 megawatts of electric generating capacity, and (ii) an energy storage facility having a storage capacity equal to at least 0.5 megawatts and at most one megawatt.

(D) The applicant agrees that the new renewable energy facility and the energy storage facility will be constructed or installed by a qualified entity or entities in compliance with the requirements of subsection (g) of Section 16-128A of the Public Utilities Act and any rules adopted thereunder.

(E) The applicant agrees that personnel operating the new renewable energy facility and the energy storage facility will have the requisite skills, knowledge, training, experience, and competence, which may be demonstrated by completion or current participation and ultimate completion by employees of an accredited or otherwise recognized apprenticeship program for the employee's particular craft, trade, or skill, including through training and education courses and opportunities offered by the owner to employees of the coal-fueled electric generating facility or by previous employment experience performing the employee's particular work skill or function.

(F) The applicant commits that not less than the prevailing wage, as determined pursuant to the Prevailing Wage Act, will be paid to the applicant's employees engaged in construction activities associated with the new renewable energy facility and the new energy storage facility and to the employees of applicant's contractors engaged in construction activities associated with the new renewable energy facility and the new energy storage facility, and that, on or before the commercial operation date of the new renewable energy facility, the applicant shall file a report with the Agency certifying that the requirements of this subparagraph (F) have been met.

(G) The applicant commits that if selected, it will negotiate a project labor agreement for the construction of the new renewable energy facility and associated energy storage facility that includes provisions requiring the parties to the agreement to work together to establish diversity threshold requirements and to ensure best efforts to meet diversity targets, improve diversity at the applicable job site, create diverse apprenticeship opportunities, and create opportunities to employ former coal-fired power plant workers.

(H) The applicant commits to enter into a contract or contracts for the applicable duration to provide specified numbers of renewable energy credits each year from the new renewable energy facility to electric utilities that served more than 300,000 retail customers in this State as of January 1, 2019, at a price of $30 per renewable energy credit. The price per renewable energy credit shall be fixed at $30 for the applicable duration and the renewable energy credits shall not be indexed renewable energy credits as provided for in item (v) of subparagraph (G) of paragraph (1) of subsection (c) of Section 1-75 of this Act. The applicable duration of each contract shall be 20 years, unless the applicant is physically interconnected to the PJM Interconnection, LLC transmission grid and had a generating capacity of at least 1,200 megawatts as of January 1, 2021, in which case the applicable duration of the contract shall be 15 years.

(I) The applicant's application is certified by an officer of the applicant and by an officer of the applicant's ultimate parent company, if any.

(3) An applicant may submit applications to contract to supply renewable energy credits from more than one new renewable energy facility to be constructed at or adjacent to one or more qualifying electric generating facilities owned by the applicant. The Agency may select new renewable energy facilities to be located at or adjacent

to the sites of more than one qualifying electric generation facility owned by an applicant to contract with electric utilities to supply renewable energy credits from such facilities.

(4) The Agency shall assess fees to each applicant to recover the Agency's costs incurred in receiving and evaluating applications, conducting the procurement event, developing contracts for sale, delivery and purchase of renewable energy credits, and monitoring the administration of such contracts, as provided for in this subsection (c-5), including fees paid to a procurement administrator retained by the Agency for one or more of these purposes.

(5) The Agency shall select the applicants and the new renewable energy facilities to contract with electric utilities to supply renewable energy credits in accordance with this subsection (c-5). In the first procurement event, the Agency shall select applicants and new renewable energy facilities to supply renewable energy credits, at a price of $30 per renewable energy credit, aggregating to no less than 400,000 renewable energy credits per year for the applicable duration, assuming sufficient qualifying applications to supply, in the aggregate, at least that amount of renewable energy credits per year; and not more than 580,000 renewable energy credits per year for the applicable duration. In

the second procurement event, the Agency shall select applicants and new renewable energy facilities to supply renewable energy credits, at a price of $30 per renewable energy credit, aggregating to no more than 625,000 renewable energy credits per year less the amount of renewable energy credits each year contracted for as a result of the first procurement event, for the applicable durations. The number of renewable energy credits to be procured as specified in this paragraph (5) shall not be reduced based on renewable energy credits procured in the self-direct renewable energy credit compliance program established pursuant to subparagraph (R) of paragraph (1) of subsection (c) of Section 1-75.

(6) The obligation to purchase renewable energy credits from the applicants and their new renewable energy facilities selected by the Agency shall be allocated to the electric utilities based on their respective percentages of kilowatthours delivered to delivery services customers to the aggregate kilowatthour deliveries by the electric utilities to delivery services customers for the year ended December 31, 2021. In order to achieve these allocation percentages between or among the electric utilities, the Agency shall require each applicant that is selected in the procurement event to enter into a contract with each electric utility for the sale and purchase of renewable energy credits from each

new renewable energy facility to be constructed and operated by the applicant, with the sale and purchase obligations under the contracts to aggregate to the total number of renewable energy credits per year to be supplied by the applicant from the new renewable energy facility.

(7) The Agency shall submit its proposed selection of applicants, new renewable energy facilities to be constructed, and renewable energy credit amounts for each procurement event to the Commission for approval. The Commission shall, within 2 business days after receipt of the Agency's proposed selections, approve the proposed selections if it determines that the applicants and the new renewable energy facilities to be constructed meet the selection criteria set forth in this subsection (c-5) and that the Agency seeks approval for contracts of applicable durations aggregating to no more than the maximum amount of renewable energy credits per year authorized by this subsection (c-5) for the procurement event, at a price of $30 per renewable energy credit.

(8) The Agency, in conjunction with its procurement administrator if one is retained, the electric utilities, and potential applicants for contracts to produce and supply renewable energy credits pursuant to this subsection (c-5), shall develop a standard form contract for the sale, delivery and purchase of renewable energy credits pursuant to this subsection (c-5). Each contract

resulting from the first procurement event shall allow for a commercial operation date for the new renewable energy facility of either June 1, 2023 or June 1, 2024, with such dates subject to adjustment as provided in this paragraph. Each contract resulting from the second procurement event shall provide for a commercial operation date on June 1 next occurring up to 48 months after execution of the contract. Each contract shall provide that the owner shall receive payments for renewable energy credits for the applicable durations beginning with the commercial operation date of the new renewable energy facility. The form contract shall provide for adjustments to the commercial operation and payment start dates as needed due to any delays in completing the procurement and contracting processes, in finalizing interconnection agreements and installing interconnection facilities, and in obtaining other necessary governmental permits and approvals. The form contract shall be, to the maximum extent possible, consistent with standard electric industry contracts for sale, delivery, and purchase of renewable energy credits while taking into account the specific requirements of this subsection (c-5). The form contract shall provide for over-delivery and under-delivery of renewable energy credits within reasonable ranges during each 12-month period and penalty, default, and enforcement provisions for failure of the selling party to deliver renewable energy credits as specified in the contract and to comply with the requirements of this subsection (c-5). The standard form contract shall specify that all renewable energy credits delivered to the electric utility pursuant to the contract shall be retired. The Agency shall make the proposed contracts available for a reasonable period for comment by potential applicants, and shall publish the final form contract at least 30 days before the date of the first procurement event.

(9) Coal to Solar and Energy Storage Initiative Charge.

(A) By no later than July 1, 2022, each electric utility that served more than 300,000 retail customers in this State as of January 1, 2019 shall file a tariff with the Commission for the billing and collection of a Coal to Solar and Energy Storage Initiative Charge in accordance with subsection (i-5) of Section 16-108 of the Public Utilities Act, with such tariff to be effective, following review and approval or modification by the Commission, beginning January 1, 2023. The tariff shall provide for the calculation and setting of the electric utility's Coal to Solar and Energy Storage Initiative Charge to collect revenues estimated to be sufficient, in the aggregate, (i) to enable the electric utility to pay for the renewable energy credits it has contracted to purchase in the delivery year beginning June 1, 2023 and each delivery year thereafter from new renewable energy facilities located at the sites of qualifying electric generating facilities, and (ii) to fund the grant payments to be made in each delivery year by the Department of Commerce and Economic Opportunity, or any successor department or agency, which shall be referred to in this subsection (c-5) as the Department, pursuant to paragraph (10) of this subsection (c-5). The electric utility's tariff shall provide for the billing and collection of the Coal to Solar and Energy Storage Initiative Charge on each kilowatthour of electricity delivered to its delivery services customers within its service territory and shall provide for an annual reconciliation of revenues collected with actual costs, in accordance with subsection (i-5) of Section 16-108 of the Public Utilities Act.

(B) Each electric utility shall remit on a monthly basis to the State Treasurer, for deposit in the Coal to Solar and Energy Storage Initiative Fund provided for in this subsection (c-5), the electric utility's collections of the Coal to Solar and Energy Storage Initiative Charge in the amount estimated to be needed by the Department for grant payments pursuant to grant contracts entered into by the Department pursuant to paragraph (10) of this subsection (c-5).

(10) Coal to Solar and Energy Storage Initiative Fund.

(A) The Coal to Solar and Energy Storage Initiative Fund is established as a special fund in the State treasury. The Coal to Solar and Energy Storage Initiative Fund is authorized to receive, by statutory deposit, that portion specified in item (B) of paragraph (9) of this subsection (c-5) of moneys collected by electric utilities through imposition of the Coal to Solar and Energy Storage Initiative Charge required by this subsection (c-5). The Coal to Solar and Energy Storage Initiative Fund shall be administered by the Department to provide grants to support the installation and operation of energy storage facilities at the sites of qualifying electric generating facilities meeting the criteria specified in this paragraph (10).

(B) The Coal to Solar and Energy Storage Initiative Fund shall not be subject to sweeps, administrative charges, or chargebacks, including, but not limited to, those authorized under Section 8h of the State Finance Act, that would in any way result in the transfer of those funds from the Coal to Solar and Energy Storage Initiative Fund to any other fund of this State or in having any such funds utilized for any purpose other than the express purposes set forth in this paragraph (10).

(C) The Department shall utilize up to $280,500,000 in the Coal to Solar and Energy Storage Initiative Fund for grants, assuming sufficient qualifying applicants, to support installation of energy storage facilities at the sites of up to 3 qualifying electric generating facilities located in the Midcontinent Independent System Operator, Inc., region in Illinois and the sites of up to 2 qualifying electric generating facilities located in the PJM Interconnection, LLC region in Illinois that meet the criteria set forth in this subparagraph (C). The criteria for receipt of a grant pursuant to this subparagraph (C) are as follows:

(1) the electric generating facility at the site has, or had prior to retirement, an electric generating capacity of at least 150 megawatts;

(2) the electric generating facility burns (or burned prior to retirement) coal as its primary source of fuel;

(3) if the electric generating facility is retired, it was retired subsequent to January 1, 2016;

(4) the owner of the electric generating facility has not been selected by the Agency pursuant to this subsection (c-5) of this Section

to enter into a contract to sell renewable energy credits to one or more electric utilities from a new renewable energy facility located or to be located at or adjacent to the site at which the electric generating facility is located;

(5) the electric generating facility located at the site was at one time owned, in whole or in part, by a public utility as defined in Section 3-105 of the Public Utilities Act;

(6) the electric generating facility at the site is not owned by (i) an electric cooperative as defined in Section 3-119 of the Public Utilities Act, or (ii) an entity described in subsection (b)(1) of Section 3-105 of the Public Utilities Act, or an association or consortium of or an entity owned by entities described in items (i) or (ii);

(7) the proposed energy storage facility at the site will have energy storage capacity of at least 37 megawatts;

(8) the owner commits to place the energy storage facility into commercial operation on either June 1, 2023, June 1, 2024, or June 1, 2025, with such date subject to adjustment as needed due to any delays in completing the grant contracting process, in finalizing interconnection agreements

and in installing interconnection facilities, and in obtaining necessary governmental permits and approvals;

(9) the owner agrees that the new energy storage facility will be constructed or installed by a qualified entity or entities consistent with the requirements of subsection (g) of Section 16-128A of the Public Utilities Act and any rules adopted under that Section;

(10) the owner agrees that personnel operating the energy storage facility will have the requisite skills, knowledge, training, experience, and competence, which may be demonstrated by completion or current participation and ultimate completion by employees of an accredited or otherwise recognized apprenticeship program for the employee's particular craft, trade, or skill, including through training and education courses and opportunities offered by the owner to employees of the coal-fueled electric generating facility or by previous employment experience performing the employee's particular work skill or function;

(11) the owner commits that not less than the prevailing wage, as determined pursuant to the Prevailing Wage Act, will be paid to the owner's

employees engaged in construction activities associated with the new energy storage facility and to the employees of the owner's contractors engaged in construction activities associated with the new energy storage facility, and that, on or before the commercial operation date of the new energy storage facility, the owner shall file a report with the Department certifying that the requirements of this subparagraph (11) have been met; and

(12) the owner commits that if selected to receive a grant, it will negotiate a project labor agreement for the construction of the new energy storage facility that includes provisions requiring the parties to the agreement to work together to establish diversity threshold requirements and to ensure best efforts to meet diversity targets, improve diversity at the applicable job site, create diverse apprenticeship opportunities, and create opportunities to employ former coal-fired power plant workers.

The Department shall accept applications for this grant program until March 31, 2022 and shall announce the award of grants no later than June 1, 2022. The Department shall make the grant payments to a recipient in equal annual amounts for 10 years following the date the energy storage facility is placed into commercial operation. The annual grant payments to a qualifying energy storage facility shall be $110,000 per megawatt of energy storage capacity, with total annual grant payments pursuant to this subparagraph (C) for qualifying energy storage facilities not to exceed $28,050,000 in any year.

(D) Grants of funding for energy storage facilities pursuant to subparagraph (C) of this paragraph (10), from the Coal to Solar and Energy Storage Initiative Fund, shall be memorialized in grant contracts between the Department and the recipient. The grant contracts shall specify the date or dates in each year on which the annual grant payments shall be paid.

(E) All disbursements from the Coal to Solar and Energy Storage Initiative Fund shall be made only upon warrants of the Comptroller drawn upon the Treasurer as custodian of the Fund upon vouchers signed by the Director of the Department or by the person or persons designated by the Director of the Department for that purpose. The Comptroller is authorized to draw the warrants upon vouchers so signed. The Treasurer shall accept all written warrants so signed and shall be released from liability for all payments made on those warrants.

(11) Diversity, equity, and inclusion plans.

(A) Each applicant selected in a procurement event to contract to supply renewable energy credits in accordance with this subsection (c-5) and each owner selected by the Department to receive a grant or grants to support the construction and operation of a new energy storage facility or facilities in accordance with this subsection (c-5) shall, within 60 days following the Commission's approval of the applicant to contract to supply renewable energy credits or within 60 days following execution of a grant contract with the Department, as applicable, submit to the Commission a diversity, equity, and inclusion plan setting forth the applicant's or owner's numeric goals for the diversity composition of its supplier entities for the new renewable energy facility or new energy storage facility, as applicable, which shall be referred to for purposes of this paragraph (11) as the project, and the applicant's or owner's action plan and schedule for achieving those goals.

(B) For purposes of this paragraph (11), diversity composition shall be based on the percentage, which shall be a minimum of 25%, of eligible expenditures for contract awards for materials and services (which shall be defined in the plan) to business enterprises owned by minority persons, women, or persons with disabilities as defined in Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, to LGBTQ business enterprises, to veteran-owned business enterprises, and to business enterprises located in environmental justice communities. The diversity composition goals of the plan may include eligible expenditures in areas for vendor or supplier opportunities in addition to development and construction of the project, and may exclude from eligible expenditures materials and services with limited market availability, limited production and availability from suppliers in the United States, such as solar panels and storage batteries, and material and services that are subject to critical energy infrastructure or cybersecurity requirements or restrictions. The plan may provide that the diversity composition goals may be met through Tier 1 Direct or Tier 2 subcontracting expenditures or a combination thereof for the project.

(C) The plan shall provide for, but not be limited to: (i) internal initiatives, including multi-tier initiatives, by the applicant or owner, or by its engineering, procurement and construction contractor if one is used for the project, which for purposes of this paragraph (11) shall be referred to as the EPC contractor, to enable diverse businesses to be considered fairly for selection to provide materials and services; (ii) requirements for the applicant or owner or its EPC contractor to proactively solicit and utilize diverse businesses to provide materials and services; and (iii) requirements for the applicant or owner or its EPC contractor to hire a diverse workforce for the project. The plan shall include a description of the applicant's or owner's diversity recruiting efforts both for the project and for other areas of the applicant's or owner's business operations. The plan shall provide for the imposition of financial penalties on the applicant's or owner's EPC contractor for failure to exercise best efforts to comply with and execute the EPC contractor's diversity obligations under the plan. The plan may provide for the applicant or owner to set aside a portion of the work on the project to serve as an incubation program for qualified businesses, as specified in the plan, owned by minority persons, women, persons with disabilities, LGBTQ persons, and veterans, and businesses located in environmental justice communities, seeking to enter the renewable energy industry.

(D) The applicant or owner may submit a revised or updated plan to the Commission from time to time as circumstances warrant. The applicant or owner shall file annual reports with the Commission detailing the applicant's or owner's progress in implementing its plan and achieving its goals and any modifications the applicant or owner has made to its plan to better achieve its diversity, equity and inclusion goals. The applicant or owner shall file a final report on the fifth June 1 following the commercial operation date of the new renewable energy resource or new energy storage facility, but the applicant or owner shall thereafter continue to be subject to applicable reporting requirements of Section 5-117 of the Public Utilities Act.

(c-10) Equity accountability system. It is the purpose of this subsection (c-10) to create an equity accountability system, which includes the minimum equity standards for all renewable energy procurements, the equity category of the Adjustable Block Program, and the equity prioritization for noncompetitive procurements, that is successful in advancing priority access to the clean energy economy for businesses and workers from communities that have been excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes. Further, it is the purpose of this subsection to ensure that this equity accountability system is successful in advancing equity across Illinois by providing access to the clean energy economy for businesses and workers from communities that have been historically excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes.

(1) Minimum equity standards. The Agency shall create programs with the purpose of increasing access to and development of equity eligible contractors, who are prime contractors and subcontractors, across all of the programs it manages. All applications for renewable energy credit procurements shall comply with specific minimum equity commitments. Starting in the delivery year immediately following the next long-term renewable resources procurement plan, at least 10% of the project workforce for each entity participating in a procurement program outlined in this subsection (c-10) must be done by equity eligible persons or equity eligible contractors. The Agency shall increase the minimum percentage each delivery year thereafter by increments that ensure a statewide average of 30% of the project workforce for each entity participating in a procurement program is done by equity eligible persons or equity eligible contractors by 2030. The Agency shall propose a schedule of percentage increases to the minimum equity standards in its draft

revised renewable energy resources procurement plan submitted to the Commission for approval pursuant to paragraph (5) of subsection (b) of Section 16-111.5 of the Public Utilities Act. In determining these annual increases, the Agency shall have the discretion to establish different minimum equity standards for different types of procurements and different regions of the State if the Agency finds that doing so will further the purposes of this subsection (c-10). The proposed schedule of annual increases shall be revisited and updated on an annual basis. Revisions shall be developed with stakeholder input, including from equity eligible persons, equity eligible contractors, clean energy industry representatives, and community-based organizations that work with such persons and contractors.

(A) At the start of each delivery year, the Agency shall require a compliance plan from each entity participating in a procurement program of subsection (c) of this Section that demonstrates how they will achieve compliance with the minimum equity standard percentage for work completed in that delivery year. If an entity applies for its approved vendor or designee status between delivery years, the Agency shall require a compliance plan at the time of application.

(B) Halfway through each delivery year, the Agency shall require each entity participating in a procurement program to confirm that it will achieve compliance in that delivery year, when applicable. The Agency may offer corrective action plans to entities that are not on track to achieve compliance.

(C) At the end of each delivery year, each entity participating and completing work in that delivery year in a procurement program of subsection (c) shall submit a report to the Agency that demonstrates how it achieved compliance with the minimum equity standards percentage for that delivery year.

(D) The Agency shall prohibit participation in procurement programs by an approved vendor or designee, as applicable, or entities with which an approved vendor or designee, as applicable, shares a common parent company if an approved vendor or designee, as applicable, failed to meet the minimum equity standards for the prior delivery year. Waivers approved for lack of equity eligible persons or equity eligible contractors in a geographic area of a project shall not count against the approved vendor or designee. The Agency shall offer a corrective action plan for any such entities to assist them in obtaining compliance and shall allow continued access to procurement programs upon an approved vendor or designee demonstrating compliance.

(E) The Agency shall pursue efficiencies achieved by combining with other approved vendor or designee reporting.

(2) Equity accountability system within the Adjustable Block program. The equity category described in item (vi) of subparagraph (K) of subsection (c) is only available to applicants that are equity eligible contractors.

(3) Equity accountability system within competitive procurements. Through its long-term renewable resources procurement plan, the Agency shall develop requirements for ensuring that competitive procurement processes, including utility-scale solar, utility-scale wind, and brownfield site photovoltaic projects, advance the equity goals of this subsection (c-10). Subject to Commission approval, the Agency shall develop bid application requirements and a bid evaluation methodology for ensuring that utilization of equity eligible contractors, whether as bidders or as participants on project development, is optimized, including requiring that winning or successful applicants for utility-scale projects are or will partner with equity eligible contractors and giving preference to bids through which a higher portion of contract value flows to equity eligible contractors. To the extent practicable, entities participating in competitive procurements shall also be required to meet all the equity accountability requirements for approved vendors and their

designees under this subsection (c-10). In developing these requirements, the Agency shall also consider whether equity goals can be further advanced through additional measures.

(4) In the first revision to the long-term renewable energy resources procurement plan and each revision thereafter, the Agency shall include the following:

(A) The current status and number of equity eligible contractors listed in the Energy Workforce Equity Database designed in subsection (c-25), including the number of equity eligible contractors with current certifications as issued by the Agency.

(B) A mechanism for measuring, tracking, and reporting project workforce at the approved vendor or designee level, as applicable, which shall include a measurement methodology and records to be made available for audit by the Agency or the Program Administrator.

(C) A program for approved vendors, designees, eligible persons, and equity eligible contractors to receive trainings, guidance, and other support from the Agency or its designee regarding the equity category outlined in item (vi) of subparagraph (K) of paragraph (1) of subsection (c) and in meeting the minimum equity standards of this subsection (c-10).

(D) A process for certifying equity eligible contractors and equity eligible persons. The certification process shall coordinate with the Energy Workforce Equity Database set forth in subsection (c-25).

(E) An application for waiver of the minimum equity standards of this subsection, which the Agency shall have the discretion to grant in rare circumstances. The Agency may grant such a waiver where the applicant provides evidence of significant efforts toward meeting the minimum equity commitment, including: use of the Energy Workforce Equity Database; efforts to hire or contract with entities that hire eligible persons; and efforts to establish contracting relationships with eligible contractors. The Agency shall support applicants in understanding the Energy Workforce Equity Database and other resources for pursuing compliance of the minimum equity standards. Waivers shall be project-specific, unless the Agency deems it necessary to grant a waiver across a portfolio of projects, and in effect for no longer than one year. Any waiver extension or subsequent waiver request from an applicant shall be subject to the requirements of this Section and shall specify efforts made to reach compliance. When considering whether to grant a waiver, and to what extent, the Agency shall consider the degree to which similarly situated applicants have been able to meet these minimum equity commitments. For repeated waiver requests for specific lack of eligible persons or eligible contractors available, the Agency shall make recommendations to target recruitment to add such eligible persons or eligible contractors to the database.

(5) The Agency shall collect information about work on projects or portfolios of projects subject to these minimum equity standards to ensure compliance with this subsection (c-10). Reporting in furtherance of this requirement may be combined with other annual reporting requirements. Such reporting shall include proof of certification of each equity eligible contractor or equity eligible person during the applicable time period.

(6) The Agency shall keep confidential all information and communication that provides private or personal information.

(7) Modifications to the equity accountability system. As part of the update of the long-term renewable resources procurement plan to be initiated in 2023, or sooner if the Agency deems necessary, the Agency shall determine the extent to which the equity accountability system described in this subsection (c-10) has advanced the goals of this amendatory Act of the 102nd General Assembly, including through the inclusion of equity eligible persons and

equity eligible contractors in renewable energy credit projects. If the Agency finds that the equity accountability system has failed to meet those goals to its fullest potential, the Agency may revise the following criteria for future Agency procurements: (A) the percentage of project workforce, or other appropriate workforce measure, certified as equity eligible persons or equity eligible contractors; (B) definitions for equity investment eligible persons and equity investment eligible community; and (C) such other modifications necessary to advance the goals of this amendatory Act of the 102nd General Assembly effectively. Such revised criteria may also establish distinct equity accountability systems for different types of procurements or different regions of the State if the Agency finds that doing so will further the purposes of such programs. Revisions shall be developed with stakeholder input, including from equity eligible persons, equity eligible contractors, and community-based organizations that work with such persons and contractors.

(c-15) Racial discrimination elimination powers and process.

(1) Purpose. It is the purpose of this subsection to empower the Agency and other State actors to remedy racial discrimination in Illinois' clean energy economy as effectively and expediently as possible, including through

the use of race-conscious remedies, such as race-conscious contracting and hiring goals, as consistent with State and federal law.

(2) Racial disparity and discrimination review process.

(A) Within one year after awarding contracts using the equity actions processes established in this Section, the Agency shall publish a report evaluating the effectiveness of the equity actions point criteria of this Section in increasing participation of equity eligible persons and equity eligible contractors. The report shall disaggregate participating workers and contractors by race and ethnicity. The report shall be forwarded to the Governor, the General Assembly, and the Illinois Commerce Commission and be made available to the public.

(B) As soon as is practicable thereafter, the Agency, in consultation with the Department of Commerce and Economic Opportunity, Department of Labor, and other agencies that may be relevant, shall commission and publish a disparity and availability study that measures the presence and impact of discrimination on minority businesses and workers in Illinois' clean energy economy. The Agency may hire consultants and experts to conduct the disparity and availability study, with the retention of those consultants and experts exempt from the requirements of Section 20-10 of the Illinois Procurement Code. The Illinois Power Agency shall forward a copy of its findings and recommendations to the Governor, the General Assembly, and the Illinois Commerce Commission. If the disparity and availability study establishes a strong basis in evidence that there is discrimination in Illinois' clean energy economy, the Agency, Department of Commerce and Economic Opportunity, Department of Labor, Department of Corrections, and other appropriate agencies shall take appropriate remedial actions, including race-conscious remedial actions as consistent with State and federal law, to effectively remedy this discrimination. Such remedies may include modification of the equity accountability system as described in subsection (c-10).

(c-20) Program data collection.

(1) Purpose. Data collection, data analysis, and reporting are critical to ensure that the benefits of the clean energy economy provided to Illinois residents and businesses are equitably distributed across the State. The Agency shall collect data from program applicants in order to track and improve equitable distribution of benefits across Illinois communities for all procurements the Agency conducts. The Agency shall use this data to, among

other things, measure any potential impact of racial discrimination on the distribution of benefits and provide information necessary to correct any discrimination through methods consistent with State and federal law.

(2) Agency collection of program data. The Agency shall collect demographic and geographic data for each entity awarded contracts under any Agency-administered program.

(3) Required information to be collected. The Agency shall collect the following information from applicants and program participants where applicable:

(A) demographic information, including racial or ethnic identity for real persons employed, contracted, or subcontracted through the program and owners of businesses or entities that apply to receive renewable energy credits from the Agency;

(B) geographic location of the residency of real persons employed, contracted, or subcontracted through the program and geographic location of the headquarters of the business or entity that applies to receive renewable energy credits from the Agency; and

(C) any other information the Agency determines is necessary for the purpose of achieving the purpose of this subsection.

(4) Publication of collected information. The Agency shall publish, at least annually, information on the

demographics of program participants on an aggregate basis.

(5) Nothing in this subsection shall be interpreted to limit the authority of the Agency, or other agency or department of the State, to require or collect demographic information from applicants of other State programs.

(c-25) Energy Workforce Equity Database.

(1) The Agency, in consultation with the Department of Commerce and Economic Opportunity, shall create an Energy Workforce Equity Database, and may contract with a third party to do so ("database program administrator"). If the Department decides to contract with a third party, that third party shall be exempt from the requirements of Section 20-10 of the Illinois Procurement Code. The Energy Workforce Equity Database shall be a searchable database of suppliers, vendors, and subcontractors for clean energy industries that is:

(A) publicly accessible;

(B) easy for people to find and use;

(C) organized by company specialty or field;

(D) region-specific; and

(E) populated with information including, but not limited to, contacts for suppliers, vendors, or subcontractors who are minority and women-owned business enterprise certified or who participate or have participated in any of the programs described in this Act.

(2) The Agency shall create an easily accessible, public facing online tool using the database information that includes, at a minimum, the following:

(A) a map of environmental justice and equity investment eligible communities;

(B) job postings and recruiting opportunities;

(C) a means by which recruiting clean energy companies can find and interact with current or former participants of clean energy workforce training programs;

(D) information on workforce training service providers and training opportunities available to prospective workers;

(E) renewable energy company diversity reporting;

(F) a list of equity eligible contractors with their contact information, types of work performed, and locations worked in;

(G) reporting on outcomes of the programs described in the workforce programs of the Energy Transition Act, including information such as, but not limited to, retention rate, graduation rate, and placement rates of trainees; and

(H) information about the Jobs and Environmental Justice Grant Program, the Clean Energy Jobs and Justice Fund, and other sources of capital.

(3) The Agency shall ensure the database is regularly updated to ensure information is current and shall coordinate with the Department of Commerce and Economic Opportunity to ensure that it includes information on individuals and entities that are or have participated in the Clean Jobs Workforce Network Program, Clean Energy Contractor Incubator Program, Returning Residents Clean Jobs Training Program, or Clean Energy Primes Contractor Accelerator Program.

(c-30) Enforcement of minimum equity standards. All entities seeking renewable energy credits must submit an annual report to demonstrate compliance with each of the equity commitments required under subsection (c-10). If the Agency concludes the entity has not met or maintained its minimum equity standards required under the applicable subparagraphs under subsection (c-10), the Agency shall deny the entity's ability to participate in procurement programs in subsection (c), including by withholding approved vendor or designee status. The Agency may require the entity to enter into a corrective action plan. An entity that is not recertified for failing to meet required equity actions in subparagraph (c-10) may reapply once they have a corrective action plan and achieve compliance with the minimum equity standards.

(d) Clean coal portfolio standard.

(1) The procurement plans shall include electricity

generated using clean coal. Each utility shall enter into one or more sourcing agreements with the initial clean coal facility, as provided in paragraph (3) of this subsection (d), covering electricity generated by the initial clean coal facility representing at least 5% of each utility's total supply to serve the load of eligible retail customers in 2015 and each year thereafter, as described in paragraph (3) of this subsection (d), subject to the limits specified in paragraph (2) of this subsection (d). It is the goal of the State that by January 1, 2025, 25% of the electricity used in the State shall be generated by cost-effective clean coal facilities. For purposes of this subsection (d), "cost-effective" means that the expenditures pursuant to such sourcing agreements do not cause the limit stated in paragraph (2) of this subsection (d) to be exceeded and do not exceed cost-based benchmarks, which shall be developed to assess all expenditures pursuant to such sourcing agreements covering electricity generated by clean coal facilities, other than the initial clean coal facility, by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval.

A utility party to a sourcing agreement shall immediately retire any emission credits that it receives in connection with the electricity covered by such agreement.

Utilities shall maintain adequate records documenting the purchases under the sourcing agreement to comply with this subsection (d) and shall file an accounting with the load forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act.

A utility shall be deemed to have complied with the clean coal portfolio standard specified in this subsection (d) if the utility enters into a sourcing agreement as required by this subsection (d).

(2) For purposes of this subsection (d), the required execution of sourcing agreements with the initial clean coal facility for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the planning year ending immediately prior to the agreement's execution. For purposes of this subsection (d), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (d), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges and add-on taxes.

Notwithstanding the requirements of this subsection (d), the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any given year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to:

(A) in 2010, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(B) in 2011, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2010 or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(C) in 2012, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2011 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(D) in 2013, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2012 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009; and

(E) thereafter, the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of (i) 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or (ii) the incremental amount per kilowatthour paid for these resources in 2013. These requirements may be altered only as provided by statute.

No later than June 30, 2015, the Commission shall review the limitation on the total amount paid under sourcing agreements, if any, with clean coal facilities pursuant to this subsection (d) and report to the General Assembly its findings as to whether that limitation unduly constrains the amount of electricity generated by cost-effective clean coal facilities that is covered by sourcing agreements.

(3) Initial clean coal facility. In order to promote development of clean coal facilities in Illinois, each electric utility subject to this Section shall execute a sourcing agreement to source electricity from a proposed clean coal facility in Illinois (the "initial clean coal facility") that will have a nameplate capacity of at least

500 MW when commercial operation commences, that has a final Clean Air Act permit on June 1, 2009 (the effective date of Public Act 95-1027), and that will meet the definition of clean coal facility in Section 1-10 of this Act when commercial operation commences. The sourcing agreements with this initial clean coal facility shall be subject to both approval of the initial clean coal facility by the General Assembly and satisfaction of the requirements of paragraph (4) of this subsection (d) and shall be executed within 90 days after any such approval by the General Assembly. The Agency and the Commission shall have authority to inspect all books and records associated with the initial clean coal facility during the term of such a sourcing agreement. A utility's sourcing agreement for electricity produced by the initial clean coal facility shall include:

(A) a formula contractual price (the "contract price") approved pursuant to paragraph (4) of this subsection (d), which shall:

(i) be determined using a cost of service methodology employing either a level or deferred capital recovery component, based on a capital structure consisting of 45% equity and 55% debt, and a return on equity as may be approved by the Federal Energy Regulatory Commission, which in any case may not exceed the lower of 11.5% or the rate of return approved by the General Assembly pursuant to paragraph (4) of this subsection (d); and

(ii) provide that all miscellaneous net revenue, including but not limited to net revenue from the sale of emission allowances, if any, substitute natural gas, if any, grants or other support provided by the State of Illinois or the United States Government, firm transmission rights, if any, by-products produced by the facility, energy or capacity derived from the facility and not covered by a sourcing agreement pursuant to paragraph (3) of this subsection (d) or item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, whether generated from the synthesis gas derived from coal, from SNG, or from natural gas, shall be credited against the revenue requirement for this initial clean coal facility;

(B) power purchase provisions, which shall:

(i) provide that the utility party to such sourcing agreement shall pay the contract price for electricity delivered under such sourcing agreement;

(ii) require delivery of electricity to the regional transmission organization market of the utility that is party to such sourcing agreement;

(iii) require the utility party to such sourcing agreement to buy from the initial clean coal facility in each hour an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount purchased by the utility in any year will be limited by paragraph (2) of this subsection (d); and

(iv) be considered pre-existing contracts in such utility's procurement plans for eligible retail customers;

(C) contract for differences provisions, which shall:

(i) require the utility party to such sourcing agreement to contract with the initial clean coal facility in each hour with respect to an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the utility's service territory in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount paid by the utility in any year will be limited by paragraph (2) of this subsection (d);

(ii) provide that the utility's payment obligation in respect of the quantity of electricity determined pursuant to the preceding clause (i) shall be limited to an amount equal to (1) the difference between the contract price determined pursuant to subparagraph (A) of paragraph (3) of this subsection (d) and the day-ahead price for electricity delivered to the regional transmission organization market of the utility that is party to such sourcing agreement (or any successor delivery point at which such utility's supply obligations are financially settled on an hourly basis) (the "reference price") on the day preceding the day on which the electricity is delivered to the initial clean coal facility busbar, multiplied by (2) the quantity of electricity determined pursuant to the preceding clause (i); and

(iii) not require the utility to take physical delivery of the electricity produced by the facility;

(D) general provisions, which shall:

(i) specify a term of no more than 30 years, commencing on the commercial operation date of the facility;

(ii) provide that utilities shall maintain adequate records documenting purchases under the sourcing agreements entered into to comply with this subsection (d) and shall file an accounting with the load forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act;

(iii) provide that all costs associated with the initial clean coal facility will be periodically reported to the Federal Energy Regulatory Commission and to purchasers in accordance with applicable laws governing cost-based wholesale power contracts;

(iv) permit the Illinois Power Agency to assume ownership of the initial clean coal facility, without monetary consideration and otherwise on reasonable terms acceptable to the Agency, if the Agency so requests no less than 3 years prior to the end of the stated contract term;

(v) require the owner of the initial clean coal facility to provide documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon emissions from the facility that have been captured and sequestered and report any quantities of carbon released from the site or sites at which carbon emissions were sequestered in prior years, based on continuous monitoring of such sites. If, in any year after the first year of commercial operation, the owner of the facility fails to demonstrate that the initial clean coal facility captured and sequestered at least 50% of the total carbon emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, the owner of the facility must offset excess emissions. Any such carbon offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable. The cost of such offsets for the facility that are not recoverable shall not exceed $15 million in any given year. No costs of any such purchases of carbon offsets may be recovered from a utility or its customers. All carbon offsets purchased for this purpose and any carbon emission credits associated with sequestration of carbon from the facility must be permanently retired. The initial clean coal facility shall not forfeit its designation as a clean coal facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased. However, the Attorney General, on behalf of the People of the State of Illinois, may specifically enforce the facility's sequestration requirement and the other terms of this contract provision. Compliance with the sequestration requirements and offset purchase requirements specified in paragraph (3) of this subsection (d) shall be reviewed annually by an independent expert retained by the owner of the initial clean coal facility, with the advance written approval of the Attorney General. The Commission may, in the course of the review specified in item (vii), reduce the allowable return on equity for the facility if the facility willfully fails to comply with the carbon capture and sequestration requirements set forth in this item (v);

(vi) include limits on, and accordingly provide for modification of, the amount the utility is required to source under the sourcing agreement consistent with paragraph (2) of this subsection (d);

(vii) require Commission review: (1) to determine the justness, reasonableness, and prudence of the inputs to the formula referenced in subparagraphs (A)(i) through (A)(iii) of paragraph (3) of this subsection (d), prior to an adjustment in those inputs including, without limitation, the capital structure and return on equity, fuel costs, and other operations and maintenance costs and (2) to approve the costs to be passed through to customers under the sourcing agreement by which the utility satisfies its statutory obligations. Commission review shall occur no less than every 3 years, regardless of whether any adjustments have been proposed, and shall be completed within 9 months;

(viii) limit the utility's obligation to such amount as the utility is allowed to recover through tariffs filed with the Commission, provided that neither the clean coal facility nor the utility waives any right to assert federal pre-emption or any other argument in response to a purported disallowance of recovery costs;

(ix) limit the utility's or alternative retail electric supplier's obligation to incur any liability until such time as the facility is in commercial operation and generating power and energy and such power and energy is being delivered to the facility busbar;

(x) provide that the owner or owners of the initial clean coal facility, which is the counterparty to such sourcing agreement, shall have the right from time to time to elect whether the obligations of the utility party thereto shall be governed by the power purchase provisions or the contract for differences provisions;

(xi) append documentation showing that the formula rate and contract, insofar as they relate to the power purchase provisions, have been approved by the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act;

(xii) provide that any changes to the terms of the contract, insofar as such changes relate to the power purchase provisions, are subject to review under the public interest standard applied by the Federal Energy Regulatory Commission pursuant to Sections 205 and 206 of the Federal Power Act; and

(xiii) conform with customary lender requirements in power purchase agreements used as the basis for financing non-utility generators.

(4) Effective date of sourcing agreements with the initial clean coal facility. Any proposed sourcing agreement with the initial clean coal facility shall not become effective unless the following reports are prepared and submitted and authorizations and approvals obtained:

(i) Facility cost report. The owner of the initial clean coal facility shall submit to the Commission, the Agency, and the General Assembly a front-end engineering and design study, a facility cost report, method of financing (including but not limited to structure and associated costs), and an operating and maintenance cost quote for the facility (collectively "facility cost report"), which shall be prepared in accordance with the requirements of this paragraph (4) of subsection (d) of this Section, and shall provide the Commission and the Agency access to the work papers, relied upon documents, and any other backup documentation related to the facility cost report.

(ii) Commission report. Within 6 months following receipt of the facility cost report, the Commission, in consultation with the Agency, shall submit a report to the General Assembly setting forth its analysis of the facility cost report. Such report shall include, but not be limited to, a comparison of the costs associated with electricity generated by the initial clean coal facility to the costs associated with electricity generated by other types of generation facilities, an analysis of the rate impacts on residential and small business customers over the life of the sourcing agreements, and an analysis of the likelihood that the initial clean coal facility will commence commercial operation by and be delivering power to the facility's busbar by 2016. To assist in the preparation of its report, the Commission, in consultation with the Agency, may hire one or more experts or consultants, the costs of which shall be paid for by the owner of the initial clean coal facility. The Commission and Agency may begin the process of selecting such experts or consultants prior to receipt of the facility cost report.

(iii) General Assembly approval. The proposed sourcing agreements shall not take effect unless, based on the facility cost report and the Commission's report, the General Assembly enacts authorizing legislation approving (A) the projected price, stated in cents per kilowatthour, to be charged for electricity generated by the initial clean coal facility, (B) the projected impact on residential and small business customers' bills over the life of the sourcing agreements, and (C) the maximum allowable return on equity for the project; and

(iv) Commission review. If the General Assembly enacts authorizing legislation pursuant to subparagraph (iii) approving a sourcing agreement, the Commission shall, within 90 days of such enactment, complete a review of such sourcing agreement. During such time period, the Commission shall implement any directive of the General Assembly, resolve any disputes between the parties to the sourcing agreement concerning the terms of such agreement, approve the form of such agreement, and issue an order finding that the sourcing agreement is prudent and reasonable.

The facility cost report shall be prepared as follows:

(A) The facility cost report shall be prepared by duly licensed engineering and construction firms detailing the estimated capital costs payable to one or more contractors or suppliers for the engineering, procurement and construction of the components comprising the initial clean coal facility and the estimated costs of operation and maintenance of the facility. The facility cost report shall include:

(i) an estimate of the capital cost of the core plant based on one or more front end engineering and design studies for the gasification island and related facilities. The core plant shall include all civil, structural, mechanical, electrical, control, and safety systems.

(ii) an estimate of the capital cost of the balance of the plant, including any capital costs associated with sequestration of carbon dioxide emissions and all interconnects and interfaces required to operate the facility, such as transmission of electricity, construction or backfeed power supply, pipelines to transport substitute natural gas or carbon dioxide, potable water supply, natural gas supply, water supply, water discharge, landfill, access roads, and coal delivery.

The quoted construction costs shall be expressed in nominal dollars as of the date that the quote is prepared and shall include capitalized financing costs during construction, taxes, insurance, and other owner's costs, and an assumed escalation in materials and labor beyond the date as of which the construction cost quote is expressed.

(B) The front end engineering and design study for the gasification island and the cost study for the balance of plant shall include sufficient design work to permit quantification of major categories of materials, commodities and labor hours, and receipt of quotes from vendors of major equipment required to construct and operate the clean coal facility.

(C) The facility cost report shall also include an operating and maintenance cost quote that will provide the estimated cost of delivered fuel, personnel, maintenance contracts, chemicals, catalysts, consumables, spares, and other fixed and variable operations and maintenance costs. The delivered fuel cost estimate will be provided by a recognized third party expert or experts in the fuel and transportation industries. The balance of the operating and maintenance cost quote, excluding delivered fuel costs, will be developed based on the inputs provided by duly licensed engineering and construction firms performing the construction cost quote, potential vendors under long-term service agreements and plant operating agreements, or recognized third party plant operator or operators.

The operating and maintenance cost quote (including the cost of the front end engineering and design study) shall be expressed in nominal dollars as of the date that the quote is prepared and shall include taxes, insurance, and other owner's costs, and an assumed escalation in materials and labor beyond the date as of which the operating and maintenance cost quote is expressed.

(D) The facility cost report shall also include an analysis of the initial clean coal facility's ability to deliver power and energy into the applicable regional transmission organization markets and an analysis of the expected capacity factor for the initial clean coal facility.

(E) Amounts paid to third parties unrelated to the owner or owners of the initial clean coal facility to prepare the core plant construction cost quote, including the front end engineering and design study, and the operating and maintenance cost quote will be reimbursed through Coal Development Bonds.

(5) Re-powering and retrofitting coal-fired power plants previously owned by Illinois utilities to qualify as clean coal facilities. During the 2009 procurement planning process and thereafter, the Agency and the Commission shall consider sourcing agreements covering electricity generated by power plants that were previously owned by Illinois utilities and that have been or will be converted into clean coal facilities, as defined by Section 1-10 of this Act. Pursuant to such procurement planning process, the owners of such facilities may propose to the Agency sourcing agreements with utilities and alternative retail electric suppliers required to comply with subsection (d) of this Section and item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, covering electricity generated by such facilities. In the case of sourcing agreements that are power purchase agreements, the contract price for electricity sales shall be established on a cost of service basis. In the case of sourcing agreements that are contracts for differences, the contract price from which the reference price is subtracted shall be established on a cost of service basis. The Agency and the Commission may approve any such utility sourcing agreements that do not exceed cost-based

benchmarks developed by the procurement administrator, in consultation with the Commission staff, Agency staff and the procurement monitor, subject to Commission review and approval. The Commission shall have authority to inspect all books and records associated with these clean coal facilities during the term of any such contract.

(6) Costs incurred under this subsection (d) or pursuant to a contract entered into under this subsection (d) shall be deemed prudently incurred and reasonable in amount and the electric utility shall be entitled to full cost recovery pursuant to the tariffs filed with the Commission.

(d-5) Zero emission standard.

(1) Beginning with the delivery year commencing on June 1, 2017, the Agency shall, for electric utilities that serve at least 100,000 retail customers in this State, procure contracts with zero emission facilities that are reasonably capable of generating cost-effective zero emission credits in an amount approximately equal to 16% of the actual amount of electricity delivered by each electric utility to retail customers in the State during calendar year 2014. For an electric utility serving fewer than 100,000 retail customers in this State that requested, under Section 16-111.5 of the Public Utilities Act, that the Agency procure power and energy for all or a portion of the utility's Illinois load for the delivery

year commencing June 1, 2016, the Agency shall procure contracts with zero emission facilities that are reasonably capable of generating cost-effective zero emission credits in an amount approximately equal to 16% of the portion of power and energy to be procured by the Agency for the utility. The duration of the contracts procured under this subsection (d-5) shall be for a term of 10 years ending May 31, 2027. The quantity of zero emission credits to be procured under the contracts shall be all of the zero emission credits generated by the zero emission facility in each delivery year; however, if the zero emission facility is owned by more than one entity, then the quantity of zero emission credits to be procured under the contracts shall be the amount of zero emission credits that are generated from the portion of the zero emission facility that is owned by the winning supplier.

The 16% value identified in this paragraph (1) is the average of the percentage targets in subparagraph (B) of paragraph (1) of subsection (c) of this Section for the 5 delivery years beginning June 1, 2017.

The procurement process shall be subject to the following provisions:

(A) Those zero emission facilities that intend to participate in the procurement shall submit to the Agency the following eligibility information for each zero emission facility on or before the date established by the Agency:

(i) the in-service date and remaining useful life of the zero emission facility;

(ii) the amount of power generated annually for each of the years 2005 through 2015, and the projected zero emission credits to be generated over the remaining useful life of the zero emission facility, which shall be used to determine the capability of each facility;

(iii) the annual zero emission facility cost projections, expressed on a per megawatthour basis, over the next 6 delivery years, which shall include the following: operation and maintenance expenses; fully allocated overhead costs, which shall be allocated using the methodology developed by the Institute for Nuclear Power Operations; fuel expenditures; non-fuel capital expenditures; spent fuel expenditures; a return on working capital; the cost of operational and market risks that could be avoided by ceasing operation; and any other costs necessary for continued operations, provided that "necessary" means, for purposes of this item (iii), that the costs could reasonably be avoided only by ceasing operations of the zero emission facility; and

(iv) a commitment to continue operating, for the duration of the contract or contracts executed under the procurement held under this subsection (d-5), the zero emission facility that produces the zero emission credits to be procured in the procurement.

The information described in item (iii) of this subparagraph (A) may be submitted on a confidential basis and shall be treated and maintained by the Agency, the procurement administrator, and the Commission as confidential and proprietary and exempt from disclosure under subparagraphs (a) and (g) of paragraph (1) of Section 7 of the Freedom of Information Act. The Office of Attorney General shall have access to, and maintain the confidentiality of, such information pursuant to Section 6.5 of the Attorney General Act.

(B) The price for each zero emission credit procured under this subsection (d-5) for each delivery year shall be in an amount that equals the Social Cost of Carbon, expressed on a price per megawatthour basis. However, to ensure that the procurement remains affordable to retail customers in this State if electricity prices increase, the price in an applicable delivery year shall be reduced below the Social Cost of Carbon by the amount ("Price Adjustment") by which the market price index for the applicable delivery year exceeds the baseline market price index for the consecutive 12-month period ending May 31, 2016. If the Price Adjustment is greater than or equal to the Social Cost of Carbon in an applicable delivery year, then no payments shall be due in that delivery year. The components of this calculation are defined as follows:

(i) Social Cost of Carbon: The Social Cost of Carbon is $16.50 per megawatthour, which is based on the U.S. Interagency Working Group on Social Cost of Carbon's price in the August 2016 Technical Update using a 3% discount rate, adjusted for inflation for each year of the program. Beginning with the delivery year commencing June 1, 2023, the price per megawatthour shall increase by $1 per megawatthour, and continue to increase by an additional $1 per megawatthour each delivery year thereafter.

(ii) Baseline market price index: The baseline market price index for the consecutive 12-month period ending May 31, 2016 is $31.40 per megawatthour, which is based on the sum of (aa) the average day-ahead energy price across all hours of such 12-month period at the PJM Interconnection LLC Northern Illinois Hub, (bb)

50% multiplied by the Base Residual Auction, or its successor, capacity price for the rest of the RTO zone group determined by PJM Interconnection LLC, divided by 24 hours per day, and (cc) 50% multiplied by the Planning Resource Auction, or its successor, capacity price for Zone 4 determined by the Midcontinent Independent System Operator, Inc., divided by 24 hours per day.

(iii) Market price index: The market price index for a delivery year shall be the sum of projected energy prices and projected capacity prices determined as follows:

(aa) Projected energy prices: the projected energy prices for the applicable delivery year shall be calculated once for the year using the forward market price for the PJM Interconnection, LLC Northern Illinois Hub. The forward market price shall be calculated as follows: the energy forward prices for each month of the applicable delivery year averaged for each trade date during the calendar year immediately preceding that delivery year to produce a single energy forward price for the delivery year. The forward market price calculation shall use data published by the Intercontinental

Exchange, or its successor.

(bb) Projected capacity prices:

(I) For the delivery years commencing June 1, 2017, June 1, 2018, and June 1, 2019, the projected capacity price shall be equal to the sum of (1) 50% multiplied by the Base Residual Auction, or its successor, price for the rest of the RTO zone group as determined by PJM Interconnection LLC, divided by 24 hours per day and, (2) 50% multiplied by the resource auction price determined in the resource auction administered by the Midcontinent Independent System Operator, Inc., in which the largest percentage of load cleared for Local Resource Zone 4, divided by 24 hours per day, and where such price is determined by the Midcontinent Independent System Operator, Inc.

(II) For the delivery year commencing June 1, 2020, and each year thereafter, the projected capacity price shall be equal to the sum of (1) 50% multiplied by the Base Residual Auction, or its successor, price for the ComEd zone as determined by PJM Interconnection LLC, divided by 24 hours per day, and (2) 50% multiplied by the resource auction price determined in the resource auction administered by the Midcontinent Independent System Operator, Inc., in which the largest percentage of load cleared for Local Resource Zone 4, divided by 24 hours per day, and where such price is determined by the Midcontinent Independent System Operator, Inc.

For purposes of this subsection (d-5):

"Rest of the RTO" and "ComEd Zone" shall have the meaning ascribed to them by PJM Interconnection, LLC.

"RTO" means regional transmission organization.

(C) No later than 45 days after June 1, 2017 (the effective date of Public Act 99-906), the Agency shall publish its proposed zero emission standard procurement plan. The plan shall be consistent with the provisions of this paragraph (1) and shall provide that winning bids shall be selected based on public interest criteria that include, but are not limited to, minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the citizens of this State. In particular, the selection of winning bids shall take into account the incremental environmental benefits resulting from the procurement, such as any existing environmental benefits that are preserved by the procurements held under Public Act 99-906 and would cease to exist if the procurements were not held, including the preservation of zero emission facilities. The plan shall also describe in detail how each public interest factor shall be considered and weighted in the bid selection process to ensure that the public interest criteria are applied to the procurement and given full effect.

For purposes of developing the plan, the Agency shall consider any reports issued by a State agency, board, or commission under House Resolution 1146 of the 98th General Assembly and paragraph (4) of subsection (d) of this Section, as well as publicly available analyses and studies performed by or for regional transmission organizations that serve the State and their independent market monitors.

Upon publishing of the zero emission standard procurement plan, copies of the plan shall be posted and made publicly available on the Agency's website. All interested parties shall have 10 days following the date of posting to provide comment to the Agency on the plan. All comments shall be posted to the Agency's website. Following the end of the comment period, but no more than 60 days later than June 1, 2017 (the effective date of Public Act 99-906), the Agency shall revise the plan as necessary based on the comments received and file its zero emission standard procurement plan with the Commission.

If the Commission determines that the plan will result in the procurement of cost-effective zero emission credits, then the Commission shall, after notice and hearing, but no later than 45 days after the Agency filed the plan, approve the plan or approve with modification. For purposes of this subsection (d-5), "cost effective" means the projected costs of procuring zero emission credits from zero emission facilities do not cause the limit stated in paragraph (2) of this subsection to be exceeded.

(C-5) As part of the Commission's review and acceptance or rejection of the procurement results, the Commission shall, in its public notice of successful bidders:

(i) identify how the winning bids satisfy the public interest criteria described in subparagraph (C) of this paragraph (1) of minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the citizens of this State;

(ii) specifically address how the selection of winning bids takes into account the incremental environmental benefits resulting from the procurement, including any existing environmental benefits that are preserved by the procurements held under Public Act 99-906 and would have ceased to exist if the procurements had not been held, such as the preservation of zero emission facilities;

(iii) quantify the environmental benefit of preserving the resources identified in item (ii) of this subparagraph (C-5), including the following:

(aa) the value of avoided greenhouse gas emissions measured as the product of the zero emission facilities' output over the contract term multiplied by the U.S. Environmental Protection Agency eGrid subregion carbon dioxide emission rate and the U.S. Interagency Working Group on Social Cost of Carbon's price in the August 2016 Technical Update using a 3% discount rate, adjusted for inflation for each delivery year; and

(bb) the costs of replacement with other zero carbon dioxide resources, including wind and photovoltaic, based upon the simple average of the following:

(I) the price, or if there is more than one price, the average of the prices, paid for renewable energy credits from new utility-scale wind projects in the procurement events specified in item (i) of subparagraph (G) of paragraph (1) of subsection (c) of this Section; and

(II) the price, or if there is more than one price, the average of the prices, paid for renewable energy credits from new utility-scale solar projects and brownfield site photovoltaic projects in the procurement events specified in item (ii) of subparagraph (G) of paragraph (1) of subsection (c) of this Section and, after January 1, 2015, renewable energy credits from photovoltaic distributed generation projects in procurement events held under subsection (c) of this Section.

Each utility shall enter into binding contractual arrangements with the winning suppliers.

The procurement described in this subsection (d-5), including, but not limited to, the execution of all contracts procured, shall be completed no later than May 10, 2017. Based on the effective date of Public Act 99-906, the Agency and Commission may, as appropriate, modify the various dates and timelines under this subparagraph and subparagraphs (C) and (D) of this paragraph (1). The procurement and plan approval processes required by this subsection (d-5) shall be conducted in conjunction with the procurement and plan approval processes required by subsection (c) of this Section and Section 16-111.5 of the Public Utilities Act, to the extent practicable. Notwithstanding whether a procurement event is conducted under Section 16-111.5 of the Public Utilities Act, the Agency shall immediately initiate a procurement process on June 1, 2017 (the effective date of Public Act 99-906).

(D) Following the procurement event described in this paragraph (1) and consistent with subparagraph (B) of this paragraph (1), the Agency shall calculate the payments to be made under each contract for the next delivery year based on the market price index for that delivery year. The Agency shall publish the payment calculations no later than May 25, 2017 and every May 25 thereafter.

(E) Notwithstanding the requirements of this subsection (d-5), the contracts executed under this subsection (d-5) shall provide that the zero emission facility may, as applicable, suspend or terminate performance under the contracts in the following instances:

(i) A zero emission facility shall be excused from its performance under the contract for any cause beyond the control of the resource, including, but not restricted to, acts of God, flood, drought, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, acts of public enemy, explosions, orders, regulations or restrictions imposed by governmental, military, or lawfully established civilian authorities, which, in any of the foregoing cases, by exercise of commercially reasonable efforts the zero emission facility could not reasonably have been expected to avoid, and which, by the exercise of commercially reasonable efforts, it has been unable to overcome. In such event, the zero emission facility shall be excused from performance for the duration of the event, including, but not limited to, delivery of zero emission credits, and no payment shall be due to the zero emission facility during the duration of the event.

(ii) A zero emission facility shall be permitted to terminate the contract if legislation is enacted into law by the General Assembly that imposes or authorizes a new tax, special assessment, or fee on the generation of electricity, the ownership or leasehold of a generating unit, or the privilege or occupation of such generation, ownership, or leasehold of generation units by a zero emission facility. However, the provisions of this item (ii) do not apply to any generally applicable tax, special assessment or fee, or requirements imposed by federal law.

(iii) A zero emission facility shall be permitted to terminate the contract in the event that the resource requires capital expenditures in excess of $40,000,000 that were neither known nor reasonably foreseeable at the time it executed the contract and that a prudent owner or operator of such resource would not undertake.

(iv) A zero emission facility shall be permitted to terminate the contract in the event the Nuclear Regulatory Commission terminates the resource's license.

(F) If the zero emission facility elects to terminate a contract under subparagraph (E) of this paragraph (1), then the Commission shall reopen the docket in which the Commission approved the zero emission standard procurement plan under subparagraph (C) of this paragraph (1) and, after notice and hearing, enter an order acknowledging the contract termination election if such termination is consistent with the provisions of this subsection (d-5).

(2) For purposes of this subsection (d-5), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (d-5), the total amount paid for electric service includes, without limitation, amounts paid for supply, transmission, distribution, surcharges, and add-on taxes.

Notwithstanding the requirements of this subsection (d-5), the contracts executed under this subsection (d-5) shall provide that the total of zero emission credits procured under a procurement plan shall be subject to the limitations of this paragraph (2). For each delivery year, the contractual volume receiving payments in such year shall be reduced for all retail customers based on the amount necessary to limit the net increase that delivery year to the costs of those credits included in the amounts paid by eligible retail customers in connection with electric service to no more than 1.65% of the amount paid per kilowatthour by eligible retail customers during the year ending May 31, 2009. The result of this computation shall apply to and reduce the procurement for all retail customers, and all those customers shall pay the same single, uniform cents per kilowatthour charge under subsection (k) of Section 16-108 of the Public Utilities Act. To arrive at a maximum dollar amount of zero emission credits to be paid for the particular delivery year, the resulting per kilowatthour amount shall be applied to the actual amount of kilowatthours of electricity delivered by the electric utility in the delivery year immediately prior to the procurement, to all retail customers in its service territory. Unpaid contractual volume for any delivery year shall be paid in any subsequent delivery year in which such payments can be made without exceeding the amount specified in this paragraph (2). The calculations required by this paragraph (2) shall be made only once for each procurement plan year. Once the determination as to the amount of zero emission credits to be paid is made based on the calculations set forth in this paragraph (2), no subsequent rate impact determinations shall be made and no adjustments to those contract amounts shall be allowed. All costs incurred under those contracts and in implementing this subsection (d-5) shall be recovered by the electric utility as provided in this

Section.

No later than June 30, 2019, the Commission shall review the limitation on the amount of zero emission credits procured under this subsection (d-5) and report to the General Assembly its findings as to whether that limitation unduly constrains the procurement of cost-effective zero emission credits.

(3) Six years after the execution of a contract under this subsection (d-5), the Agency shall determine whether the actual zero emission credit payments received by the supplier over the 6-year period exceed the Average ZEC Payment. In addition, at the end of the term of a contract executed under this subsection (d-5), or at the time, if any, a zero emission facility's contract is terminated under subparagraph (E) of paragraph (1) of this subsection (d-5), then the Agency shall determine whether the actual zero emission credit payments received by the supplier over the term of the contract exceed the Average ZEC Payment, after taking into account any amounts previously credited back to the utility under this paragraph (3). If the Agency determines that the actual zero emission credit payments received by the supplier over the relevant period exceed the Average ZEC Payment, then the supplier shall credit the difference back to the utility. The amount of the credit shall be remitted to the applicable electric utility no later than 120 days after the Agency's

determination, which the utility shall reflect as a credit on its retail customer bills as soon as practicable; however, the credit remitted to the utility shall not exceed the total amount of payments received by the facility under its contract.

For purposes of this Section, the Average ZEC Payment shall be calculated by multiplying the quantity of zero emission credits delivered under the contract times the average contract price. The average contract price shall be determined by subtracting the amount calculated under subparagraph (B) of this paragraph (3) from the amount calculated under subparagraph (A) of this paragraph (3), as follows:

(A) The average of the Social Cost of Carbon, as defined in subparagraph (B) of paragraph (1) of this subsection (d-5), during the term of the contract.

(B) The average of the market price indices, as defined in subparagraph (B) of paragraph (1) of this subsection (d-5), during the term of the contract, minus the baseline market price index, as defined in subparagraph (B) of paragraph (1) of this subsection (d-5).

If the subtraction yields a negative number, then the Average ZEC Payment shall be zero.

(4) Cost-effective zero emission credits procured from zero emission facilities shall satisfy the applicable

definitions set forth in Section 1-10 of this Act.

(5) The electric utility shall retire all zero emission credits used to comply with the requirements of this subsection (d-5).

(6) Electric utilities shall be entitled to recover all of the costs associated with the procurement of zero emission credits through an automatic adjustment clause tariff in accordance with subsection (k) and (m) of Section 16-108 of the Public Utilities Act, and the contracts executed under this subsection (d-5) shall provide that the utilities' payment obligations under such contracts shall be reduced if an adjustment is required under subsection (m) of Section 16-108 of the Public Utilities Act.

(7) This subsection (d-5) shall become inoperative on January 1, 2028.

(d-10) Nuclear Plant Assistance; carbon mitigation credits.

(1) The General Assembly finds:

(A) The health, welfare, and prosperity of all Illinois citizens require that the State of Illinois act to avoid and not increase carbon emissions from electric generation sources while continuing to ensure affordable, stable, and reliable electricity to all citizens.

(B) Absent immediate action by the State to preserve existing carbon-free energy resources, those resources may retire, and the electric generation needs of Illinois' retail customers may be met instead by facilities that emit significant amounts of carbon pollution and other harmful air pollutants at a high social and economic cost until Illinois is able to develop other forms of clean energy.

(C) The General Assembly finds that nuclear power generation is necessary for the State's transition to 100% clean energy, and ensuring continued operation of nuclear plants advances environmental and public health interests through providing carbon-free electricity while reducing the air pollution profile of the Illinois energy generation fleet.

(D) The clean energy attributes of nuclear generation facilities support the State in its efforts to achieve 100% clean energy.

(E) The State currently invests in various forms of clean energy, including, but not limited to, renewable energy, energy efficiency, and low-emission vehicles, among others.

(F) The Environmental Protection Agency commissioned an independent audit which provided a detailed assessment of the financial condition of the Illinois nuclear fleet to evaluate its financial viability and whether the environmental benefits of such resources were at risk. The report identified the risk of losing the environmental benefits of several specific nuclear units. The report also identified that the LaSalle County Generating Station will continue to operate through 2026 and therefore is not eligible to participate in the carbon mitigation credit program.

(G) Nuclear plants provide carbon-free energy, which helps to avoid many health-related negative impacts for Illinois residents.

(H) The procurement of carbon mitigation credits representing the environmental benefits of carbon-free generation will further the State's efforts at achieving 100% clean energy and decarbonizing the electricity sector in a safe, reliable, and affordable manner. Further, the procurement of carbon emission credits will enhance the health and welfare of Illinois residents through decreased reliance on more highly polluting generation.

(I) The General Assembly therefore finds it necessary to establish carbon mitigation credits to ensure decreased reliance on more carbon-intensive energy resources, for transitioning to a fully decarbonized electricity sector, and to help ensure health and welfare of the State's residents.

(2) As used in this subsection:

"Baseline costs" means costs used to establish a customer protection cap that have been evaluated through an independent audit of a carbon-free energy resource conducted by the

Environmental Protection Agency that evaluated projected annual costs for operation and maintenance expenses; fully allocated overhead costs, which shall be allocated using the methodology developed by the Institute for Nuclear Power Operations; fuel expenditures; nonfuel capital expenditures; spent fuel expenditures; a return on working capital; the cost of operational and market risks that could be avoided by ceasing operation; and any other costs necessary for continued operations, provided that "necessary" means, for purposes of this definition, that the costs could reasonably be avoided only by ceasing operations of the carbon-free energy resource.

"Carbon mitigation credit" means a tradable credit that represents the carbon emission reduction attributes of one megawatt-hour of energy produced from a carbon-free energy resource.

"Carbon-free energy resource" means a generation facility that: (1) is fueled by nuclear power; and (2) is interconnected to PJM Interconnection, LLC.

(3) Procurement.

(A) Beginning with the delivery year commencing on June 1, 2022, the Agency shall, for electric utilities serving at least 3,000,000 retail customers in the State, seek to procure contracts for no more than approximately 54,500,000 cost-effective carbon mitigation credits from carbon-free energy resources because such credits are necessary to support current levels of carbon-free energy generation and ensure the State meets its carbon dioxide emissions reduction goals. The Agency shall not make a partial award of a contract for carbon mitigation credits covering a fractional amount of a carbon-free energy resource's projected output.

(B) Each carbon-free energy resource that intends to participate in a procurement shall be required to submit to the Agency the following information for the resource on or before the date established by the Agency:

(i) the in-service date and remaining useful life of the carbon-free energy resource;

(ii) the amount of power generated annually for each of the past 10 years, which shall be used to determine the capability of each facility;

(iii) a commitment to be reflected in any contract entered into pursuant to this subsection (d-10) to continue operating the carbon-free energy resource at a capacity factor of at least 88% annually on average for the duration of the contract or contracts executed under the procurement held under this subsection (d-10), except in an instance described in subparagraph (E) of paragraph (1) of subsection (d-5) of this Section or made impracticable as a result of compliance with law or regulation;

(iv) financial need and the risk of loss of the environmental benefits of such resource, which shall include the following information:

(I) the carbon-free energy resource's cost projections, expressed on a per megawatt-hour basis, over the next 5 delivery years, which shall include the following: operation and maintenance expenses; fully allocated overhead costs, which shall be allocated using the methodology developed by the Institute for Nuclear Power Operations; fuel expenditures; nonfuel capital expenditures; spent fuel expenditures; a return on working capital; the cost of operational and market risks that could be avoided by ceasing operation; and any other costs necessary for continued operations, provided that "necessary" means, for purposes of this subitem (I), that the costs could reasonably be avoided only by ceasing operations of the carbon-free energy resource; and

(II) the carbon-free energy resource's revenue projections, including energy, capacity, ancillary services, any other direct State support, known or anticipated federal attribute credits, known or anticipated tax credits, and any other direct federal support.

The information described in this subparagraph (B) may be submitted on a confidential basis and shall be treated and maintained by the Agency, the procurement administrator, and the Commission as confidential and proprietary and exempt from disclosure under subparagraphs (a) and (g) of paragraph (1) of Section 7 of the Freedom of Information Act. The Office of the Attorney General shall have access to, and maintain the confidentiality of, such information pursuant to Section 6.5 of the Attorney General Act.

(C) The Agency shall solicit bids for the contracts described in this subsection (d-10) from carbon-free energy resources that have satisfied the requirements of subparagraph (B) of this paragraph (3). The contracts procured pursuant to a procurement event shall reflect, and be subject to, the following terms, requirements, and limitations:

(i) Contracts are for delivery of carbon mitigation credits, and are not energy or capacity sales contracts requiring physical delivery. Pursuant to item (iii), contract payments shall fully deduct the value of any monetized federal production tax credits, credits issued pursuant to a federal clean energy standard, and other federal credits if applicable.

(ii) Contracts for carbon mitigation credits shall commence with the delivery year beginning on June 1, 2022 and shall be for a term of 5 delivery years concluding on May 31, 2027.

(iii) The price per carbon mitigation credit to be paid under a contract for a given delivery year shall be equal to an accepted bid price less the sum of:

(I) one of the following energy price indices, selected by the bidder at the time of the bid for the term of the contract:

(aa) the weighted-average hourly day-ahead price for the applicable delivery year at the busbar of all resources procured pursuant to this subsection (d-10), weighted by actual production from the resources; or

(bb) the projected energy price for the PJM Interconnection, LLC Northern Illinois Hub for the applicable delivery year determined according to subitem (aa) of item (iii) of subparagraph (B) of paragraph (1) of subsection (d-5).

(II) the Base Residual Auction Capacity Price for the ComEd zone as determined by PJM Interconnection, LLC, divided by 24 hours per day, for the applicable delivery year for the first 3 delivery years, and then any subsequent delivery years unless the PJM Interconnection, LLC applies the Minimum Offer Price Rule to participating carbon-free energy resources because they supply carbon mitigation credits pursuant to this Section at which time, upon notice by the carbon-free energy resource to the Commission and subject to the Commission's confirmation, the value under this subitem shall be zero, as further described in the carbon mitigation credit procurement plan; and

(III) any value of monetized federal tax credits, direct payments, or similar subsidy provided to the carbon-free energy resource from any unit of government that is not already reflected in energy prices.

If the price-per-megawatt-hour calculation performed under item (iii) of this subparagraph (C) for a given delivery year results in a net positive value, then the electric utility counterparty to the contract shall multiply such net value by the applicable contract quantity and remit the amount to the supplier.

To protect retail customers from retail rate impacts that may arise upon the initiation of carbon policy changes, if the price-per-megawatt-hour calculation performed under item (iii) of this subparagraph (C) for a given delivery year results in a net negative value, then the supplier counterparty to the contract shall multiply such net value by the applicable contract quantity and remit such amount to the electric utility counterparty. The electric utility shall reflect such amounts remitted by suppliers as a credit on its retail customer bills as soon as practicable.

(iv) To ensure that retail customers in Northern Illinois do not pay more for carbon mitigation credits than the value such credits provide, and notwithstanding the provisions of this subsection (d-10), the Agency shall not accept bids for contracts that exceed a customer protection cap equal to the baseline costs of carbon-free energy resources.

The baseline costs for the applicable year shall be the following:

(I) For the delivery year beginning June 1, 2022, the baseline costs shall be an amount equal to $30.30 per megawatt-hour.

(II) For the delivery year beginning June 1, 2023, the baseline costs shall be an amount equal to $32.50 per megawatt-hour.

(III) For the delivery year beginning June 1, 2024, the baseline costs shall be an amount equal to $33.43 per megawatt-hour.

(IV) For the delivery year beginning June 1, 2025, the baseline costs shall be an amount equal to $33.50 per megawatt-hour.

(V) For the delivery year beginning June 1, 2026, the baseline costs shall be an amount equal to $34.50 per megawatt-hour.

An Environmental Protection Agency consultant forecast, included in a report issued April 14, 2021, projects that a carbon-free energy resource has the opportunity to earn on average approximately $30.28 per megawatt-hour, for the sale of energy and capacity during the time period between 2022 and 2027. Therefore, the sale of carbon mitigation credits provides the opportunity to receive an additional amount per megawatt-hour in addition to the projected prices for energy and capacity.

Although actual energy and capacity prices may vary from year-to-year, the General Assembly finds that this customer protection cap will help ensure that the cost of carbon mitigation credits will be less than its value, based upon the social cost of carbon identified in the Technical Support Document issued in February 2021 by the U.S. Interagency Working Group on Social Cost of Greenhouse Gases and the PJM Interconnection, LLC carbon dioxide marginal emission rate for 2020, and that a carbon-free energy resource receiving payment for carbon mitigation credits receives no more than necessary to keep those units in operation.

(D) No later than 7 days after the effective date of this amendatory Act of the 102nd General Assembly, the Agency shall publish its proposed carbon mitigation credit procurement plan. The Plan shall provide that winning bids shall be selected by taking into consideration which resources best match public interest criteria that include, but are not limited to, minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the citizens of this State. The selection of winning bids shall also take into account the incremental environmental benefits resulting from the procurement or procurements, such as any existing environmental benefits that are preserved by a procurement held under this subsection (d-10) and would cease to exist if the procurement were not held, including the preservation of carbon-free energy resources. For those bidders having the same public interest criteria score, the relative ranking of such bidders shall be determined by price. The Plan shall describe in detail how each public interest factor shall be considered and weighted in the bid selection process to ensure that the public interest criteria are applied to the procurement. The Plan shall, to the extent practical and permissible by federal law, ensure that successful bidders make commercially reasonable efforts to apply for federal tax credits, direct payments, or similar subsidy programs that support carbon-free generation and for which the successful bidder is eligible. Upon publishing of the carbon mitigation credit procurement plan, copies of the plan shall be posted and made publicly available on the Agency's website. All interested parties shall have 7 days following the date of posting to provide comment to the Agency on the plan. All comments shall be posted to the Agency's website. Following the end of the comment period, but no more than 19 days later than the effective date of this amendatory Act of the 102nd General Assembly, the Agency shall revise the plan as necessary based on the comments received and file its carbon mitigation credit procurement plan with the Commission.

(E) If the Commission determines that the plan is likely to result in the procurement of cost-effective carbon mitigation credits, then the Commission shall, after notice and hearing and opportunity for comment, but no later than 42 days after the Agency filed the plan, approve the plan or approve it with modification. For purposes of this subsection (d-10), "cost-effective" means carbon mitigation credits that are procured from carbon-free energy resources at prices that are within the limits specified in this paragraph (3). As part of the Commission's review and acceptance or rejection of the procurement results, the Commission shall, in its public notice of successful bidders:

(i) identify how the selected carbon-free energy resources satisfy the public interest criteria described in this paragraph (3) of minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the citizens of this State;

(ii) specifically address how the selection of carbon-free energy resources takes into account the incremental environmental benefits resulting from the procurement, including any existing environmental benefits that are preserved by the procurements held under this amendatory Act of the 102nd General Assembly and would have ceased to exist if the procurements had not been held, such as the preservation of carbon-free energy resources;

(iii) quantify the environmental benefit of preserving the carbon-free energy resources procured pursuant to this subsection (d-10), including the following:

(I) an assessment value of avoided greenhouse gas emissions measured as the product of the carbon-free energy resources' output over the contract term, using generally accepted methodologies for the valuation of avoided emissions; and

(II) an assessment of costs of replacement with other carbon-free energy resources and renewable energy resources, including wind and photovoltaic generation, based upon an assessment of the prices paid for renewable energy credits through programs and procurements conducted pursuant to subsection (c) of Section 1-75 of this Act, and the additional storage necessary to produce the same or similar capability of matching customer usage patterns.

(F) The procurements described in this paragraph (3), including, but not limited to, the execution of all contracts procured, shall be completed no later than December 3, 2021. The procurement and plan approval processes required by this paragraph (3) shall be conducted in conjunction with the procurement and plan approval processes required by Section 16-111.5 of the Public Utilities Act, to the extent practicable. However, the Agency and Commission may, as appropriate, modify the various dates and timelines under this subparagraph and subparagraphs (D) and (E) of this paragraph (3) to meet the December 3, 2021 contract execution deadline. Following the completion of such procurements, and consistent with this paragraph (3), the Agency shall calculate the payments to be made under each contract in a timely fashion.

(F-1) Costs incurred by the electric utility pursuant to a contract authorized by this subsection (d-10) shall be deemed prudently incurred and reasonable in amount, and the electric utility shall be entitled to full cost recovery pursuant to a tariff or tariffs filed with the Commission.

(G) The counterparty electric utility shall retire all carbon mitigation credits used to comply with the requirements of this subsection (d-10).

(H) If a carbon-free energy resource is sold to another owner, the rights, obligations, and commitments under this subsection (d-10) shall continue to the subsequent owner.

(I) This subsection (d-10) shall become inoperative on January 1, 2028.

(e) The draft procurement plans are subject to public comment, as required by Section 16-111.5 of the Public Utilities Act.

(f) The Agency shall submit the final procurement plan to the Commission. The Agency shall revise a procurement plan if the Commission determines that it does not meet the standards set forth in Section 16-111.5 of the Public Utilities Act.

(g) The Agency shall assess fees to each affected utility to recover the costs incurred in preparation of the annual procurement plan for the utility.

(h) The Agency shall assess fees to each bidder to recover the costs incurred in connection with a competitive procurement process.

(i) A renewable energy credit, carbon emission credit, zero emission credit, or carbon mitigation credit can only be used once to comply with a single portfolio or other standard as set forth in subsection (c), subsection (d), or subsection (d-5) of this Section, respectively. A renewable energy credit, carbon emission credit, zero emission credit, or carbon mitigation credit cannot be used to satisfy the requirements of more than one standard. If more than one type of credit is issued for the same megawatt hour of energy, only one credit can be used to satisfy the requirements of a single standard. After such use, the credit must be retired together with any other credits issued for the same megawatt hour of energy.

(Source: P.A. 102-662, eff. 9-15-21; 103-380, eff. 1-1-24; 103-580, eff. 12-8-23; 103-1066, eff. 2-20-25.)

(Text of Section after amendment by P.A. 104-458)

Sec. 1-75. Planning and Procurement Bureau. The Planning and Procurement Bureau has the following duties and responsibilities:

(a) The Planning and Procurement Bureau shall each year, beginning in 2008, develop procurement plans and conduct competitive procurement processes in accordance with the requirements of Section 16-111.5 of the Public Utilities Act for the eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois. Beginning with the delivery year commencing on June 1, 2017, the Planning and Procurement Bureau shall develop plans and processes for the procurement of zero emission credits from zero emission facilities in accordance with the requirements of subsection (d-5) of this Section. Beginning on the effective date of this amendatory Act of the 102nd General Assembly, the Planning and Procurement Bureau shall develop plans and processes for the procurement of carbon mitigation credits from carbon-free energy resources in accordance with the requirements of subsection (d-10) of this Section. The Planning and Procurement Bureau shall also develop procurement plans and conduct competitive procurement processes in accordance with the requirements of Section 16-111.5 of the Public Utilities Act for the eligible retail customers of small multi-jurisdictional electric utilities that (i) on December 31, 2005 served less than 100,000 customers in Illinois and (ii) request a procurement plan for their Illinois jurisdictional load. This Section shall not apply to a small multi-jurisdictional utility until such time as a small multi-jurisdictional utility requests the Agency to prepare a procurement plan for their Illinois jurisdictional load. For the purposes of this Section, the term "eligible retail customers" has the same definition as found in Section

16-111.5(a) of the Public Utilities Act.

Beginning with the plan or plans to be implemented in the 2017 delivery year, the Agency shall no longer include the procurement of renewable energy resources in the annual procurement plans required by this subsection (a), except as provided in subsection (q) of Section 16-111.5 of the Public Utilities Act, and shall instead develop a long-term renewable resources procurement plan in accordance with subsection (c) of this Section and Section 16-111.5 of the Public Utilities Act.

In accordance with subsection (c-5) of this Section, the Planning and Procurement Bureau shall oversee the procurement by electric utilities that served more than 300,000 retail customers in this State as of January 1, 2019 of renewable energy credits from new utility-scale solar projects to be installed, along with energy storage facilities, at or adjacent to the sites of electric generating facilities that, as of January 1, 2016, burned coal as their primary fuel source.

(1) The Agency shall each year, beginning in 2008, as needed, issue a request for qualifications for experts or expert consulting firms to develop the procurement plans in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

(A) direct previous experience assembling large-scale power supply plans or portfolios for end-use customers;

(B) an advanced degree in economics, mathematics, engineering, risk management, or a related area of study;

(C) 10 years of experience in the electricity sector, including managing supply risk;

(D) expertise in wholesale electricity market rules, including those established by the Federal Energy Regulatory Commission and regional transmission organizations;

(E) expertise in credit protocols and familiarity with contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(2) The Agency shall each year, as needed, issue a request for qualifications for a procurement administrator to conduct the competitive procurement processes in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

(A) direct previous experience administering a large-scale competitive procurement process;

(B) an advanced degree in economics, mathematics, engineering, or a related area of study;

(C) 10 years of experience in the electricity sector, including risk management experience;

(D) expertise in wholesale electricity market rules, including those established by the Federal Energy Regulatory Commission and regional transmission organizations;

(E) expertise in credit and contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(3) The Agency shall provide affected utilities and other interested parties with the lists of qualified experts or expert consulting firms identified through the request for qualifications processes that are under consideration to develop the procurement plans and to serve as the procurement administrator. The Agency shall also provide each qualified expert's or expert consulting firm's response to the request for qualifications. All information provided under this subparagraph shall also be provided to the Commission. The Agency may provide by rule for fees associated with supplying the information to utilities and other interested parties. These parties

shall, within 5 business days, notify the Agency in writing if they object to any experts or expert consulting firms on the lists. Objections shall be based on:

(A) failure to satisfy qualification criteria;

(B) identification of a conflict of interest; or

(C) evidence of inappropriate bias for or against potential bidders or the affected utilities.

The Agency shall remove experts or expert consulting firms from the lists within 10 days if there is a reasonable basis for an objection and provide the updated lists to the affected utilities and other interested parties. If the Agency fails to remove an expert or expert consulting firm from a list, an objecting party may seek review by the Commission within 5 days thereafter by filing a petition, and the Commission shall render a ruling on the petition within 10 days. There is no right of appeal of the Commission's ruling.

(4) The Agency shall issue requests for proposals to the qualified experts or expert consulting firms to develop a procurement plan for the affected utilities and to serve as procurement administrator.

(5) The Agency shall select an expert or expert consulting firm to develop procurement plans based on the proposals submitted and shall award contracts of up to 5 years to those selected.

(6) The Agency shall select an expert or expert

consulting firm, with approval of the Commission, to serve as procurement administrator based on the proposals submitted. If the Commission rejects, within 5 days, the Agency's selection, the Agency shall submit another recommendation within 3 days based on the proposals submitted. The Agency shall award a 5-year contract to the expert or expert consulting firm so selected with Commission approval.

(b) The experts or expert consulting firms retained by the Agency shall, as appropriate, prepare procurement plans, and conduct a competitive procurement process as prescribed in Section 16-111.5 of the Public Utilities Act, to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in the State of Illinois, and for eligible Illinois retail customers of small multi-jurisdictional electric utilities that (i) on December 31, 2005 served less than 100,000 customers in Illinois and (ii) request a procurement plan for their Illinois jurisdictional load.

(c) Renewable portfolio standard.

(1)(A) The Agency shall develop a long-term renewable resources procurement plan that shall include procurement programs and competitive procurement events necessary to meet the goals set forth in this subsection (c). The initial long-term renewable resources procurement plan shall be released for comment no later than 160 days after June 1, 2017 (the effective date of Public Act 99-906). The Agency shall review, and may revise on an expedited basis, the long-term renewable resources procurement plan at least every 2 years, which shall be conducted in conjunction with the procurement plan under Section 16-111.5 of the Public Utilities Act to the extent practicable to minimize administrative expense. No later than 120 days after the effective date of this amendatory Act of the 103rd General Assembly, the Agency shall release for comment a revision to the long-term renewable resources procurement plan, updating elements of the most recently approved plan as needed to comply with this amendatory Act of the 103rd General Assembly, and any long-term renewable resources procurement plan update published by the Agency but not yet approved by the Illinois Commerce Commission shall be withdrawn. The long-term renewable resources procurement plans shall be subject to review and approval by the Commission under Section 16-111.5 of the Public Utilities Act.

(B) Subject to subparagraph (F) of this paragraph (1), the long-term renewable resources procurement plan shall attempt to meet the goals for procurement of renewable energy credits at levels of at least the following overall percentages: 13% by the 2017 delivery year; increasing by at least 1.5% each delivery year thereafter to at least 25% by the 2025 delivery year; increasing by at least 3% each delivery year thereafter to at least 40% by the 2030 delivery year, and continuing at no less than 40% for each delivery year thereafter. The Agency shall attempt to procure 50% by delivery year 2040. The Agency shall determine the annual increase between delivery year 2030 and delivery year 2040, if any, taking into account energy demand, other energy resources, and other public policy goals. In the event of a conflict between these goals and the new wind, new photovoltaic, new geothermal heating and cooling, and hydropower procurement requirements described in items (i) through (iii) of subparagraph (C) of this paragraph (1), the long-term plan shall prioritize compliance with the new wind, new photovoltaic, new geothermal heating and cooling, and hydropower procurement requirements described in items (i) through (iii) of subparagraph (C) of this paragraph (1) over the annual percentage targets described in this subparagraph (B). The Agency shall not comply with the annual percentage targets described in this subparagraph (B) by procuring renewable energy credits that are unlikely to lead to the development of new renewable resources or new, modernized, or retooled hydropower facilities.

For the delivery year beginning June 1, 2017, the procurement plan shall attempt to include, subject to the prioritization outlined in this subparagraph (B), cost-effective renewable energy resources equal to at least 13% of each utility's load for eligible retail customers and 13% of the applicable portion of each utility's load for retail customers who are not eligible retail customers, which applicable portion shall equal 50% of the utility's load for retail customers who are not eligible retail customers on February 28, 2017.

For the delivery year beginning June 1, 2018, the procurement plan shall attempt to include, subject to the prioritization outlined in this subparagraph (B), cost-effective renewable energy resources equal to at least 14.5% of each utility's load for eligible retail customers and 14.5% of the applicable portion of each utility's load for retail customers who are not eligible retail customers, which applicable portion shall equal 75% of the utility's load for retail customers who are not eligible retail customers on February 28, 2017.

For the delivery year beginning June 1, 2019, and for each year thereafter, the procurement plans shall attempt to include, subject to the prioritization outlined in this subparagraph (B), cost-effective renewable energy resources equal to a minimum percentage of each utility's load for all retail customers as follows: 16% by June 1, 2019; increasing by 1.5% each year thereafter to 25% by

June 1, 2025; and 25% by June 1, 2026; increasing by at least 3% each delivery year thereafter to at least 40% by the 2030 delivery year, and continuing at no less than 40% for each delivery year thereafter. The Agency shall attempt to procure 50% by delivery year 2040. The Agency shall determine the annual increase between delivery year 2030 and delivery year 2040, if any, taking into account energy demand, other energy resources, and other public policy goals.

For each delivery year, the Agency shall first recognize each utility's obligations for that delivery year under existing contracts. Any renewable energy credits under existing contracts, including renewable energy credits as part of renewable energy resources, shall be used to meet the goals set forth in this subsection (c) for the delivery year.

(C) The long-term renewable resources procurement plan described in subparagraph (A) of this paragraph (1) shall include the procurement of renewable energy credits from new projects pursuant to the following terms:

(i) At least 10,000,000 renewable energy credits delivered annually by the end of the 2021 delivery year, and increasing ratably to reach 45,000,000 renewable energy credits delivered annually from new wind and solar projects, from repowered wind projects, or from retooled hydropower facilities by the end of delivery year 2030 such that the goals in subparagraph (B) of this paragraph (1) are met entirely by procurements of renewable energy credits from new wind and photovoltaic projects. Of that amount, to the extent possible, the Agency shall endeavor to procure 45% from new and repowered wind and hydropower projects and shall procure at least 55% from photovoltaic projects. Of the amount to be procured from photovoltaic projects, the Agency shall procure: at least 50% from solar photovoltaic projects using the program outlined in subparagraph (K) of this paragraph (1) from distributed renewable energy generation devices or community renewable generation projects; at least 47% from utility-scale solar projects; at least 3% from brownfield site photovoltaic projects that are not community renewable generation projects. The Agency may propose adjustments to these percentages, including establishing percentage-based goals for the procurement of renewable energy credits from modernized or retooled hydropower facilities and repowered wind projects, through its long-term renewable resources plan described in subparagraph (A) of this paragraph (1) as necessary based on developer interest, market conditions, budget considerations, resource adequacy needs, or other factors.

Notwithstanding the percentage-based goals as described in this Section, the Agency shall develop a Geothermal Homes and Businesses Program for the procurement of renewable energy credits from geothermal heating and cooling systems.

In developing the long-term renewable resources procurement plan, the Agency shall consider other approaches, in addition to competitive procurements, that can be used to procure renewable energy credits from brownfield site photovoltaic projects and thereby help return blighted or contaminated land to productive use while enhancing public health and the well-being of Illinois residents, including those in environmental justice communities, as defined using existing methodologies and findings used by the Agency and its Administrator in its Illinois Solar for All Program. The Agency shall also consider other approaches, in addition to competitive procurements, to procure renewable energy credits from new and existing hydropower facilities to support the development and maintenance of these facilities. The Agency shall explore options to convert existing dams but shall not consider approaches to develop new dams where they do not already exist. To encourage the continued operation of utility-scale wind projects, the Agency shall consider and may propose other approaches in addition to competitive procurements to procure renewable energy credits from repowered wind projects.

(ii) In any given delivery year, if forecasted expenses are less than the maximum budget available under subparagraph (E) of this paragraph (1), the Agency shall continue to procure new renewable energy credits until that budget is exhausted in the manner outlined in item (i) of this subparagraph (C).

(iii) For purposes of this Section:

"New wind projects" means wind renewable energy facilities that are energized after June 1, 2017 for the delivery year commencing June 1, 2017.

"New photovoltaic projects" means photovoltaic renewable energy facilities that are energized after June 1, 2017. Photovoltaic projects developed under Section 1-56 of this Act shall not apply towards the new photovoltaic project requirements in this subparagraph (C).

"Repowered wind projects" means utility-scale wind projects featuring the removal, replacement, or expansion of turbines at an existing project site, as defined in the long-term renewable resources procurement plan, after the effective date of this amendatory Act of the 103rd General Assembly. Renewable energy credit contract awards used to support repowered wind projects shall only cover the incremental increase in facility electricity production resultant from repowering.

"Geothermal heating and cooling system" means a system located in this State that meets all of the following requirements:

(I) the system exchanges thermal energy from groundwater or a shallow ground source to generate thermal energy through an electric geothermal heat pump or a system of electric geothermal heat pumps interconnected with any geothermal extraction facility that is (1) a closed loop or a series of closed loop systems in which fluid is permanently confined within a pipe or tubing and does not come in contact with the outside environment or (2) an open loop system in which ground or surface water is circulated in an environmentally safe manner directly into the facility and returned to the same aquifer or surface water source;

(II) the system meets or exceeds federal Energy Star product specification standards for Geothermal Heat Pumps established on January 1, 2012, as clarified by the Environmental Protection Agency guidance document released on February 28, 2012 entitled "Clarification to the Geothermal Heat Pump Verification Testing Requirements and

Basic Model Group Definition", or any successor standards that meet or exceed these standards;

(III) the system replaces or displaces less efficient space or water heating systems, regardless of fuel type;

(IV) the system replaces or displaces less efficient space cooling systems, when applicable;

(V) the system does not feed electricity back to the grid, as defined at the level of the geothermal heat pump; and

(VI) the system became operational on or after the effective date of this amendatory Act of the 104th General Assembly.

For purposes of calculating whether the Agency has procured enough new wind and solar renewable energy credits required by this subparagraph (C), renewable energy facilities that have a multi-year renewable energy credit delivery contract with the utility through at least delivery year 2030 shall be considered new, however no renewable energy credits from contracts entered into before June 1, 2021 shall be used to calculate whether the Agency has procured the correct proportion of new wind and new solar contracts described in this subparagraph (C) for delivery year 2021 and thereafter.

(iv) The Agency may implement additional measures, including eligibility requirements, to ensure that new wind projects and new photovoltaic projects supported through renewable energy credit contract awards are a result of a contract award and are otherwise developed pursuant to the financial certainty provided through a contract award.

(D) Renewable energy credits shall be cost effective. For purposes of this subsection (c), "cost effective" means that the costs of procuring renewable energy resources do not cause the limit stated in subparagraph (E) of this paragraph (1) to be exceeded and, for renewable energy credits procured through a competitive procurement event, do not exceed benchmarks based on market prices for like products in the region. For purposes of this subsection (c), "like products" means contracts for renewable energy credits from the same or substantially similar technology, same or substantially similar vintage (new or existing), the same or substantially similar quantity, and the same or substantially similar contract length and structure. Benchmarks shall reflect development, financing, or related costs resulting from requirements imposed through other provisions of State law, including, but not limited to, requirements in subparagraphs (P) and (Q) of this paragraph (1) and the Renewable Energy Facilities Agricultural Impact Mitigation Act. Confidential benchmarks shall be developed by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval. If price benchmarks for like products in the region are not available, the procurement administrator shall establish price benchmarks based on publicly available data on regional technology costs and expected current and future regional energy prices. The benchmarks in this Section shall not be used to curtail or otherwise reduce contractual obligations entered into by or through the Agency prior to June 1, 2017 (the effective date of Public Act 99-906).

(E) For purposes of this subsection (c), the required procurement of cost-effective renewable energy resources for a particular year commencing prior to June 1, 2017 shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the delivery year ending immediately prior to the procurement, and, for delivery years commencing on and after June 1, 2017, the required procurement of cost-effective renewable energy resources for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) delivered by the electric utility in the delivery year ending immediately prior to the procurement, to all retail customers in its service territory. For purposes of this subsection (c), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (c), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, capacity, distribution, surcharges, and add-on taxes.

Notwithstanding the requirements of this subsection (c), and except as provided in subparagraph (E-5) of paragraph (1) of this subsection (c) or except as otherwise authorized by the Commission in its approval of the integrated resource plan under Section 16-202 of the Public Utilities Act, the total of renewable energy resources procured under the procurement plan for any single year shall be subject to the limitations of this subparagraph (E). Such procurement shall be reduced for all retail customers based on the amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than 4.25% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009, adjusted annually for inflation starting with the first adjustment in the delivery year commencing June 1, 2026. For the purposes of this Section, the inflation adjustment shall not be accrued or applied retroactively prior to the effective date of this amendatory Act of the 104th General Assembly and shall apply prospectively starting in 2025. The limitation shall be increased by an additional 1.65 percentage points of the amount paid per kilowatthour by eligible retail customers during the year ending May 31, 2009 starting with the delivery year commencing June 1, 2027. To arrive at a maximum dollar amount of renewable energy resources to be procured for the particular delivery year, the resulting per kilowatthour amount shall be applied to the actual amount of kilowatthours of electricity delivered, or applicable portion of such amount as specified in paragraph (1) of this subsection (c), as applicable, by the electric utility in the delivery year immediately prior to the procurement to all retail customers in its service territory. The calculations required by this subparagraph (E) shall be made only once for each delivery year at the time that the renewable energy resources are procured. Once the determination as to the amount of renewable energy resources to procure is made based on the calculations set forth in this subparagraph (E) and the contracts procuring those amounts are executed between the seller and applicable electric utility, no subsequent rate impact determinations shall be made and no adjustments to those contract amounts shall be allowed. As provided in subparagraph (E-5) of paragraph (1) of this subsection (c), the seller shall be entitled to full, prompt, and uninterrupted payment under the applicable contract notwithstanding the application of this subparagraph (E), and all costs incurred under such contracts shall be fully recoverable by the electric utility as provided in this Section.

(E-5) If, for a particular delivery year, the limitation on the amount of renewable energy resources to be procured, as calculated pursuant to subparagraph (E) of paragraph (1) of this subsection (c), would result in an insufficient collection of funds to fully pay amounts due to a seller under existing contracts executed under this Section or executed under Section 1-56 of this Act, then the following provisions shall apply to ensure full and uninterrupted payment is made to such seller or sellers:

(i) If the electric utility has retained unspent funds in an interest-bearing account as prescribed in subsection (k) of Section 16-108 of the Public Utilities Act, then the utility shall use those funds to remit full payment to the sellers to ensure prompt and uninterrupted payment of existing contractual obligation.

(ii) If the funds described in item (i) of this subparagraph (E-5) are insufficient to satisfy all existing contractual obligations, then the electric utility shall, nonetheless, remit full payment to the sellers to ensure prompt and uninterrupted payment of existing contractual obligations, provided that the full costs shall be recoverable by the utility in accordance with part (ee) of item (iv) of this subsection (E-5).

(iii) The Agency shall promptly notify the Commission that existing contractual obligations are reasonably expected to exceed the maximum collection authorized under subparagraph (E) of paragraph (1) of this subsection (c) for the applicable delivery year. The Agency shall also explain and confirm how the operation of items (i) and (ii) of this subparagraph (E-5) ensures that the electric utility will continue to make prompt and uninterrupted payment under existing contractual obligations. The Agency shall provide this information to the Commission through a notice filed in the Commission docket approving the Agency's operative Long-Term Renewable Resources Procurement Plan that includes the applicable delivery year.

(iv) The Agency shall suspend or reduce new contract awards for the procurement of renewable energy credits until an Agency determination is made under subparagraph (E) that additional procurements would not cause the rate impact limitation of subparagraph (E) to be exceeded. At least once annually after the notice provided for in item (iii) of this subparagraph (E-5) is made, the Agency shall analyze existing contract obligations, projected prices for indexed renewable energy credit contracts executed under item (v) of subparagraph (G) of paragraph (1) of subsection (c) of Section 1-75 of this Act, and expected collections authorized under subparagraph (E) to determine whether and to what extent the limitations of subparagraph (E) would be exceeded by additional renewable energy credit procurement contract awards.

(aa) If the Agency determines that additional renewable energy credit procurement contract awards could be made without exceeding the limitations of subparagraph (E), then the procurements shall be authorized at a scale determined not to exceed the limitations of subparagraph (E) in a manner consistent with the priorities of this Section.

(bb) If the Agency determines that additional renewable energy credit procurement contract awards cannot be made without exceeding the limitations of subparagraph (E), then the Agency shall suspend any new contract awards for the procurement of renewable energy credits until a new rate impact determination is made under subparagraph (E).

(cc) Agency determinations made under this item (iv) shall be detailed and comprehensive and, if not made through the Agency's Long-Term Renewable Resources Procurement Plan, shall be filed as a compliance filing in the most recent docketed proceeding approving the Agency's Long-Term Renewable Resources Procurement Plan.

(dd) With respect to the procurement of renewable energy credits authorized through programs administered under subsection (b) of Section 1-56 and subparagraphs (K) through (M) of paragraph (1) of subsection (k) of Section 1-75 of this Act, the award of contracts for the procurement of renewable energy credits shall be suspended or reduced only at the conclusion of the program year in which the notice provided for under item (iii) of this subparagraph (E-5) is made.

(ee) The contract shall provide that, so long as at least one of: (i) the cost recovery mechanisms referenced in subsection (k) of Section 16-108 and subsection (l) of Section 16-111.5 of the Public Utilities Act remains in full force without limitation or (ii) the utility is otherwise authorized and or entitled to full, prompt, and uninterrupted recovery of its costs through any other mechanism, then such seller shall be entitled to full, prompt, and uninterrupted payment under the applicable contract notwithstanding the application of this subparagraph (E).

(F) If the limitation on the amount of renewable energy resources procured in subparagraph (E) of this paragraph (1) prevents the Agency from meeting all of the goals in this subsection (c), the Agency's long-term plan shall prioritize compliance with the requirements of this subsection (c) regarding renewable energy credits in the following order:

(i) renewable energy credits under existing contractual obligations as of June 1, 2021;

(i-5) funding for the Illinois Solar for All Program, as described in subparagraph (O) of this paragraph (1);

(ii) renewable energy credits necessary to comply with the new wind and new photovoltaic procurement requirements described in items (i) through (iii) of subparagraph (C) of this paragraph (1); and

(iii) renewable energy credits necessary to meet the remaining requirements of this subsection (c).

(G) The following provisions shall apply to the

Agency's procurement of renewable energy credits under this subsection (c):

(i) Notwithstanding whether a long-term renewable resources procurement plan has been approved, the Agency shall conduct an initial forward procurement for renewable energy credits from new utility-scale wind projects within 160 days after June 1, 2017 (the effective date of Public Act 99-906). For the purposes of this initial forward procurement, the Agency shall solicit 15-year contracts for delivery of 1,000,000 renewable energy credits delivered annually from new utility-scale wind projects to begin delivery on June 1, 2019, if available, but not later than June 1, 2021, unless the project has delays in the establishment of an operating interconnection with the applicable transmission or distribution system as a result of the actions or inactions of the transmission or distribution provider, or other causes for force majeure as outlined in the procurement contract, in which case, not later than June 1, 2022. Payments to suppliers of renewable energy credits shall commence upon delivery. Renewable energy credits procured under this initial procurement shall be included in the Agency's long-term plan and shall apply to all renewable energy goals in this subsection (c).

(ii) Notwithstanding whether a long-term renewable resources procurement plan has been approved, the Agency shall conduct an initial forward procurement for renewable energy credits from new utility-scale solar projects and brownfield site photovoltaic projects within one year after June 1, 2017 (the effective date of Public Act 99-906). For the purposes of this initial forward procurement, the Agency shall solicit 15-year contracts for delivery of 1,000,000 renewable energy credits delivered annually from new utility-scale solar projects and brownfield site photovoltaic projects to begin delivery on June 1, 2019, if available, but not later than June 1, 2021, unless the project has delays in the establishment of an operating interconnection with the applicable transmission or distribution system as a result of the actions or inactions of the transmission or distribution provider, or other causes for force majeure as outlined in the procurement contract, in which case, not later than June 1, 2022. The Agency may structure this initial procurement in one or more discrete procurement events. Payments to suppliers of renewable energy credits shall commence upon delivery. Renewable energy credits procured under this initial procurement shall be included in the Agency's long-term plan and shall apply to all renewable energy goals in this subsection (c).

(iii) Notwithstanding whether the Commission has approved the periodic long-term renewable resources procurement plan revision described in Section 16-111.5 of the Public Utilities Act, the Agency shall conduct at least one subsequent forward procurement for renewable energy credits from new utility-scale wind projects, new utility-scale solar projects, and new brownfield site photovoltaic projects within 240 days after the effective date of this amendatory Act of the 102nd General Assembly in quantities necessary to meet the requirements of subparagraph (C) of this paragraph (1) through the delivery year beginning June 1, 2021.

(iv) Notwithstanding whether the Commission has approved the periodic long-term renewable resources procurement plan revision described in Section 16-111.5 of the Public Utilities Act, the Agency shall open capacity for each category in the Adjustable Block program within 90 days after the effective date of this amendatory Act of the 102nd General Assembly manner:

(1) The Agency shall open the first block of annual capacity for the category described in item (i) of subparagraph (K) of this paragraph (1). The first block of annual capacity for item (i) shall be for at least 75 megawatts of total nameplate

capacity. The price of the renewable energy credit for this block of capacity shall be 4% less than the price of the last open block in this category. Projects on a waitlist shall be awarded contracts first in the order in which they appear on the waitlist. Notwithstanding anything to the contrary, for those renewable energy credits that qualify and are procured under this subitem (1) of this item (iv), the renewable energy credit delivery contract value shall be paid in full, based on the estimated generation during the first 15 years of operation, by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized and in compliance by the Program Administrator. The electric utility shall receive and retire all renewable energy credits generated by the project for the first 15 years of operation. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility.

(2) The Agency shall open the first block of annual capacity for the category described in item (ii) of subparagraph (K) of this paragraph (1).

The first block of annual capacity for item (ii) shall be for at least 75 megawatts of total nameplate capacity.

(A) The price of the renewable energy credit for any project on a waitlist for this category before the opening of this block shall be 4% less than the price of the last open block in this category. Projects on the waitlist shall be awarded contracts first in the order in which they appear on the waitlist. Any projects that are less than or equal to 25 kilowatts in size on the waitlist for this capacity shall be moved to the waitlist for paragraph (1) of this item (iv). Notwithstanding anything to the contrary, projects that were on the waitlist prior to opening of this block shall not be required to be in compliance with the requirements of subparagraph (Q) of this paragraph (1) of this subsection (c). Notwithstanding anything to the contrary, for those renewable energy credits procured from projects that were on the waitlist for this category before the opening of this block 20% of the renewable energy credit delivery contract value, based on the estimated generation during the first

15 years of operation, shall be paid by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized by the Program Administrator. The remaining portion shall be paid ratably over the subsequent 4-year period. The electric utility shall receive and retire all renewable energy credits generated by the project during the first 15 years of operation. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility.

(B) The price of renewable energy credits for any project not on the waitlist for this category before the opening of the block shall be determined and published by the Agency. Projects not on a waitlist as of the opening of this block shall be subject to the requirements of subparagraph (Q) of this paragraph (1), as applicable. Projects not on a waitlist as of the opening of this block shall be subject to the contract provisions outlined in item (iii) of subparagraph (L) of this paragraph (1). The Agency shall strive to publish updated prices and an updated renewable energy credit delivery contract as quickly as possible.

(3) For opening the first 2 blocks of annual capacity for projects participating in item (iii) of subparagraph (K) of paragraph (1) of subsection (c), projects shall be selected exclusively from those projects on the ordinal waitlists of community renewable generation projects established by the Agency based on the status of those ordinal waitlists as of December 31, 2020, and only those projects previously determined to be eligible for the Agency's April 2019 community solar project selection process.

The first 2 blocks of annual capacity for item (iii) shall be for 250 megawatts of total nameplate capacity, with both blocks opening simultaneously under the schedule outlined in the paragraphs below. Projects shall be selected as follows:

(A) The geographic balance of selected projects shall follow the Group classification found in the Agency's Revised Long-Term Renewable Resources Procurement Plan, with 70% of capacity allocated to projects on the Group

B waitlist and 30% of capacity allocated to projects on the Group A waitlist.

(B) Contract awards for waitlisted projects shall be allocated proportionate to the total nameplate capacity amount across both ordinal waitlists associated with that applicant firm or its affiliates, subject to the following conditions.

(i) Each applicant firm having a waitlisted project eligible for selection shall receive no less than 500 kilowatts in awarded capacity across all groups, and no approved vendor may receive more than 20% of each Group's waitlist allocation.

(ii) Each applicant firm, upon receiving an award of program capacity proportionate to its waitlisted capacity, may then determine which waitlisted projects it chooses to be selected for a contract award up to that capacity amount.

(iii) Assuming all other program requirements are met, applicant firms may adjust the nameplate capacity of applicant projects without losing waitlist eligibility, so long as no project is greater than 2,000 kilowatts in size.

(iv) Assuming all other program requirements are met, applicant firms may adjust the expected production associated with applicant projects, subject to verification by the Program Administrator.

(C) After a review of affiliate information and the current ordinal waitlists, the Agency shall announce the nameplate capacity award amounts associated with applicant firms no later than 90 days after the effective date of this amendatory Act of the 102nd General Assembly.

(D) Applicant firms shall submit their portfolio of projects used to satisfy those contract awards no less than 90 days after the Agency's announcement. The total nameplate capacity of all projects used to satisfy that portfolio shall be no greater than the Agency's nameplate capacity award amount associated with that applicant firm. An applicant firm may decline, in whole or in part, its nameplate capacity award without penalty, with such unmet capacity rolled over to the next block opening for project selection under item (iii) of subparagraph (K) of this subsection (c). Any projects not included in an applicant firm's portfolio may reapply without prejudice upon the next block reopening for project selection under item (iii) of subparagraph (K) of this subsection (c).

(E) The renewable energy credit delivery contract shall be subject to the contract and payment terms outlined in item (iv) of subparagraph (L) of this subsection (c). Contract instruments used for this subparagraph shall contain the following terms:

(i) Renewable energy credit prices shall be fixed, without further adjustment under any other provision of this Act or for any other reason, at 10% lower than prices applicable to the last open block for this category, inclusive of any adders available for achieving a minimum of 50% of subscribers to the project's nameplate capacity being residential or small commercial customers with subscriptions of below 25 kilowatts in size;

(ii) A requirement that a minimum of 50% of subscribers to the project's nameplate capacity be residential or small commercial customers with subscriptions of below 25 kilowatts in size;

(iii) Permission for the ability of a contract holder to substitute projects with other waitlisted projects without penalty should a project receive a non-binding estimate of costs to construct the interconnection facilities and any required distribution upgrades associated with that project of greater than 30 cents per watt AC of that project's nameplate capacity. In developing the applicable contract instrument, the Agency may consider whether other circumstances outside of the control of the applicant firm should also warrant project substitution rights.

The Agency shall publish a finalized updated renewable energy credit delivery contract developed consistent with these terms and conditions no less than 30 days before applicant firms must submit their portfolio of projects pursuant to item (D).

(F) To be eligible for an award, the applicant firm shall certify that not less than prevailing wage, as determined pursuant to the Illinois Prevailing Wage Act, was or will be paid to employees who are engaged in construction activities associated with a selected project.

(4) The Agency shall open the first block of annual capacity for the category described in item (iv) of subparagraph (K) of this paragraph (1). The first block of annual capacity for item (iv) shall be for at least 50 megawatts of total nameplate capacity. Renewable energy credit prices shall be fixed, without further adjustment under any other provision of this Act or for any other reason, at the price in the last open block in the category described in item (ii) of subparagraph (K) of this paragraph (1). Pricing for future blocks of annual capacity for this category may be adjusted in the Agency's second revision to its Long-Term Renewable Resources Procurement Plan. Projects in this category shall be subject to the contract terms outlined in item (iv) of subparagraph (L) of this paragraph (1).

(5) The Agency shall open the equivalent of 2 years of annual capacity for the category described in item (v) of subparagraph (K) of this paragraph (1). The first block of annual capacity for item (v) shall be for at least 10 megawatts of

total nameplate capacity. Notwithstanding the provisions of item (v) of subparagraph (K) of this paragraph (1), for the purpose of this initial block, the agency shall accept new project applications intended to increase the diversity of areas hosting community solar projects, the business models of projects, and the size of projects, as described by the Agency in its long-term renewable resources procurement plan that is approved as of the effective date of this amendatory Act of the 102nd General Assembly. Projects in this category shall be subject to the contract terms outlined in item (iii) of subsection (L) of this paragraph (1).

(6) The Agency shall open the first blocks of annual capacity for the category described in item (vi) of subparagraph (K) of this paragraph (1), with allocations of capacity within the block generally matching the historical share of block capacity allocated between the category described in items (i) and (ii) of subparagraph (K) of this paragraph (1). The first two blocks of annual capacity for item (vi) shall be for at least 75 megawatts of total nameplate capacity. The price of renewable energy credits for the blocks of capacity shall be 4% less than the price of the

last open blocks in the categories described in items (i) and (ii) of subparagraph (K) of this paragraph (1). Pricing for future blocks of annual capacity for this category may be adjusted in the Agency's second revision to its Long-Term Renewable Resources Procurement Plan. Projects in this category shall be subject to the applicable contract terms outlined in items (ii) and (iii) of subparagraph (L) of this paragraph (1).

(v) Upon the effective date of this amendatory Act of the 102nd General Assembly, for all competitive procurements and any procurements of renewable energy credit from new utility-scale wind and new utility-scale photovoltaic projects, the Agency shall procure indexed renewable energy credits and direct respondents to offer a strike price.

(1) The purchase price of the indexed renewable energy credit payment shall be calculated for each settlement period. That payment, for any settlement period, shall be equal to the difference resulting from subtracting the strike price from the index price for that settlement period. If this difference results in a negative number, the indexed REC counterparty shall owe the seller the absolute value multiplied by the quantity of energy produced in the relevant

settlement period. If this difference results in a positive number, the seller shall owe the indexed REC counterparty this amount multiplied by the quantity of energy produced in the relevant settlement period.

(2) Parties shall cash settle every month, summing up all settlements (both positive and negative, if applicable) for the prior month.

(3) To ensure funding in the annual budget established under subparagraph (E) for indexed renewable energy credit procurements for each year of the term of such contracts, which must have a minimum tenure of 20 calendar years, the procurement administrator, Agency, Commission staff, and procurement monitor shall quantify the annual cost of the contract by utilizing one or more industry-standard, third-party forward price curves for energy at the appropriate hub or load zone, including the estimated magnitude and timing of the price effects related to federal carbon controls. Each forward price curve shall contain a specific value of the forecasted market price of electricity for each annual delivery year of the contract. For procurement planning purposes, the impact on the annual budget for the cost of indexed renewable energy credits for each delivery

year shall be determined as the expected annual contract expenditure for that year, equaling the difference between (i) the sum across all relevant contracts of the applicable strike price multiplied by contract quantity and (ii) the sum across all relevant contracts of the forward price curve for the applicable load zone for that year multiplied by contract quantity. The contracting utility shall not assume an obligation in excess of the estimated annual cost of the contracts for indexed renewable energy credits. Forward curves shall be revised on an annual basis as updated forward price curves are released and filed with the Commission in the proceeding approving the Agency's most recent long-term renewable resources procurement plan. If the expected contract spend is higher or lower than the total quantity of contracts multiplied by the forward price curve value for that year, the forward price curve shall be updated by the procurement administrator, in consultation with the Agency, Commission staff, and procurement monitors, using then-currently available price forecast data and additional budget dollars shall be obligated or reobligated as appropriate.

(4) To ensure that indexed renewable energy

credit prices remain predictable and affordable, the Agency may consider the institution of a price collar on REC prices paid under indexed renewable energy credit procurements establishing floor and ceiling REC prices applicable to indexed REC contract prices. Any price collars applicable to indexed REC procurements shall be proposed by the Agency through its long-term renewable resources procurement plan.

(vi) All procurements under this subparagraph (G), including the procurement of renewable energy credits from hydropower facilities, shall comply with the geographic requirements in subparagraph (I) of this paragraph (1) and shall follow the procurement processes and procedures described in this Section and Section 16-111.5 of the Public Utilities Act to the extent practicable, and these processes and procedures may be expedited to accommodate the schedule established by this subparagraph (G). To ensure the successful development of new renewable energy projects supported through competitive procurements, for any procurements conducted under items (i), (ii), (iii), and (v) of this subparagraph (G) and any other procurement of new utility-scale wind or utility-scale solar projects that were entered into prior to January 1, 2025, the Agency shall allow, upon a demonstration of need to ensure the commercial viability of a project, for a one-time, post-award renegotiation of select contract terms prior to the project's commercial operation date through bilateral negotiation between the Agency, the buyer, and a winning bidder. Contract terms subject to renegotiation may include the project map, as defined under the applicable competitive solicitation, the real estate footprint or any limitations thereof, the location of the generators, or a potential reduction in the quantity of renewable energy credits to be delivered. Provisions related to a renewable energy credit delivery shortfall and the event of default may be replaced with similar provisions approved by the Agency in subsequent years or subsequent to a successful bid. Post-award renegotiation of competitively bid renewable energy credit contracts entered into prior to January 1, 2025 shall not be permitted to the extent such renegotiation would result in (1) the point of interconnection being within the service area of a different state, a different regional transmission organization zone, or a different regional transmission organization, (2) the generator no longer meeting the definition of the resource category for which the winning bidder was originally awarded a contract, (3) the generator no longer meeting the Agency's public interest criteria as established in the long-term renewable resources plan in effect at the time of the contract award, or (4) a change to material terms of the renewable energy credit contract unrelated to project land or footprint or the number of renewable energy credits to be delivered, including the applicable bid price or strike price. If the Agency, the buyer, and the winning bidder reach an agreement on amended terms, then, upon petition by the winning bidder or current seller, the Commission shall issue an order directing the utility counterparty to execute an amendment drafted by the Agency with the revised terms to the renewable energy credit contract, the product order, or both. The Agency shall provide the amendment to the utility within 15 business days after the Commission's order, and the utility shall execute the amendment no more than 7 calendar days after delivery by the Agency.

(vii) On and after the effective date of this amendatory Act of the 103rd General Assembly, for all procurements of renewable energy credits from hydropower facilities, the Agency shall establish contract terms designed to optimize existing hydropower facilities through modernization or retooling and establish new hydropower facilities at existing dams. Procurements made under this item (vii) shall prioritize projects located in designated environmental justice communities, as defined in subsection (b) of Section 1-56 of this Act, or in projects located in units of local government with median incomes that do not exceed 82% of the median income of the State.

(H) The procurement of renewable energy resources for a given delivery year shall be reduced as described in this subparagraph (H) if an alternative retail electric supplier meets the requirements described in this subparagraph (H).

(i) Within 45 days after June 1, 2017 (the effective date of Public Act 99-906), an alternative retail electric supplier or its successor shall submit an informational filing to the Illinois Commerce Commission certifying that, as of December 31, 2015, the alternative retail electric supplier owned one or more electric generating facilities that generates renewable energy resources as defined in Section 1-10 of this Act, provided that such facilities are not powered by wind or photovoltaics, and the facilities generate one renewable energy credit for each megawatthour of energy produced from the facility.

The informational filing shall identify each facility that was eligible to satisfy the alternative retail electric supplier's obligations under Section 16-115D of the Public Utilities Act as described in this item (i).

(ii) For a given delivery year, the alternative retail electric supplier may elect to supply its retail customers with renewable energy credits from the facility or facilities described in item (i) of this subparagraph (H) that continue to be owned by the alternative retail electric supplier.

(iii) The alternative retail electric supplier shall notify the Agency and the applicable utility, no later than February 28 of the year preceding the applicable delivery year or 15 days after June 1, 2017 (the effective date of Public Act 99-906), whichever is later, of its election under item (ii) of this subparagraph (H) to supply renewable energy credits to retail customers of the utility. Such election shall identify the amount of renewable energy credits to be supplied by the alternative retail electric supplier to the utility's retail customers and the source of the renewable energy credits identified in the informational filing as described in item (i) of this subparagraph (H), subject to the following limitations:

For the delivery year beginning June 1, 2018, the maximum amount of renewable energy credits to be supplied by an alternative retail electric supplier under this subparagraph (H) shall be 68% multiplied by 25% multiplied by 14.5% multiplied by the amount of metered electricity (megawatt-hours) delivered by the alternative retail electric supplier to Illinois retail customers during the delivery year ending May 31, 2016.

For delivery years beginning June 1, 2019 and each year thereafter, the maximum amount of renewable energy credits to be supplied by an alternative retail electric supplier under this subparagraph (H) shall be 68% multiplied by 50% multiplied by 16% multiplied by the amount of metered electricity (megawatt-hours) delivered by the alternative retail electric supplier to Illinois retail customers during the delivery year ending May 31, 2016, provided that the 16% value shall increase by 1.5% each delivery year thereafter to 25% by the delivery year beginning June 1, 2025, and thereafter the 25% value shall apply to each delivery year.

For each delivery year, the total amount of renewable energy credits supplied by all alternative retail electric suppliers under this subparagraph (H) shall not exceed 9% of the Illinois target renewable energy credit quantity. The Illinois target renewable energy credit quantity for the delivery year beginning June 1, 2018 is 14.5% multiplied by the total amount of metered electricity (megawatt-hours) delivered in the delivery year immediately preceding that delivery year, provided that the 14.5% shall increase by 1.5% each delivery year thereafter to 25% by the delivery year beginning June 1, 2025, and thereafter the 25% value shall apply to each delivery year.

If the requirements set forth in items (i) through (iii) of this subparagraph (H) are met, the charges that would otherwise be applicable to the retail customers of the alternative retail electric supplier under paragraph (6) of this subsection (c) for the applicable delivery year shall be reduced by the ratio of the quantity of renewable energy credits supplied by the alternative retail electric supplier compared to that supplier's target renewable energy credit quantity. The supplier's target renewable energy credit quantity for the delivery year beginning June 1, 2018 is 14.5% multiplied by the total amount of metered electricity (megawatt-hours) delivered by the alternative retail supplier in that delivery year, provided that the 14.5% shall increase by 1.5% each delivery year thereafter to 25% by the delivery year beginning June 1, 2025, and thereafter the 25% value shall apply to each delivery year.

On or before April 1 of each year, the Agency shall annually publish a report on its website that identifies the aggregate amount of renewable energy credits supplied by alternative retail electric suppliers under this subparagraph (H).

(I) The Agency shall design its long-term renewable energy procurement plan to maximize the State's interest in the health, safety, and welfare of its residents, including but not limited to minimizing sulfur dioxide, nitrogen oxide, particulate matter and other pollution that adversely affects public health in this State, increasing fuel and resource diversity in this State, enhancing the reliability and resiliency of the electricity distribution system in this State, meeting goals to limit carbon dioxide emissions under federal or State law, and contributing to a cleaner and healthier environment for the citizens of this State. In order to further these legislative purposes, renewable energy credits shall be eligible to be counted toward the renewable energy requirements of this subsection (c) if they are generated from facilities located in this State. The Agency may qualify renewable energy credits from facilities located in states adjacent to Illinois or renewable energy credits associated with the electricity generated by a utility-scale wind energy facility or utility-scale photovoltaic facility and transmitted by a qualifying direct current project described in subsection (b-5) of Section 8-406 of the Public Utilities Act to a delivery point on the electric transmission grid located in this State or a state adjacent to Illinois, if the generator demonstrates and the Agency determines that the operation of such facility or facilities will help promote the State's interest in the health, safety, and welfare of its residents based on the public interest criteria described above. For the purposes of this Section, renewable resources that are delivered via a high voltage direct current converter station located in Illinois shall be deemed generated in Illinois at the time and location the energy is converted to alternating current by the high voltage direct current converter station if the high voltage direct current transmission line: (i) after the effective date of this amendatory Act of the 102nd General Assembly, was constructed with a project labor agreement; (ii) is capable of transmitting electricity at 525kv; (iii) has an Illinois converter station located and interconnected in the region of the PJM Interconnection, LLC; (iv) does not operate as a public utility; and (v) if the high voltage direct current transmission line was energized after June 1, 2023. To ensure that the public interest criteria are applied to the procurement and given full effect, the Agency's long-term procurement plan shall describe in detail how each public interest factor shall be considered and weighted for facilities located in states adjacent to Illinois.

(J) In order to promote the competitive development of renewable energy resources in furtherance of the State's interest in the health, safety, and welfare of its residents, renewable energy credits shall not be eligible to be counted toward the renewable energy requirements of this subsection (c) if they are sourced from a generating unit whose costs were being recovered through rates regulated by this State or any other state or states on or after January 1, 2017. Each contract executed to purchase renewable energy credits under this subsection (c) shall provide for the contract's termination if the costs of the generating unit supplying the renewable energy credits subsequently begin to be recovered through rates regulated by this State or any other state or states; and each contract shall further provide that, in that event, the supplier of the credits must return 110% of all payments received under the contract. Amounts returned under the requirements of this subparagraph (J) shall be retained by the utility and all of these amounts shall be used for the procurement of additional renewable energy credits from new wind or new photovoltaic resources as defined in this subsection (c). The long-term plan shall provide that these renewable energy credits shall be procured in the next procurement event.

Notwithstanding the limitations of this subparagraph (J), renewable energy credits sourced from generating units that are constructed, purchased, owned, or leased by an electric utility as part of an approved project, program, or pilot under Section 1-56 of this Act shall be eligible to be counted toward the renewable energy requirements of this subsection (c), regardless of how the costs of these units are recovered. As long as a generating unit or an identifiable portion of a generating unit has not had and does not have its costs recovered through rates regulated by this State or any other state, HVDC renewable energy credits associated with that generating unit or identifiable portion thereof shall be eligible to be counted toward the renewable energy requirements of this subsection (c).

(K) The long-term renewable resources procurement plan developed by the Agency in accordance with subparagraph (A) of this paragraph (1) shall include an Adjustable Block program for the procurement of renewable energy credits from new photovoltaic projects that are distributed renewable energy generation devices or new photovoltaic community renewable generation projects. The Adjustable Block program shall be generally designed to provide for the steady, predictable, and sustainable growth of new solar photovoltaic development in Illinois.

To this end, the Adjustable Block program shall provide a transparent annual schedule of prices and quantities to enable the photovoltaic market to scale up and for renewable energy credit prices to adjust at a predictable rate over time. The prices set by the Adjustable Block program can be reflected as a set value or as the product of a formula.

The Adjustable Block program shall include for each category of eligible projects for each delivery year: a single block of nameplate capacity, a price for renewable energy credits within that block, and the terms and conditions for securing a spot on a waitlist once the block is fully committed or reserved. Except as outlined below, the waitlist of projects in a given year will carry over to apply to the subsequent year when another block is opened. Only projects energized on or after June 1, 2017 shall be eligible for the Adjustable Block program. For each category for each delivery year the Agency shall determine the amount of generation capacity in each block, and the purchase price for each block, provided that the purchase price provided and the total amount of generation in all blocks for all categories shall be sufficient to meet the goals in this subsection (c). The Agency shall strive to issue a single block sized to provide for stability and market growth. The Agency shall establish program eligibility requirements that ensure that projects that enter the program are sufficiently mature to indicate a demonstrable path to completion. The Agency may periodically review its prior decisions establishing the amount of generation capacity in each block, and the purchase price for each block, and may propose, on an expedited basis, changes to these previously set values, including but not limited to redistributing these amounts and the available funds as necessary and appropriate, subject to Commission approval as part of the periodic plan revision process described in Section 16-111.5 of the Public Utilities Act. The Agency may define different block sizes, purchase prices, or other distinct terms and conditions for projects located in different utility service territories if the Agency deems it necessary to meet the goals in this subsection (c).

The Adjustable Block program shall include the following categories in at least the following amounts:

(i) At least 20% from distributed renewable energy generation devices with a nameplate capacity of no more than 25 kilowatts.

(ii) At least 20% from distributed renewable energy generation devices with a nameplate capacity of more than 25 kilowatts and no more than 5,000 kilowatts. The Agency may create sub-categories within this category to account for the differences between projects for small commercial customers, large commercial customers, and public or non-profit customers. A project shall not be colocated with one or more other distributed renewable energy generation projects if the aggregate nameplate capacity of the projects exceeds 5,000 kilowatts AC. Notwithstanding any other provision of this Section, if 2 or more projects are developed, owned, or controlled by or originate from the same developer or an affiliated developer and the projects serve affiliated loads, the projects shall be colocated if the projects are located on adjacent parcels. If 2 or more projects are developed, owned, or controlled by or originate from the same developer and the projects serve unaffiliated loads, the projects may be colocated if documentation indicates affiliated management and ownership in the pre-development, development, construction, and management of the projects and the projects are located on a single or adjacent parcels. Notwithstanding any subsequent transfer, assignment, or conveyance of ownership or development rights to separate legal entities, the Agency shall consider, in its determination of whether projects are affiliated, evidence that the projects were pre-developed by the same legal entity or an affiliated entity. If the Agency determines the projects are affiliated, the projects shall be treated as colocated for purposes of aggregate nameplate capacity limitations and renewable energy credit pricing adjustments. The Agency shall make exceptions on a case-by-case basis if it is demonstrated that projects on one parcel or projects on adjacent parcels are unaffiliated. For purposes of determining colocation, an approved vendor who submits an application for a distributed renewable energy generation project shall be required to submit an affidavit attesting that the project is not affiliated with any other distributed renewable energy generation project such that, if the 2 projects were deemed colocated, the projects would exceed the 5,000 kilowatts nameplate capacity limitation. The receipt of an affidavit shall not restrict the Agency's ability to investigate and determine whether the project is, in fact, colocated.

For purposes of this item (ii):

"Affiliate" has the meaning given to that term in subitem (3) of item (iii) of this subparagraph (K).

"Colocated" means 2 or more distributed renewable energy generation projects that are located on a single parcel, except for projects where the owner of the applicable retail electric account is confirmed to be unaffiliated and the projects serve distinct electrical loads.

"Control" has the meaning given to that term in subitem (3) of item (iii) of this subparagraph (K).

(iii) At least 30% from photovoltaic community renewable generation projects. Capacity for this category for the first 2 delivery years after the effective date of this amendatory Act of the 102nd General Assembly shall be allocated to waitlist projects as provided in paragraph (3) of item (iv) of subparagraph (G). Starting in the third delivery year after the effective date of this amendatory Act of the 102nd General Assembly or earlier if the Agency determines there is additional capacity needed ~~for~~ to meet previous delivery year requirements, the following shall apply:

(1) the Agency shall select projects on a first-come, first-serve basis, however the Agency may suggest additional methods to prioritize projects that are submitted at the same time, including prioritization for projects that commit to and demonstrate a meaningful level of labor hours performed by apprentices from registered apprenticeship programs;

(2) projects shall have subscriptions of 25 kW or less for at least 50% of the facility's nameplate capacity and the Agency shall price the renewable energy credits with that as a factor;

(3) projects shall not be colocated with one

or more other photovoltaic community renewable generation projects such that the aggregate nameplate capacity exceeds 10,000 kilowatts. The total nameplate capacity of colocated projects shall be the sum of the nameplate capacities of the individual projects. For purposes of this subitem (3), separate legal formation of approved vendors, owners, or developers shall not preclude a finding of affiliation by the Agency. Evidence of affiliation may include, but is not limited to, shared personnel, common contractual or financing arrangements, a shared interconnection agreement, distinct interconnection agreements obtained by the same pre-development entity that are subsequently sold to distinct legal entities, familial relationships, or any demonstrable pattern of coordinated action in the pre-development, development, construction, or management of photovoltaic community renewable generation projects.

The Agency shall determine affiliation based on evidence that projects either (i) share a common origin on a parcel that has been subdivided in the 5 years before the date of application or (ii) were pre-developed before the beginning of construction by the same legal entity or an affiliated legal entity. The determination shall be made notwithstanding any subsequent transfer, assignment, or conveyance of ownership or development rights to separate legal entities. If the Agency determines the projects are affiliated, the projects shall be treated as colocated for the purposes of aggregate nameplate capacity limitations and renewable energy credit pricing adjustments. The Agency shall make exceptions to this subitem (3) on a case-by-case basis if it is demonstrated that projects on one parcel or projects on adjacent parcels are unaffiliated.

A parcel shall not be divided into multiple parcels within the 5 years before the submission of a project application. If a parcel is divided within the preceding 5 years, a colocation determination shall be made based on the boundaries of the previous undivided parcel.

For purposes of determining colocation, an approved vendor who submits an application for a community renewable generation project shall be required to submit an affidavit attesting that (i) the parcel on which the project is sited has not been subdivided within the 5 years preceding the project application and (ii) the project is not affiliated with any other community renewable energy project in a manner that would cause the 2 projects, if deemed colocated, to exceed the 10,000 kilowatt nameplate capacity limitation. The receipt of an affidavit shall not restrict the Agency's ability to investigate and determine whether the project is colocated.

Multiple community solar projects sited on distinct structures located on a single parcel shall be considered colocated and must demonstrate that the projects are unaffiliated in order to not be considered colocated. Each colocated project shall receive the renewable energy credit price corresponding to the total, aggregated nameplate capacity of the colocated systems, as determined at the time the second project's application is submitted to the Agency. If the second colocated project has been constructed and placed in service prior to application, and was placed in service more than 2 years after Commission approval of the original project, the colocation pricing adjustment shall not apply, and each project shall receive the standalone renewable energy credit price for its individual capacity.

For purposes of this subitem (3):

"Affiliate" means any other entity that, directly or indirectly through one or more intermediaries, is controlled by or is under common control of the primary entity or a third entity. "Affiliate" includes family members for the purposes of colocation between projects. "Affiliate" does not include entities that have shared sales or revenue-sharing arrangements or common debt and equity financing arrangements.

"Colocated" means 2 or more photovoltaic community renewable generation projects located on a single parcel or adjacent parcels, unless it is demonstrated that the projects are developed by unaffiliated entities.

"Control" means the possession, directly or indirectly, of the power to direct the management and policies of an entity; and

(4) projects greater than 2 MW may not apply until after the approval of the Agency's revised Long-Term Renewable Resources Procurement Plan after the effective date of this amendatory Act of the 102nd General Assembly.

(iv) At least 15% from distributed renewable generation devices or photovoltaic community renewable generation projects installed on public school land. The Agency may create subcategories within this category to account for the differences between project size or location. Projects located within environmental justice communities or within Organizational Units that fall within Tier 1 or Tier 2 shall be given priority. Each of the Agency's periodic updates to its long-term renewable resources procurement plan to incorporate the procurement described in this subparagraph (iv) shall also include the proposed quantities or blocks, pricing, and contract terms applicable to the procurement as indicated herein. In each such update and procurement, the Agency shall set the renewable energy credit price and establish payment terms for the renewable energy credits procured pursuant to this subparagraph (iv) that make it feasible and affordable for public schools to install photovoltaic distributed renewable energy devices on their premises, including, but not limited to, those public schools subject to the prioritization provisions of this subparagraph. For the purposes of this item (iv):

"Environmental Justice Community" shall have the same meaning set forth in the Agency's long-term renewable resources procurement plan;

"Organization Unit", "Tier 1" and "Tier 2" shall have the meanings set forth ~~for~~ in Section 18-8.15 of the School Code;

"Public schools" shall have the meaning set forth in Section 1-3 of the School Code and includes public institutions of higher education, as defined in the Board of Higher Education Act.

(v) At least 5% from community-driven community solar projects intended to provide more direct and tangible connection and benefits to the communities which they serve or in which they operate and, additionally, to increase the variety of community solar locations, models, and options in Illinois. As part of its long-term renewable resources procurement plan, the Agency shall develop selection criteria for projects participating in this category. Nothing in this Section shall preclude the Agency from creating a selection process that maximizes community ownership and community benefits in selecting projects to receive renewable energy credits. Selection criteria shall include:

(1) community ownership or community wealth-building;

(2) additional direct and indirect community benefit, beyond project participation as a subscriber, including, but not limited to, economic, environmental, social, cultural, and physical benefits;

(3) meaningful involvement in project organization and development by community members or nonprofit organizations or public entities

located in or serving the community;

(4) engagement in project operations and management by nonprofit organizations, public entities, or community members; and

(5) whether a project is developed in response to a site-specific RFP developed by community members or a nonprofit organization or public entity located in or serving the community.

Selection criteria may also prioritize projects that:

(1) are developed in collaboration with or to provide complementary opportunities for the Clean Jobs Workforce Network Program, the Illinois Climate Works Preapprenticeship Program, the Returning Residents Clean Jobs Training Program, the Clean Energy Contractor Incubator Program, or the Clean Energy Primes Contractor Accelerator Program;

(2) increase the diversity of locations of community solar projects in Illinois, including by locating in urban areas and population centers;

(3) are located in Equity Investment Eligible Communities;

(4) are not greenfield projects;

(5) serve only local subscribers;

(6) have a nameplate capacity that does not

exceed 500 kW;

(7) are developed by an equity eligible contractor; or

(8) otherwise meaningfully advance the goals of providing more direct and tangible connection and benefits to the communities which they serve or in which they operate and increasing the variety of community solar locations, models, and options in Illinois.

For the purposes of this item (v):

"Community" means a social unit in which people come together regularly to effect change; a social unit in which participants are marked by a cooperative spirit, a common purpose, or shared interests or characteristics; or a space understood by its residents to be delineated through geographic boundaries or landmarks.

"Community benefit" means a range of services and activities that provide affirmative, economic, environmental, social, cultural, or physical value to a community; or a mechanism that enables economic development, high-quality employment, and education opportunities for local workers and residents, or formal monitoring and oversight structures such that community members may ensure that those services and activities respond to local knowledge and needs.

"Community ownership" means an arrangement in which an electric generating facility is, or over time will be, in significant part, owned collectively by members of the community to which an electric generating facility provides benefits; members of that community participate in decisions regarding the governance, operation, maintenance, and upgrades of and to that facility; and members of that community benefit from regular use of that facility.

Terms and guidance within these criteria that are not defined in this item (v) shall be defined by the Agency, with stakeholder input, during the development of the Agency's long-term renewable resources procurement plan. The Agency shall develop regular opportunities for projects to submit applications for projects under this category, and develop selection criteria that gives preference to projects that better meet individual criteria as well as projects that address a higher number of criteria.

(vi) At least 10% from distributed renewable energy generation devices, which includes distributed renewable energy devices with a nameplate capacity under 5,000 kilowatts or photovoltaic community renewable generation projects, from applicants that are equity eligible contractors. The Agency may create subcategories within this category to account for the differences between project size and type. The Agency shall propose to increase the percentage in this item (vi) over time to 40% based on factors, including, but not limited to, the number of equity eligible contractors and capacity used in this item (vi) in previous delivery years.

The Agency shall propose a payment structure for contracts executed pursuant to this paragraph under which, upon a demonstration of qualification or need under criteria established by the Agency that is focused on supporting small and emerging businesses and businesses that most acutely face barriers to the access of capital, applicant firms are advanced capital disbursed after contract execution but before the contracted project's energization. The amount or percentage of capital advanced prior to project energization shall be sufficient to both cover any increase in development costs resulting from prevailing wage requirements or project-labor agreements, and designed to overcome barriers in access to capital faced by equity eligible contractors. The amount or percentage of advanced capital may vary by subcategory within this category and by an applicant's demonstration of need, with such levels to be established through the Long-Term Renewable Resources Procurement Plan authorized under subparagraph (A) of paragraph (1) of subsection (c) of this Section and any application requirements or evaluation criteria developed pursuant to the Plan.

Contracts developed featuring capital advanced prior to a project's energization shall feature provisions to ensure both the successful development of applicant projects and the delivery of the renewable energy credits for the full term of the contract, including ongoing collateral requirements and other provisions deemed necessary by the Agency, and may include energization timelines longer than for comparable project types. The percentage or amount of capital advanced prior to project energization shall not operate to increase the overall contract value, however contracts executed under this subparagraph may feature renewable energy credit prices higher than those offered to similar projects participating in other categories. Capital advanced prior to energization shall serve to reduce the ratable payments made after energization under items (ii) and (iii) of subparagraph (L) or payments made for each renewable energy credit delivery under item (iv) of subparagraph (L).

For projects developed under this item (vi), the Agency shall take steps to encourage higher portions of contract value to be provided to equity eligible contractors and to support equity eligible persons who participate in this Program and who exercise control and actively manage their businesses and their businesses' contractual projects. These steps may include, but are not limited to, differentiated REC prices, exceptions or exemptions, and other mechanisms and requirements for nonnominal contract value to be provided to equity eligible contractors and equity eligible persons as a prerequisite to Program participation. Any steps taken shall aim to encourage and grow the meaningful participation of equity eligible contractors in this State's clean energy economy. All entities participating under this item (vi) shall comply with the minimum equity standard set forth under Section 1-75.

(vii) The remaining capacity shall be allocated by the Agency in order to respond to market demand. The Agency shall allocate any discretionary capacity prior to the beginning of each delivery year.

(viii) The Agency, through its long-term renewable resources procurement plan, may implement solutions to maintain stable and consistent REC offerings allocated to systems described in item (i) of this subparagraph (K) to avoid gaps in availability during a delivery year, including, but not limited to, creating a floating block of REC capacity in a given delivery year.

To the extent there is uncontracted capacity from any block in any of categories (i) through (vi) at the end of a delivery year, the Agency shall redistribute that capacity to one or more other categories giving priority to categories with projects on a waitlist. The redistributed capacity shall be added to the annual capacity in the subsequent delivery year, and the price for renewable energy credits shall be the price for the new delivery year. Redistributed capacity shall not be considered redistributed when determining whether the goals in this subsection (K) have been met.

Notwithstanding anything to the contrary, as the Agency increases the capacity in item (vi) to 40% over time, the Agency may reduce the capacity of items (i) through (v) proportionate to the capacity of the categories of projects in item (vi), to achieve a balance of project types.

The Adjustable Block program shall be designed to ensure that renewable energy credits are procured from projects in diverse locations and are not concentrated in a few regional areas.

(L) Notwithstanding provisions for advancing capital prior to project energization found in item (vi) of subparagraph (K), the procurement of photovoltaic renewable energy credits under items (i) through (vi) of subparagraph (K) of this paragraph (1) shall otherwise be subject to the following contract and payment terms:

(i) (Blank).

(ii) Unless otherwise provided for in the Agency's approved long-term plan, for those renewable energy credits that qualify and are procured under item (i) of subparagraph (K) of this paragraph (1), and any similar category projects that are procured under item (vi) of subparagraph (K) of this paragraph (1) that qualify and are procured under item (vi), the contract length shall be 15 years. Beginning on the effective date of this amendatory Act of the 104th General Assembly, and including the remainder of program year 2026-2027, 50% of the renewable energy credit delivery contract value, based on the estimated generation during the first 15 years of operation, shall be paid by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized and compliant by the Program Administrator. The remaining portion of the renewable energy credit delivery contract value shall be paid ratably over the subsequent 6-year period. Relative to a contract structure under which the full renewable energy credit delivery contract value shall be paid in full at the time of interconnection and verification of energization, the Agency shall consider the impact of deferred payments across the subsequent payment period when establishing renewable energy credit prices. The electric utility shall receive and retire all renewable energy credits generated by the project for the first 15 years of operation. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility.

(iii) Unless otherwise provided for in the Agency's approved long-term plan, for those renewable energy credits that qualify and are procured under item (ii) and (v) of subparagraph (K) of this paragraph (1) and any like projects that qualify and are procured under items (iv) and (vi), the contract length shall be 15 years. 15% of the renewable energy credit delivery contract value, based on the estimated generation during the first 15 years of operation, shall be paid by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized and compliant by the Program Administrator. The remaining portion shall be paid ratably over the subsequent 6-year period. The electric utility shall receive and retire all renewable energy credits generated by the project for the first 15 years of operation. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility.

(iv) Unless otherwise provided for in the Agency's approved long-term plan, for those renewable energy credits that qualify and are procured under item (iii) of subparagraph (K) of this paragraph (1), and any like projects that qualify and are procured under items (iv) and (vi), the renewable energy credit delivery contract length shall be 20 years and shall be paid over the delivery term, not to exceed during each delivery year the contract price multiplied by the estimated annual renewable energy credit generation amount. If generation of renewable energy credits during a delivery year exceeds the estimated annual generation amount, the excess renewable energy credits shall be carried forward to future delivery years and shall not expire during the delivery term. If generation of renewable energy credits during a delivery year, including carried forward excess renewable energy credits, if any, is less than the estimated annual generation amount, payments during such delivery year will not exceed the quantity generated plus the quantity carried forward multiplied by the contract price. The electric utility shall receive all renewable energy credits generated by the project during the first 20 years of operation and retire all renewable energy credits paid for under this item (iv) and return at the end of the delivery term all renewable energy credits that were not paid for. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility. Notwithstanding the preceding, for those projects participating under item (iii) of subparagraph (K), the contract price for a delivery year shall be based on subscription levels as measured on the higher of the first business day of the delivery year or the first business day 6 months after the first business day of the delivery year. Subscription of 90% of nameplate capacity or greater shall be deemed to be fully subscribed for the purposes of this item (iv). For projects receiving a 20-year delivery contract, REC prices shall be adjusted downward for consistency with the incentive levels previously determined to be necessary to support projects under 15-year delivery contracts, taking into consideration any additional new requirements placed on the projects, including, but not limited to, labor standards.

(v) Each contract shall include provisions to ensure the delivery of the estimated quantity of renewable energy credits and ongoing collateral requirements and other provisions deemed appropriate by the Agency.

(vi) The utility shall be the counterparty to the contracts executed under this subparagraph (L) that are approved by the Commission under the process described in Section 16-111.5 of the Public Utilities Act. No contract shall be executed for an amount that is less than one renewable energy credit per year.

(vii) If, at any time, approved applications for the Adjustable Block program exceed funds collected by the electric utility or would cause the Agency to exceed the limitation described in subparagraph (E) of this paragraph (1) on the amount of renewable energy resources that may be procured, then the Agency may consider future uncommitted funds to be reserved for these contracts on a first-come, first-served basis.

(viii) Nothing in this Section shall require the utility to advance any payment or pay any amounts that exceed the actual amount of revenues anticipated to be collected by the utility under paragraph (6) of this subsection (c) and subsection (k) of Section 16-108 of the Public Utilities Act inclusive of eligible funds collected in prior years and alternative compliance payments for use by the utility.

(ix) Notwithstanding other requirements of this subparagraph (L), no modification shall be required to Adjustable Block program contracts if they were already executed prior to the establishment, approval, and implementation of new contract forms as a result of this amendatory Act of the 102nd General Assembly.

(x) Contracts may be assignable, but only to entities first deemed by the Agency to have met program terms and requirements applicable to direct program participation. In developing contracts for the delivery of renewable energy credits, the Agency shall be permitted to establish fees applicable to each contract assignment.

(M) The Agency shall be authorized to retain one or more experts or expert consulting firms to develop, administer, implement, operate, and evaluate the Adjustable Block program described in subparagraph (K) of this paragraph (1), as well as the Geothermal Homes and Businesses Program described in subparagraph (S) of this paragraph (1), and the Agency shall retain the consultant or consultants in the same manner, to the extent practicable, as the Agency retains others to administer provisions of this Act, including, but not limited to, the procurement administrator. The selection of experts and expert consulting firms and the procurement process described in this subparagraph (M) are exempt from the requirements of Section 20-10 of the Illinois Procurement Code, under Section 20-10 of that Code. The Agency shall strive to minimize administrative expenses in the implementation of the Adjustable Block program.

The Program Administrator may charge application fees to participating firms to cover the cost of program administration. Any application fee amounts shall initially be determined through the long-term renewable resources procurement plan, and modifications to any application fee that deviate more than 25% from the Commission's approved value must be approved by the Commission as a long-term plan revision under Section 16-111.5 of the Public Utilities Act. The Agency shall consider stakeholder feedback when making adjustments to application fees and shall notify stakeholders in advance of any planned changes.

In addition to covering the costs of program administration, the Agency, in conjunction with its Program Administrator, may also use the proceeds of such fees charged to participating firms to support public education and ongoing regional and national coordination with nonprofit organizations, public bodies, and others engaged in the implementation of renewable energy incentive programs or similar initiatives. This work may include developing papers and reports, hosting regional and national conferences, and other work deemed necessary by the Agency to position the State of Illinois as a national leader in renewable energy incentive program development and administration.

The Agency and its consultant or consultants shall monitor block activity, share program activity with stakeholders and conduct quarterly meetings to discuss program activity and market conditions. If necessary, the Agency may make prospective administrative adjustments to the Adjustable Block program and the Geothermal Homes and Businesses Program design, such as making adjustments to purchase prices as necessary to achieve the goals of this subsection (c). Program modifications to any block price that do not deviate from the Commission's approved value by more than 10% shall take effect immediately and are not subject to Commission review and approval. Program modifications to any block price that deviate more than 10% from the Commission's approved value must be approved by the Commission as a long-term plan amendment under Section 16-111.5 of the Public Utilities Act. The Agency shall consider stakeholder feedback when making adjustments to the Adjustable Block and the Geothermal Homes and Businesses Program design and shall notify stakeholders in advance of any planned changes.

The Agency and its program administrators for the

Adjustable Block program, the Illinois Solar for All Program, and the Geothermal Homes and Businesses Program consistent with the requirements of this subsection (c) and subsection (b) of Section 1-56 of this Act, shall propose the Adjustable Block program terms, conditions, and requirements, including the prices to be paid for renewable energy credits, where applicable, and requirements applicable to participating entities and project applications, through the development, review, and approval of the Agency's long-term renewable resources procurement plan described in this subsection (c) and paragraph (5) of subsection (b) of Section 16-111.5 of the Public Utilities Act. Terms, conditions, and requirements for program participation shall include the following:

(i) The Agency shall establish a registration process for entities seeking to qualify for program-administered incentive funding and establish baseline qualifications for vendor approval. The Agency shall also establish program requirements and minimum contract terms for vendors and others involved in the marketing, sale, installation, and financing of distributed generation systems and community solar subscriptions to prevent misleading marketing and abusive practices and to otherwise protect customers. The Agency must maintain a list of approved entities on each program's website, and may revoke a vendor's ability to receive program-administered incentive funding status upon a determination that the vendor failed to comply with contract terms, the law, or other program requirements.

(ii) The Agency shall establish program requirements and minimum contract terms to ensure projects are properly installed and produce their expected amounts of energy. Program requirements may include on-site inspections and photo documentation of projects under construction. The Agency may require repairs, alterations, or additions to remedy any material deficiencies discovered. Vendors who have a disproportionately high number of deficient systems may lose their eligibility to continue to receive State-administered incentive funding through Agency programs and procurements.

(iii) To discourage deceptive marketing or other bad faith business practices, the Agency may require direct program participants, including agents operating on their behalf, to provide standardized disclosures to a customer prior to that customer's execution of a contract for the development of a distributed generation system, a subscription to a community solar project, or the development of a geothermal heating and cooling system.

(iv) The Agency shall establish one or multiple

Consumer Complaints Centers to accept complaints regarding businesses that participate in, or otherwise benefit from, State-administered incentive funding through Agency-administered programs. The Agency shall maintain a public database of complaints with any confidential or particularly sensitive information redacted from public entries.

(v) Through a filing in the proceeding for the approval of its long-term renewable energy resources procurement plan, the Agency shall provide an annual written report to the Illinois Commerce Commission documenting the frequency and nature of complaints and any enforcement actions taken in response to those complaints.

(vi) The Agency shall schedule regular meetings with representatives of the Office of the Attorney General, the Illinois Commerce Commission, consumer protection groups, and other interested stakeholders to share relevant information about consumer protection, project compliance, and complaints received.

(vii) To the extent that complaints received implicate the jurisdiction of the Office of the Attorney General, the Illinois Commerce Commission, or local, State, or federal law enforcement, the Agency shall also refer complaints to those entities as appropriate.

(viii) The Agency may, at its discretion, establish a registration process for entities, or a subset of entities, that provide financing for consumers for the purchase of distributed renewable generation devices. The Agency may establish baseline qualifications for financing entity approval, including defining the circumstances under which financing entities may be subject to registration. The Agency may also establish program requirements for entities that provide financing for the purchase of distributed renewable generation devices, which may include marketing and disclosure requirements, other requirements as further defined by the Agency through its long-term plan, and any consumer protection requirements developed or modified thereto. If the Agency establishes a registration process for financing entities, the Agency may revoke a financing entity's approval in a program upon a determination that the financing entity failed to comply with contract terms, the law, or other program requirements. The Agency may also establish program requirements that prohibit distributed renewable generation devices intending to apply for program-administered incentive funding from receiving program funding if the consumer's purchase of the device was financed by an entity whose approval status in the program has been revoked. These registration requirements may apply to entities that finance projects intended to apply for program-administered incentive funding even if those entities do not receive any portion of the program-administered incentive funding.

(ix) The Agency, at its discretion, may require that vendors, as part of the application and annual recertification process, present the Agency or its designee with a security bond equal to an amount determined to be reasonable by the Agency. The bond shall be for the benefit of customers harmed by the vendor's violation of Agency requirements or other applicable laws or regulations. The Agency may determine that it is reasonable to have no bond requirement for some categories of vendors or enhanced bond requirements for vendors that the Agency has deemed to pose more acute risks.

(x) For distributed renewable generation devices, the Agency may, in its discretion, establish provisions that restrict, prohibit, or create additional requirements for distributed renewable generation device sales or financing offers through which the customer is promised the pass-through of a portion or all of the payments received by the approved vendor for the delivery of renewable energy credits only after the receipt of such payment by the approved vendor. The requirements may include the use of an escrow process developed by the Agency through which renewable energy credit payments are made to an escrow agent who then disburses the promised amount to the customer and the remainder to the vendor. The requirements in this item (x) shall in no way prohibit the upfront discounting of the purchase price, lease payment, or power purchase agreement rate based on the anticipated receipt of renewable energy credit contract payments by the approved vendor.

(xi) To the extent that distributed renewable generation device sales or financing offers through which the customer is promised the pass-through of a portion or all of the payments received by the vendor for the delivery of renewable energy credits after the receipt of such payment by the vendor are permitted, the following requirements may be implemented, at the Agency's discretion, in a time and manner determined by the Agency:

(I) the vendor shall submit proof of customer payments to the Agency as the Agency deems necessary; and

(II) the vendor shall represent and warrant on a form developed by the Agency that the vendor is not insolvent, has not voluntarily filed for bankruptcy, and has not been subject to or threatened with involuntary insolvency.

(xii) To ensure that customers receive full and uninterrupted benefits and services promised by vendors, the Agency may propose additional solutions through its long-term renewable resources procurement plan described in this subsection (c) and paragraph (5) of subsection (b) of Section 16-111.5 of the Public Utilities Act. The solutions may allow for collections made pursuant to subsection (k) of Section 16-108 of the Public Utilities Act to support the programs and procurements outlined in paragraph (1) of subsection (c) of this Section to be leveraged to (1) ensure that a vendor's promised payments are received by customers, (2) incentivize vendors to establish service agreements with customers whose original vendor has become nonresponsive, (3) ensure that customers receive restitution for financial harm proven to be caused by a program vendor or its designee, or (4) otherwise ensure that customers do not suffer loss or harm through activities supported by the Adjustable Block program and the Illinois Solar for All Program.

(N) The Agency shall establish the terms, conditions, and program requirements for photovoltaic community renewable generation projects with a goal to expand access to a broader group of energy consumers, to ensure robust participation opportunities for residential and small commercial customers and those who cannot install renewable energy on their own properties. Subject to reasonable limitations, any plan approved by the Commission shall allow subscriptions to community renewable generation projects to be portable and transferable. For purposes of this subparagraph (N), "portable" means that subscriptions may be retained by the subscriber even if the subscriber relocates or changes its address within the same utility service territory; and "transferable" means that a subscriber may assign or sell subscriptions to another person within the same utility service territory.

Through the development of its long-term renewable resources procurement plan, the Agency may consider whether community renewable generation projects utilizing technologies other than photovoltaics should be supported through State-administered incentive funding, and may issue requests for information to gauge market demand.

Electric utilities shall provide a monetary credit to a subscriber's subsequent bill for service for the proportional output of a community renewable generation project attributable to that subscriber as specified in Section 16-107.5 of the Public Utilities Act.

The Agency shall purchase renewable energy credits from subscribed shares of photovoltaic community renewable generation projects through the Adjustable Block program described in subparagraph (K) of this paragraph (1) or through the Illinois Solar for All Program described in Section 1-56 of this Act. The electric utility shall purchase any unsubscribed energy from community renewable generation projects that are Qualifying Facilities ("QF") under the electric utility's tariff for purchasing the output from QFs under Public Utilities Regulatory Policies Act of 1978.

The owners of and any subscribers to a community renewable generation project shall not be considered public utilities or alternative retail electricity suppliers under the Public Utilities Act solely as a result of their interest in or subscription to a community renewable generation project and shall not be required to become an alternative retail electric supplier by participating in a community renewable generation project with a public utility.

(O) For the delivery year beginning June 1, 2018, the long-term renewable resources procurement plan required by this subsection (c) shall provide for the Agency to procure contracts to continue offering the Illinois Solar for All Program described in subsection (b) of Section 1-56 of this Act, and the contracts approved by the

Commission shall be executed by the utilities that are subject to this subsection (c). The long-term renewable resources procurement plan shall allocate up to $50,000,000 per delivery year to fund the programs, and the plan shall determine the amount of funding to be apportioned to the programs identified in subsection (b) of Section 1-56 of this Act; provided that for the delivery years beginning June 1, 2021, June 1, 2022, and June 1, 2023, the long-term renewable resources procurement plan may average the annual budgets over a 3-year period to account for program ramp-up. For the delivery years beginning June 1, 2021, June 1, 2024, June 1, 2027, and June 1, 2030 and additional $10,000,000 shall be provided to the Department of Commerce and Economic Opportunity to implement the workforce development programs and reporting as outlined in Section 16-108.12 of the Public Utilities Act. In making the determinations required under this subparagraph (O), the Commission shall consider the experience and performance under the programs and any evaluation reports. The Commission shall also provide for an independent evaluation of those programs on a periodic basis that are funded under this subparagraph (O).

(P) All programs and procurements under this subsection (c) shall be designed to encourage participating projects to use a diverse and equitable workforce and a diverse set of contractors, including minority-owned businesses, disadvantaged businesses, trade unions, graduates of any workforce training programs administered under this Act, and small businesses.

The Agency shall develop a method to optimize procurement of renewable energy credits from proposed utility-scale projects that are located in communities eligible to receive Energy Transition Community Grants pursuant to Section 10-20 of the Energy Community Reinvestment Act. If this requirement conflicts with other provisions of law or the Agency determines that full compliance with the requirements of this subparagraph (P) would be unreasonably costly or administratively impractical, the Agency is to propose alternative approaches to achieve development of renewable energy resources in communities eligible to receive Energy Transition Community Grants pursuant to Section 10-20 of the Energy Community Reinvestment Act or seek an exemption from this requirement from the Commission.

(Q) Each facility listed in subitems (i) through (ix) of item (1) of this subparagraph (Q) for which a renewable energy credit delivery contract is signed after the effective date of this amendatory Act of the 102nd General Assembly is subject to the following requirements through the Agency's long-term renewable resources procurement plan:

(1) Each facility shall be subject to the prevailing wage requirements included in the Prevailing Wage Act. The Agency shall require verification that all construction performed on the facility by the renewable energy credit delivery contract holder, its contractors, or its subcontractors relating to construction of the facility is performed by construction employees receiving an amount for that work equal to or greater than the general prevailing rate, as that term is defined in Section 2 of the Prevailing Wage Act. For purposes of this item (1), "house of worship" means property that is both (1) used exclusively by a religious society or body of persons as a place for religious exercise or religious worship and (2) recognized as exempt from taxation pursuant to Section 15-40 of the Property Tax Code. This item (1) shall apply to any of the following:

(i) all new utility-scale wind projects;

(ii) all new utility-scale photovoltaic projects and repowered wind projects;

(iii) all new brownfield photovoltaic projects;

(iv) all new photovoltaic community renewable energy facilities that qualify for item (iii) of subparagraph (K) of this paragraph (1);

(v) all new community driven community photovoltaic projects that qualify for item (v) of subparagraph (K) of this paragraph (1);

(vi) all new photovoltaic projects on public school land that qualify for item (iv) of subparagraph (K) of this paragraph (1);

(vii) all new photovoltaic distributed renewable energy generation devices that (1) qualify for item (i) of subparagraph (K) of this paragraph (1); (2) are not projects that serve single-family or multi-family residential buildings; and (3) are not houses of worship where the aggregate capacity including colocated projects would not exceed 100 kilowatts;

(viii) all new photovoltaic distributed renewable energy generation devices that (1) qualify for item (ii) of subparagraph (K) of this paragraph (1); (2) are not projects that serve single-family or multi-family residential buildings; and (3) are not houses of worship where the aggregate capacity including colocated projects would not exceed 100 kilowatts;

(ix) all new, modernized, or retooled hydropower facilities;

(x) all new geothermal heating and cooling systems awarded through the Geothermal Homes and

Businesses Program under subparagraph (S) of this paragraph (1) that do not serve (1) single-family residential buildings, (2) multi-family residential buildings with aggregate geothermal system tonnage, including colocated projects, of no more than 29 tons, or (3) houses of worship with aggregate geothermal system tonnage, including colocated projects, of no more than 29 tons.

(2) Renewable energy credits procured from new utility-scale wind projects, new utility-scale solar projects, new brownfield solar projects, repowered wind projects, and retooled hydropower facilities pursuant to Agency procurement events occurring after the effective date of this amendatory Act of the 102nd General Assembly and photovoltaic community renewable generation projects where the aggregate capacity, including colocated projects, exceeds 3,000 kilowatts pursuant to a renewable energy credit delivery contract approved by the Illinois Commerce Commission under the Adjustable Block Program after the effective date of this amendatory Act of the 104th General Assembly must be from facilities built by general contractors that must enter into a project labor agreement, as defined by this Act, prior to construction. Photovoltaic community renewable generation projects on a program waitlist as of the

effective date of this amendatory Act of the 104th General Assembly awarded capacity for the program year commencing June 1, 2026 or any program year thereafter shall not be exempt from the project labor agreement requirements of this item (2). The project labor agreement shall be filed with the Director in accordance with procedures established by the Agency through its long-term renewable resources procurement plan. Any information submitted to the Agency in this item (2) shall be considered commercially sensitive information. At a minimum, the project labor agreement must provide the names, addresses, and occupations of the owner of the plant and the individuals representing the labor organization employees participating in the project labor agreement consistent with the Project Labor Agreements Act. The agreement must also specify the terms and conditions as defined by this Act.

(2.5) Energy storage credits procured from battery storage projects pursuant to Agency procurement events and additional energy storage resources procured in accordance with subparagraph (B) of paragraph (3) of subsection (d-20) of this Section pursuant to Agency procurement events occurring after the effective date of this amendatory Act of the 104th General Assembly must be from facilities built by general contractors that must enter into a project labor agreement prior to construction. The project labor agreement shall be filed with the Director in accordance with procedures established by the Agency through its long-term renewable resources procurement plan. Any information submitted to the Agency pursuant to this item (2.5) shall be considered commercially sensitive information. At a minimum, the project labor agreement must provide the names, addresses, and occupations of the owner of the plant and the individuals representing the labor organization employees participating in the project labor agreement consistent with the Project Labor Agreements Act. The agreement must also specify the terms and conditions, as defined by this Act.

(3) It is the intent of this Section to ensure that economic development occurs across Illinois communities, that emerging businesses may grow, and that there is improved access to the clean energy economy by persons who have greater economic burdens to success. The Agency shall take into consideration the unique cost of compliance of this subparagraph (Q) that might be borne by equity eligible contractors, shall include such costs when determining the price of renewable energy credits in the Adjustable Block program and the Geothermal Homes and Businesses

Program, and shall take such costs into consideration in a nondiscriminatory manner when comparing bids for competitive procurements. The Agency shall consider costs associated with compliance whether in the development, financing, or construction of projects. The Agency shall periodically review the assumptions in these costs and may adjust prices, in compliance with subparagraph (M) of this paragraph (1).

(4) The Agency shall create a public resource that identifies the holders of REC delivery contracts and any contractors, developers, and subcontractors that contribute significantly to project completion and employ workers performing construction activities for utility-scale wind projects, new utility-scale solar projects, new brownfield solar projects, repowered wind projects, and retooled hydropower facilities and that is:

(i) publicly accessible;

(ii) easy for people to find and use;

(iii) populated with information that includes, but is not limited to, project names, project size, and contact information of subcontractors who employ workers performing construction activities on the projects; and

(iv) updated regularly.

Approved vendors shall notify the Agency if subcontractors are removed or added to the project workforce and the changes shall be reflected in the public resource.

For community solar projects that receive a renewable energy credit delivery contract under the program described in subparagraph (K) of paragraph (1), if an approved vendor or the approved vendor's contractor intends to solicit bids for the construction or development of the project, the approved vendor or the contractor shall post the solicitation on a public website for the duration of the solicitation period and for 30 days after the close of the solicitation period. The approved vendor shall provide the URL for the public website to the Agency and the Agency shall make one URL for each approved vendor publicly available on the Agency's website. Each bid solicitation by an approved vendor shall be posted to the same URL.

(5) Through its long-term renewable resource procurement plan, the Agency shall develop bid application requirements or a bid evaluation methodology that facilitates the use of registered apprentices on facilities listed in subitems (i), (ii), (iii), and (ix) of item (1).

(6) Through its long-term renewable resource procurement plan, the Agency shall develop selection

criteria for projects listed in subitems (iv) and (v) of item (1) that prioritize facilities that commit to and demonstrate employment of registered apprentices for a meaningful percentage of labor hours. For new photovoltaic community renewable energy facilities that qualify under item (iii) of subparagraph (K), the criteria shall apply when selecting projects submitted at the same time.

(R) In its long-term renewable resources procurement plan, the Agency shall establish a self-direct renewable portfolio standard compliance program for eligible self-direct customers that purchase renewable energy credits from utility-scale wind and solar projects through long-term agreements for purchase of renewable energy credits as described in this Section. Such long-term agreements may include the purchase of energy or other products on a physical or financial basis and may involve an alternative retail electric supplier as defined in Section 16-102 of the Public Utilities Act. This program shall take effect in the delivery year commencing June 1, 2023.

(1) For the purposes of this subparagraph:

"Eligible self-direct customer" means any retail customers of an electric utility that serves 3,000,000 or more retail customers in the State and whose total highest 30-minute demand was more than 10,000 kilowatts, or any retail customers of an electric utility that serves less than 3,000,000 retail customers but more than 500,000 retail customers in the State and whose total highest 15-minute demand was more than 10,000 kilowatts.

"Retail customer" has the meaning set forth in Section 16-102 of the Public Utilities Act and multiple retail customer accounts under the same corporate parent may aggregate their account demands to meet the 10,000 kilowatt threshold. The criteria for determining whether this subparagraph is applicable to a retail customer shall be based on the 12 consecutive billing periods prior to the start of the year in which the application is filed.

(2) For renewable energy credits to count toward the self-direct renewable portfolio standard compliance program, they must:

(i) qualify as renewable energy credits as defined in Section 1-10 of this Act;

(ii) be sourced from one or more renewable energy generating facilities that comply with the geographic requirements as set forth in subparagraph (I) of paragraph (1) of subsection (c) as interpreted through the Agency's long-term renewable resources procurement plan, or, where applicable, the geographic requirements that governed utility-scale renewable energy credits at the time the eligible self-direct customer entered into the applicable renewable energy credit purchase agreement;

(iii) be procured through long-term contracts with term lengths of at least 10 years either directly with the renewable energy generating facility or through a bundled power purchase agreement, a virtual power purchase agreement, an agreement between the renewable generating facility, an alternative retail electric supplier, and the customer, or such other structure as is permissible under this subparagraph (R);

(iv) be equivalent in volume to at least 40% of the eligible self-direct customer's usage, determined annually by the eligible self-direct customer's usage during the previous delivery year, measured to the nearest megawatt-hour;

(v) be retired by or on behalf of the large energy customer;

(vi) be sourced from new utility-scale wind projects or new utility-scale solar projects; and

(vii) if the contracts for renewable energy credits are entered into after the effective date of this amendatory Act of the 102nd General Assembly, the new utility-scale wind projects or new utility-scale solar projects must comply with the requirements established in subparagraphs (P) and (Q) of paragraph (1) of this subsection (c) and subsection (c-10).

(3) The self-direct renewable portfolio standard compliance program shall be designed to allow eligible self-direct customers to procure new renewable energy credits from new utility-scale wind projects or new utility-scale photovoltaic projects. The Agency shall annually determine the amount of utility-scale renewable energy credits it will include each year from the self-direct renewable portfolio standard compliance program, subject to receiving qualifying applications. In making this determination, the Agency shall evaluate publicly available analyses and studies of the potential market size for utility-scale renewable energy long-term purchase agreements by commercial and industrial energy customers and make that report publicly available. If demand for participation in the self-direct renewable portfolio standard compliance program exceeds availability, the Agency shall ensure participation is evenly split between commercial and industrial users to the extent there is sufficient demand from both customer classes. Each renewable energy credit procured pursuant to this subparagraph (R) by a self-direct customer shall

reduce the total volume of renewable energy credits the Agency is otherwise required to procure from new utility-scale projects pursuant to subparagraph (C) of paragraph (1) of this subsection (c) on behalf of contracting utilities where the eligible self-direct customer is located. The self-direct customer shall file an annual compliance report with the Agency pursuant to terms established by the Agency through its long-term renewable resources procurement plan to be eligible for participation in this program. Customers must provide the Agency with their most recent electricity billing statements or other information deemed necessary by the Agency to demonstrate they are an eligible self-direct customer.

(4) The Commission shall approve a reduction in the volumetric charges collected pursuant to Section 16-108 of the Public Utilities Act for approved eligible self-direct customers equivalent to the anticipated cost of renewable energy credit deliveries under contracts for new utility-scale wind and new utility-scale solar entered for each delivery year after the large energy customer begins retiring eligible new utility-scale renewable energy credits for self-compliance. The self-direct credit amount shall be determined annually and is equal to the estimated portion of the cost authorized by

subparagraph (E) of paragraph (1) of this subsection (c) that supported the annual procurement of utility-scale renewable energy credits in the prior delivery year using a methodology described in the long-term renewable resources procurement plan, expressed on a per kilowatthour basis, and does not include (i) costs associated with any contracts entered into before the delivery year in which the customer files the initial compliance report to be eligible for participation in the self-direct program, and (ii) costs associated with procuring renewable energy credits through existing and future contracts through the Adjustable Block Program, subsection (c-5) of this Section 1-75, and the Solar for All Program. The Agency shall assist the Commission in determining the current and future costs. The Agency must determine the self-direct credit amount for new and existing eligible self-direct customers and submit this to the Commission in an annual compliance filing. The Commission must approve the self-direct credit amount by June 1, 2023 and June 1 of each delivery year thereafter.

(5) Customers described in this subparagraph (R) shall apply, on a form developed by the Agency, to the Agency to be designated as a self-direct eligible customer. Once the Agency determines that a

self-direct customer is eligible for participation in the program, the self-direct customer will remain eligible until the end of the term of the contract. Thereafter, application may be made not less than 12 months before the filing date of the long-term renewable resources procurement plan described in this Act. At a minimum, such application shall contain the following:

(i) the customer's certification that, at the time of the customer's application, the customer qualifies to be a self-direct eligible customer, including documents demonstrating that qualification;

(ii) the customer's certification that the customer has entered into or will enter into by the beginning of the applicable procurement year, one or more bilateral contracts for new wind projects or new photovoltaic projects, including supporting documentation;

(iii) certification that the contract or contracts for new renewable energy resources are long-term contracts with term lengths of at least 10 years, including supporting documentation;

(iv) certification of the quantities of renewable energy credits that the customer will purchase each year under such contract or contracts, including supporting documentation;

(v) proof that the contract is sufficient to produce renewable energy credits to be equivalent in volume to at least 40% of the large energy customer's usage from the previous delivery year, measured to the nearest megawatt-hour; and

(vi) certification that the customer intends to maintain the contract for the duration of the length of the contract.

(6) If a customer receives the self-direct credit but fails to properly procure and retire renewable energy credits as required under this subparagraph (R), the Commission, on petition from the Agency and after notice and hearing, may direct such customer's utility to recover the cost of the wrongfully received self-direct credits plus interest through an adder to charges assessed pursuant to Section 16-108 of the Public Utilities Act. Self-direct customers who knowingly fail to properly procure and retire renewable energy credits and do not notify the Agency are ineligible for continued participation in the self-direct renewable portfolio standard compliance program.

(S) Beginning with the long-term renewable resources procurement plan covering program and procurement activity for the delivery year beginning on June 1, 2028, any long-term renewable resources procurement plan developed by the Agency in accordance with subparagraph (A) of this paragraph (1) shall include a Geothermal Homes and Businesses Program for the procurement of geothermal renewable energy credits from new geothermal heating and cooling systems. The long-term renewable resources procurement plan shall allocate up to $10,000,000 per delivery year to fund the Program as described in this subparagraph (S). The Program shall be designed to stimulate the steady, predictable, and sustainable growth of new geothermal heating and cooling system deployment in this State and meet gaps in the marketplace. To this end, the Geothermal Homes and Businesses Program shall provide a transparent annual schedule of prices and quantities to enable the geothermal heating and cooling market to scale up and renewable energy credit prices to adjust at a predictable rate over time. The prices set by the Geothermal Homes and Businesses Program may be reflected as a set value or as the product of a formula.

(i) The Geothermal Homes and Businesses Program shall allocate blocks of renewable energy credits as follows:

(1) The Agency may create categories for the Program based on structure features and use cases, including categories based on the nature and size of the Program's projects, customers, communities

in which a project is located, and other attributes, defined at the discretion of the Agency through its long-term plan.

(2) The Agency shall propose an initial single annual block for each Program delivery year for each category it creates through the delivery year beginning on June 1, 2035. The Program shall include the following for eligible projects for each delivery year: (I) a block of geothermal renewable energy credit volumes; (II) a price for renewable energy credits from geothermal heating and cooling systems within the identified block; and (III) the terms and conditions for securing a spot on a waitlist once the block is fully committed or reserved. The Agency may periodically review its prior decisions establishing the amount of geothermal renewable energy credit volumes in each annual block and the purchase price for each block and may propose, on an expedited basis, changes to the previously set values, including, but not limited to, redistributing the amounts and the available funds as necessary and appropriate, subject to Commission approval. The Agency may define different block sizes, purchase prices, or other distinct terms and conditions for projects located in different utility service territories

if the Agency deems it necessary.

(3) The Agency may develop an intra-year and year-to-year waitlist and block reservation policy that balances market certainty, program availability, and expedient project deployment.

(4) For the program year beginning on June 1, 2028, at least 33% of each annual block shall be available to be reserved for systems that are residential, as defined by the Agency. The Agency shall endeavor to ensure at least 40% of each annual block is available to be reserved by systems located in Equity Investment Eligible Communities. At least 10% of all annual blocks shall be available to be reserved by systems from applicants that are equity eligible contractors, and the Agency shall propose to increase the percentage of systems from applicants that are equity eligible contractors over time to 40% based on factors that include, but are not limited to, the number of equity eligible contractors and the volume used under this clause (4) in previous delivery years. For long-term renewable resources procurement plans developed thereafter, the Agency may propose adjustments to the minimum percentages based on developer interest, market interest and availability, and other factors.

(5) The Agency shall establish Program eligibility requirements that ensure that systems that enter the Program are sufficiently mature enough to indicate a demonstrable path to completion and other terms, conditions, and requirements for the program, including vendor registration and approval, sales and marketing requirements, and other consumer protection requirements as the Agency deems necessary.

(6) The Program shall be designed to ensure that geothermal renewable energy credits are procured from projects in diverse locations and are not procured from projects that are concentrated in a few regional areas.

(7) The Agency, through its long-term renewable resources procurement plan, may implement solutions to maintain stable and consistent REC offerings to avoid gaps in availability during a delivery year, including, but not limited to, creating a floating block of REC capacity in a given delivery year.

(ii) Energy derived from a geothermal heating and cooling system shall be eligible for inclusion in meeting the requirements of the Program. Geothermal renewable energy credits shall be expressed in megawatt-hour units. To make this calculation, the

Agency (1) shall identify an appropriate formula supported by a geothermal industry trade organization, a national laboratory, or another data-backed and verifiable methodology, (2) may propose adjustments to any formulas for its proposed renewable energy credit calculation methodology, and (3) may reflect calculation methodologies already in use for other State renewable portfolio standards, if applicable and appropriate. The Agency shall determine the form and manner in which the renewable energy credits are verified and retired, in accordance with national best practices.

Geothermal renewable energy credits retired by obligated utilities for compliance with the Program are only valid for compliance if those geothermal renewable energy credits have not been previously retired by another entity that is not the obligated utility on any tracking system, carbon registry, or other accounting mechanism at any time. Additionally, geothermal renewable energy credits retired by obligated utilities for compliance with the Program shall only be valid for compliance if those geothermal renewable energy credits have not been used to substantiate a public emissions or energy usage claim by any other another entity that is not the obligated utility, of any type and at any time, whether or not the geothermal renewable energy credits were actually retired on a tracking system, registry, or other accounting mechanism at the time of the public emissions-based claim. Geothermal renewable energy credits generated for compliance with the Program shall be valid only if retired once, and claimed once, by the obligated utility.

In order to promote the competitive development of geothermal heating and cooling systems in furtherance of this State's interest in the health, safety, and welfare of its residents, renewable energy credits from geothermal heating and cooling systems shall not be eligible for purchase and retirement under this Act if the credits are sourced from a geothermal heating and cooling system for which costs are being recovered on or after the effective date of this amendatory Act of the 104th General Assembly through rates regulated by this State or any other state.

(iii) The Agency shall establish Program requirements and minimum contract terms to ensure that projects are properly installed and that projects operate to the level of expected benefits. The contract terms shall include, but are not limited to, the following:

(1) The capital that is not advanced shall be disbursed upon a schedule determined by the

Agency, based on the total contracted fulfillment over the delivery term, not to exceed, during each delivery year, the contract price multiplied by the estimated annual renewable energy credit generation amount. Payment structures shall include provisions that provide portions of the renewable energy credit delivery contract value upon energization, including no less than 40% of the contract value for residential projects, based on the estimated renewable energy credit production during the contract term.

(2) For renewable energy credits that qualify and are procured under the Program, the delivery contract length shall be 15 years.

(3) For contracts that are paid upon the delivery of renewable energy credits, if generation of renewable energy credits from geothermal heating and cooling systems during a delivery year exceeds the estimated annual generation amount, the excess of such renewable energy credits shall be carried forward to future delivery years and shall not expire during the delivery term. If the renewable energy credit generation during a delivery year, including any carried forward excess renewable energy credits, is less than the estimated annual generation

amount, payments during the delivery year shall not exceed the quantity generated plus the quantity carried forward multiplied by the contract price. The electric utility shall receive all renewable energy credits generated by the project during the first 15 years of operation, and retire all renewable energy credits paid for under this clause (3) and return at the end of the delivery term all geothermal renewable energy credits that were not paid for. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility.

(4) For renewable energy contracts for any type of community, shared, or similar geothermal heating and cooling system that operates using a subscription model and for which subscriptions are a basis for contractual payments, subscription of 90% of total renewable energy credit volumes or greater shall be deemed to be fully subscribed.

(5) Beginning with the long-term renewable resources procurement plan covering the delivery year beginning on June 1, 2030, the Agency may propose a payment structure for Program contracts upon a demonstration of qualification or need

under criteria established by the Agency that is focused on supporting the small and emerging businesses and the businesses that most acutely face barriers to capital access. Successful applicant firms shall have advanced capital disbursed before renewable energy credits are first generated. The maximum amount or percentage of capital advanced shall be included in the long-term renewable resources procurement plan, and any amount actually advanced shall be designed to overcome the barriers in access to capital that are faced by an applicant through that applicant's demonstration of need. The amount or percentage of advanced capital may vary by year, or inter-year, by structure category, block, and other factors as deemed applicable by the Agency and by an applicant's demonstration of need. Contracts featuring capital advanced prior to system operation shall feature provisions to ensure both the successful development of applicant projects and the delivery of renewable energy credits for the full term of the contract, including ongoing collateral requirements and other provisions deemed necessary by the Agency. The percentage or amount of capital advanced prior to system operation shall not increase the overall contract value.

(6) Each contract shall include provisions to ensure the delivery of the estimated quantity of geothermal renewable energy credits, including a requirement of performance assurance in an amount deemed appropriate by the Agency.

(7) An obligated utility shall be the counterparty to the contracts executed under this subparagraph (S) that are approved by the Commission. No contract shall be executed for an amount that is less than one geothermal renewable energy credit per year.

(8) Nothing in this subparagraph (S) shall require the utility to advance any payment or pay any amounts that exceed the actual amount of revenues anticipated to be collected by the utility inclusive of eligible funds collected in prior years and alternative compliance payments for use by the utility.

(9) Contracts may be assignable, but only to entities first deemed by the Agency to have met Program terms and requirements applicable to direct Program participation. In developing contracts for the delivery of renewable energy credits from geothermal heating and cooling systems, the Agency may establish fees applicable

to each contract assignment.

(10) If, at any time, approved applications for the Program exceed funds collected by the electric utility or would cause the Agency to exceed the limitation on the amount of renewable energy resources that may be procured, then the Agency may consider future uncommitted funds to be reserved for these contracts on a first-come, first-served basis.

(iv) In order to advance priority access to the clean energy economy for businesses and workers from communities that have been excluded from economic opportunities in the energy sector, been subject to disproportionate levels of pollution, and disproportionately experienced negative public health outcomes, the Agency shall apply its equity accountability system and minimum equity standards established under subsections (c-10), (c-15), (c-20), (c-25), and (c-30) to geothermal heating and cooling system renewable energy credit procurement and programs and may include any proposed modifications to the equity accountability system and minimum equity standards that may be warranted with respect to geothermal heating and cooling systems in its plan submission to the Commission under Section 16-111.5 of the Public Utilities Act.

(v) Projects shall be developed in compliance with the prevailing wage and project labor agreement requirements, as applicable, for renewable energy projects in subparagraph (Q) of paragraph (1) of subsection (c). Projects approved under this Program are subject to the prevailing wage requirements outlined in subitem (x) of item (1) of subparagraph (Q) of paragraph (1) of this subsection (c). Renewable energy credits for any single geothermal heating and cooling project that is 142 tons or larger and is procured under this Program after the effective date of this amendatory Act of the 104th General Assembly shall only be eligible if the associated project was built by general contractors who entered into a project labor agreement prior to construction. The project labor agreement shall be filed with the Director in accordance with procedures established by the Agency through its long-term renewable resources procurement plan. The project labor agreement shall provide the names, addresses, and occupations of the owner of the plant and the individuals representing the labor organization employees that participate in the project labor agreement. The project labor agreement shall also specify terms and conditions as provided in this Act.

(vi) The Agency shall strive to minimize administrative expenses in the implementation of the Program. The Agency may use any existing program administrator and any applicable subcontractors to develop, administer, implement, operate, and evaluate the Program.

(T) Renewable energy credits procured under Agency procurements or programs for community solar projects with more than 3 megawatts in nameplate capacity must be procured from facilities built by general contractors that, prior to construction, enter into a project labor agreement, as defined by this Act, subject to the following requirements and limitations:

(i) The project labor agreement shall be filed with the Director in accordance with procedures established by the Agency through its long-term renewable resources procurement plan. Any information submitted to the Agency under this item (i) shall be considered commercially sensitive information.

(ii) At a minimum, the project labor agreement must provide the names, addresses, and occupations of the owner of the project and any individuals representing the labor organization of the employees participating in the project labor agreement consistent with the Project Labor Agreements Act. The project labor agreement must also meet the terms and conditions, as set forth in this Act.

(iii) It is the intent of this Section to ensure that economic development occurs across communities in this State, that emerging businesses may grow, and that there is improved access to the clean energy economy by persons who have greater economic burdens to success. The Agency shall take into consideration the unique cost of compliance of this subparagraph (T) that may be borne by equity eligible contractors and shall include those costs when determining the price of renewable energy credits in the Adjustable Block program. The Agency shall consider costs associated with compliance, including in the development, financing, or construction of projects. The Agency shall periodically review the assumptions in these costs and may adjust prices in compliance with subparagraph (M) of this paragraph (1).

(2) (Blank).

(3) (Blank).

(4) The electric utility shall retire all renewable energy credits used to comply with the standard.

(5) Beginning with the 2010 delivery year and ending June 1, 2017, an electric utility subject to this subsection (c) shall apply the lesser of the maximum alternative compliance payment rate or the most recent estimated alternative compliance payment rate for its service territory for the corresponding compliance period,

established pursuant to subsection (d) of Section 16-115D of the Public Utilities Act to its retail customers that take service pursuant to the electric utility's hourly pricing tariff or tariffs. The electric utility shall retain all amounts collected as a result of the application of the alternative compliance payment rate or rates to such customers, and, beginning in 2011, the utility shall include in the information provided under item (1) of subsection (d) of Section 16-111.5 of the Public Utilities Act the amounts collected under the alternative compliance payment rate or rates for the prior year ending May 31. Notwithstanding any limitation on the procurement of renewable energy resources imposed by item (2) of this subsection (c), the Agency shall increase its spending on the purchase of renewable energy resources to be procured by the electric utility for the next plan year by an amount equal to the amounts collected by the utility under the alternative compliance payment rate or rates in the prior year ending May 31.

(6) The electric utility shall be entitled to recover all of its costs associated with the procurement of renewable energy credits under plans approved under this Section and Section 16-111.5 of the Public Utilities Act. These costs shall include associated reasonable expenses for implementing the procurement programs, including, but not limited to, the costs of administering and evaluating

the Adjustable Block program and the Geothermal Homes and Businesses Program, through an automatic adjustment clause tariff in accordance with subsection (k) of Section 16-108 of the Public Utilities Act.

(7) Renewable energy credits procured from new photovoltaic projects or new distributed renewable energy generation devices under this Section after June 1, 2017 (the effective date of Public Act 99-906) must be procured from devices installed by a qualified person in compliance with the requirements of Section 16-128A of the Public Utilities Act and any rules or regulations adopted thereunder.

In meeting the renewable energy requirements of this subsection (c), to the extent feasible and consistent with State and federal law, the renewable energy credit procurements, Adjustable Block solar program, and community renewable generation program shall provide employment opportunities for all segments of the population and workforce, including minority-owned and female-owned business enterprises, and shall not, consistent with State and federal law, discriminate based on race or socioeconomic status.

(c-5) Procurement of renewable energy credits from new renewable energy facilities installed at or adjacent to the sites of electric generating facilities that burn or burned coal as their primary fuel source.

(1) In addition to the procurement of renewable energy credits pursuant to long-term renewable resources procurement plans in accordance with subsection (c) of this Section and Section 16-111.5 of the Public Utilities Act, the Agency shall conduct procurement events in accordance with this subsection (c-5) for the procurement by electric utilities that served more than 300,000 retail customers in this State as of January 1, 2019 of renewable energy credits from new renewable energy facilities to be installed at or adjacent to the sites of electric generating facilities that, as of January 1, 2016, burned coal as their primary fuel source and meet the other criteria specified in this subsection (c-5). For purposes of this subsection (c-5), "new renewable energy facility" means a new utility-scale solar project as defined in this Section 1-75. The renewable energy credits procured pursuant to this subsection (c-5) may be included or counted for purposes of compliance with the amounts of renewable energy credits required to be procured pursuant to subsection (c) of this Section to the extent that there are otherwise shortfalls in compliance with such requirements. The procurement of renewable energy credits by electric utilities pursuant to this subsection (c-5) shall be funded solely by revenues collected from the Coal to Solar and Energy Storage Initiative Charge provided for in this subsection (c-5) and subsection (i-5) of Section

16-108 of the Public Utilities Act, shall not be funded by revenues collected through any of the other funding mechanisms provided for in subsection (c) of this Section, and shall not be subject to the limitation imposed by subsection (c) on charges to retail customers for costs to procure renewable energy resources pursuant to subsection (c), and shall not be subject to any other requirements or limitations of subsection (c).

(2) The Agency shall conduct 2 procurement events to select owners of electric generating facilities meeting the eligibility criteria specified in this subsection (c-5) to enter into long-term contracts to sell renewable energy credits to electric utilities serving more than 300,000 retail customers in this State as of January 1, 2019. The first procurement event shall be conducted no later than March 31, 2022, unless the Agency elects to delay it, until no later than May 1, 2022, due to its overall volume of work, and shall be to select owners of electric generating facilities located in this State and south of federal Interstate Highway 80 that meet the eligibility criteria specified in this subsection (c-5). The second procurement event shall be conducted no sooner than September 30, 2022 and no later than October 31, 2022 and shall be to select owners of electric generating facilities located anywhere in this State that meet the eligibility criteria specified in this subsection (c-5).

The Agency shall establish and announce a time period, which shall begin no later than 30 days prior to the scheduled date for the procurement event, during which applicants may submit applications to be selected as suppliers of renewable energy credits pursuant to this subsection (c-5). The eligibility criteria for selection as a supplier of renewable energy credits pursuant to this subsection (c-5) shall be as follows:

(A) The applicant owns an electric generating facility located in this State that: (i) as of January 1, 2016, burned coal as its primary fuel to generate electricity; and (ii) has, or had prior to retirement, an electric generating capacity of at least 150 megawatts. The electric generating facility can be either: (i) retired as of the date of the procurement event; or (ii) still operating as of the date of the procurement event.

(B) The applicant is not (i) an electric cooperative as defined in Section 3-119 of the Public Utilities Act, or (ii) an entity described in subsection (b)(1) of Section 3-105 of the Public Utilities Act, or an association or consortium of or an entity owned by entities described in (i) or (ii); and the coal-fueled electric generating facility was at one time owned, in whole or in part, by a public utility as defined in Section 3-105 of the Public

Utilities Act.

(C) If participating in the first procurement event, the applicant proposes and commits to construct and operate, at the site, and if necessary for sufficient space on property adjacent to the existing property, at which the electric generating facility identified in paragraph (A) is located: (i) a new renewable energy facility of at least 20 megawatts but no more than 100 megawatts of electric generating capacity, and (ii) an energy storage facility having a storage capacity equal to at least 2 megawatts and at most 10 megawatts. If participating in the second procurement event, the applicant proposes and commits to construct and operate, at the site, and if necessary for sufficient space on property adjacent to the existing property, at which the electric generating facility identified in paragraph (A) is located: (i) a new renewable energy facility of at least 5 megawatts but no more than 20 megawatts of electric generating capacity, and (ii) an energy storage facility having a storage capacity equal to at least 0.5 megawatts and at most one megawatt.

(D) The applicant agrees that the new renewable energy facility and the energy storage facility will be constructed or installed by a qualified entity or entities in compliance with the requirements of subsection (g) of Section 16-128A of the Public Utilities Act and any rules adopted thereunder.

(E) The applicant agrees that personnel operating the new renewable energy facility and the energy storage facility will have the requisite skills, knowledge, training, experience, and competence, which may be demonstrated by completion or current participation and ultimate completion by employees of an accredited or otherwise recognized apprenticeship program for the employee's particular craft, trade, or skill, including through training and education courses and opportunities offered by the owner to employees of the coal-fueled electric generating facility or by previous employment experience performing the employee's particular work skill or function.

(F) The applicant commits that not less than the prevailing wage, as determined pursuant to the Prevailing Wage Act, will be paid to the applicant's employees engaged in construction activities associated with the new renewable energy facility and the new energy storage facility and to the employees of applicant's contractors engaged in construction activities associated with the new renewable energy facility and the new energy storage facility, and that, on or before the commercial operation date of the new renewable energy facility, the applicant shall file a report with the Agency certifying that the requirements of this subparagraph (F) have been met.

(G) The applicant commits that if selected, it will negotiate a project labor agreement for the construction of the new renewable energy facility and associated energy storage facility that includes provisions requiring the parties to the agreement to work together to establish diversity threshold requirements and to ensure best efforts to meet diversity targets, improve diversity at the applicable job site, create diverse apprenticeship opportunities, and create opportunities to employ former coal-fired power plant workers.

(H) The applicant commits to enter into a contract or contracts for the applicable duration to provide specified numbers of renewable energy credits each year from the new renewable energy facility to electric utilities that served more than 300,000 retail customers in this State as of January 1, 2019, at a price of $30 per renewable energy credit. The price per renewable energy credit shall be fixed at $30 for the applicable duration and the renewable energy credits shall not be indexed renewable energy credits as provided for in item (v) of subparagraph (G) of paragraph (1) of subsection (c) of Section 1-75 of this Act. The applicable duration of each contract shall be 20 years, unless the applicant is physically interconnected to the PJM Interconnection, LLC transmission grid and had a generating capacity of at least 1,200 megawatts as of January 1, 2021, in which case the applicable duration of the contract shall be 15 years.

(I) The applicant's application is certified by an officer of the applicant and by an officer of the applicant's ultimate parent company, if any.

(3) An applicant may submit applications to contract to supply renewable energy credits from more than one new renewable energy facility to be constructed at or adjacent to one or more qualifying electric generating facilities owned by the applicant. The Agency may select new renewable energy facilities to be located at or adjacent to the sites of more than one qualifying electric generation facility owned by an applicant to contract with electric utilities to supply renewable energy credits from such facilities.

(4) The Agency shall assess fees to each applicant to recover the Agency's costs incurred in receiving and evaluating applications, conducting the procurement event, developing contracts for sale, delivery and purchase of renewable energy credits, and monitoring the administration of such contracts, as provided for in this

subsection (c-5), including fees paid to a procurement administrator retained by the Agency for one or more of these purposes.

(5) The Agency shall select the applicants and the new renewable energy facilities to contract with electric utilities to supply renewable energy credits in accordance with this subsection (c-5). In the first procurement event, the Agency shall select applicants and new renewable energy facilities to supply renewable energy credits, at a price of $30 per renewable energy credit, aggregating to no less than 400,000 renewable energy credits per year for the applicable duration, assuming sufficient qualifying applications to supply, in the aggregate, at least that amount of renewable energy credits per year; and not more than 580,000 renewable energy credits per year for the applicable duration. In the second procurement event, the Agency shall select applicants and new renewable energy facilities to supply renewable energy credits, at a price of $30 per renewable energy credit, aggregating to no more than 625,000 renewable energy credits per year less the amount of renewable energy credits each year contracted for as a result of the first procurement event, for the applicable durations. The number of renewable energy credits to be procured as specified in this paragraph (5) shall not be reduced based on renewable energy credits procured in the

self-direct renewable energy credit compliance program established pursuant to subparagraph (R) of paragraph (1) of subsection (c) of Section 1-75.

(6) The obligation to purchase renewable energy credits from the applicants and their new renewable energy facilities selected by the Agency shall be allocated to the electric utilities based on their respective percentages of kilowatthours delivered to delivery services customers to the aggregate kilowatthour deliveries by the electric utilities to delivery services customers for the year ended December 31, 2021. In order to achieve these allocation percentages between or among the electric utilities, the Agency shall require each applicant that is selected in the procurement event to enter into a contract with each electric utility for the sale and purchase of renewable energy credits from each new renewable energy facility to be constructed and operated by the applicant, with the sale and purchase obligations under the contracts to aggregate to the total number of renewable energy credits per year to be supplied by the applicant from the new renewable energy facility.

(7) The Agency shall submit its proposed selection of applicants, new renewable energy facilities to be constructed, and renewable energy credit amounts for each procurement event to the Commission for approval. The Commission shall, within 2 business days after receipt of

the Agency's proposed selections, approve the proposed selections if it determines that the applicants and the new renewable energy facilities to be constructed meet the selection criteria set forth in this subsection (c-5) and that the Agency seeks approval for contracts of applicable durations aggregating to no more than the maximum amount of renewable energy credits per year authorized by this subsection (c-5) for the procurement event, at a price of $30 per renewable energy credit.

(8) The Agency, in conjunction with its procurement administrator if one is retained, the electric utilities, and potential applicants for contracts to produce and supply renewable energy credits pursuant to this subsection (c-5), shall develop a standard form contract for the sale, delivery and purchase of renewable energy credits pursuant to this subsection (c-5). Each contract resulting from the first procurement event shall allow for a commercial operation date for the new renewable energy facility of either June 1, 2023 or June 1, 2024, with such dates subject to adjustment as provided in this paragraph. Each contract resulting from the second procurement event shall provide for a commercial operation date on June 1 next occurring up to 48 months after execution of the contract. Each contract shall provide that the owner shall receive payments for renewable energy credits for the applicable durations beginning with the commercial

operation date of the new renewable energy facility. The form contract shall provide for adjustments to the commercial operation and payment start dates as needed due to any delays in completing the procurement and contracting processes, in finalizing interconnection agreements and installing interconnection facilities, and in obtaining other necessary governmental permits and approvals. The form contract shall be, to the maximum extent possible, consistent with standard electric industry contracts for sale, delivery, and purchase of renewable energy credits while taking into account the specific requirements of this subsection (c-5). The form contract shall provide for over-delivery and under-delivery of renewable energy credits within reasonable ranges during each 12-month period and penalty, default, and enforcement provisions for failure of the selling party to deliver renewable energy credits as specified in the contract and to comply with the requirements of this subsection (c-5). The standard form contract shall specify that all renewable energy credits delivered to the electric utility pursuant to the contract shall be retired. The Agency shall make the proposed contracts available for a reasonable period for comment by potential applicants, and shall publish the final form contract at least 30 days before the date of the first procurement event.

(9) Coal to Solar and Energy Storage Initiative Charge.

(A) By no later than July 1, 2022, each electric utility that served more than 300,000 retail customers in this State as of January 1, 2019 shall file a tariff with the Commission for the billing and collection of a Coal to Solar and Energy Storage Initiative Charge in accordance with subsection (i-5) of Section 16-108 of the Public Utilities Act, with such tariff to be effective, following review and approval or modification by the Commission, beginning January 1, 2023. The tariff shall provide for the calculation and setting of the electric utility's Coal to Solar and Energy Storage Initiative Charge to collect revenues estimated to be sufficient, in the aggregate, (i) to enable the electric utility to pay for the renewable energy credits it has contracted to purchase in the delivery year beginning June 1, 2023 and each delivery year thereafter from new renewable energy facilities located at the sites of qualifying electric generating facilities, and (ii) to fund the grant payments to be made in each delivery year by the Department of Commerce and Economic Opportunity, or any successor department or agency, which shall be referred to in this subsection (c-5) as the Department, pursuant to paragraph (10) of this subsection (c-5). The electric utility's tariff shall provide for the billing and collection of the Coal to Solar and Energy Storage Initiative Charge on each kilowatthour of electricity delivered to its delivery services customers within its service territory and shall provide for an annual reconciliation of revenues collected with actual costs, in accordance with subsection (i-5) of Section 16-108 of the Public Utilities Act.

(B) Each electric utility shall remit on a monthly basis to the State Treasurer, for deposit in the Coal to Solar and Energy Storage Initiative Fund provided for in this subsection (c-5), the electric utility's collections of the Coal to Solar and Energy Storage Initiative Charge in the amount estimated to be needed by the Department for grant payments pursuant to grant contracts entered into by the Department pursuant to paragraph (10) of this subsection (c-5).

(10) Coal to Solar and Energy Storage Initiative Fund.

(A) The Coal to Solar and Energy Storage Initiative Fund is established as a special fund in the State treasury. The Coal to Solar and Energy Storage Initiative Fund is authorized to receive, by statutory deposit, that portion specified in item (B) of paragraph (9) of this subsection (c-5) of moneys collected by electric utilities through imposition of the Coal to Solar and Energy Storage Initiative Charge required by this subsection (c-5). The Coal to Solar and Energy Storage Initiative Fund shall be administered by the Department to provide grants to support the installation and operation of energy storage facilities at the sites of qualifying electric generating facilities meeting the criteria specified in this paragraph (10).

(B) The Coal to Solar and Energy Storage Initiative Fund shall not be subject to sweeps, administrative charges, or chargebacks, including, but not limited to, those authorized under Section 8h of the State Finance Act, that would in any way result in the transfer of those funds from the Coal to Solar and Energy Storage Initiative Fund to any other fund of this State or in having any such funds utilized for any purpose other than the express purposes set forth in this paragraph (10).

(C) The Department shall utilize up to $280,500,000 in the Coal to Solar and Energy Storage Initiative Fund for grants, assuming sufficient qualifying applicants, to support installation of energy storage facilities at the sites of up to 3 qualifying electric generating facilities located in the Midcontinent Independent System Operator, Inc., region in Illinois and the sites of up to 2 qualifying electric generating facilities located in the PJM

Interconnection, LLC region in Illinois that meet the criteria set forth in this subparagraph (C). The criteria for receipt of a grant pursuant to this subparagraph (C) are as follows:

(1) the electric generating facility at the site has, or had prior to retirement, an electric generating capacity of at least 150 megawatts;

(2) the electric generating facility burns (or burned prior to retirement) coal as its primary source of fuel;

(3) if the electric generating facility is retired, it was retired subsequent to January 1, 2016;

(4) the owner of the electric generating facility has not been selected by the Agency pursuant to this subsection (c-5) of this Section to enter into a contract to sell renewable energy credits to one or more electric utilities from a new renewable energy facility located or to be located at or adjacent to the site at which the electric generating facility is located;

(5) the electric generating facility located at the site was at one time owned, in whole or in part, by a public utility as defined in Section 3-105 of the Public Utilities Act;

(6) the electric generating facility at the

site is not owned by (i) an electric cooperative as defined in Section 3-119 of the Public Utilities Act, or (ii) an entity described in subsection (b)(1) of Section 3-105 of the Public Utilities Act, or an association or consortium of or an entity owned by entities described in items (i) or (ii);

(7) the proposed energy storage facility at the site will have energy storage capacity of at least 37 megawatts;

(8) the owner commits to place the energy storage facility into commercial operation on either June 1, 2023, June 1, 2024, or June 1, 2025, with such date subject to adjustment as needed due to any delays in completing the grant contracting process, in finalizing interconnection agreements and in installing interconnection facilities, and in obtaining necessary governmental permits and approvals;

(9) the owner agrees that the new energy storage facility will be constructed or installed by a qualified entity or entities consistent with the requirements of subsection (g) of Section 16-128A of the Public Utilities Act and any rules adopted under that Section;

(10) the owner agrees that personnel operating

the energy storage facility will have the requisite skills, knowledge, training, experience, and competence, which may be demonstrated by completion or current participation and ultimate completion by employees of an accredited or otherwise recognized apprenticeship program for the employee's particular craft, trade, or skill, including through training and education courses and opportunities offered by the owner to employees of the coal-fueled electric generating facility or by previous employment experience performing the employee's particular work skill or function;

(11) the owner commits that not less than the prevailing wage, as determined pursuant to the Prevailing Wage Act, will be paid to the owner's employees engaged in construction activities associated with the new energy storage facility and to the employees of the owner's contractors engaged in construction activities associated with the new energy storage facility, and that, on or before the commercial operation date of the new energy storage facility, the owner shall file a report with the Department certifying that the requirements of this subparagraph (11) have been met; and

(12) the owner commits that if selected to receive a grant, it will negotiate a project labor agreement for the construction of the new energy storage facility that includes provisions requiring the parties to the agreement to work together to establish diversity threshold requirements and to ensure best efforts to meet diversity targets, improve diversity at the applicable job site, create diverse apprenticeship opportunities, and create opportunities to employ former coal-fired power plant workers.

The Department shall accept applications for this grant program until March 31, 2022 and shall announce the award of grants no later than June 1, 2022. The Department shall make the grant payments to a recipient in equal annual amounts for 10 years following the date the energy storage facility is placed into commercial operation. The annual grant payments to a qualifying energy storage facility shall be $110,000 per megawatt of energy storage capacity, with total annual grant payments pursuant to this subparagraph (C) for qualifying energy storage facilities not to exceed $28,050,000 in any year.

(D) Grants of funding for energy storage facilities pursuant to subparagraph (C) of this paragraph (10), from the Coal to Solar and Energy

Storage Initiative Fund, shall be memorialized in grant contracts between the Department and the recipient. The grant contracts shall specify the date or dates in each year on which the annual grant payments shall be paid.

(E) All disbursements from the Coal to Solar and Energy Storage Initiative Fund shall be made only upon warrants of the Comptroller drawn upon the Treasurer as custodian of the Fund upon vouchers signed by the Director of the Department or by the person or persons designated by the Director of the Department for that purpose. The Comptroller is authorized to draw the warrants upon vouchers so signed. The Treasurer shall accept all written warrants so signed and shall be released from liability for all payments made on those warrants.

(11) Diversity, equity, and inclusion plans.

(A) Each applicant selected in a procurement event to contract to supply renewable energy credits in accordance with this subsection (c-5) and each owner selected by the Department to receive a grant or grants to support the construction and operation of a new energy storage facility or facilities in accordance with this subsection (c-5) shall, within 60 days following the Commission's approval of the applicant to contract to supply renewable energy credits or within 60 days following execution of a grant contract with the Department, as applicable, submit to the Commission a diversity, equity, and inclusion plan setting forth the applicant's or owner's numeric goals for the diversity composition of its supplier entities for the new renewable energy facility or new energy storage facility, as applicable, which shall be referred to for purposes of this paragraph (11) as the project, and the applicant's or owner's action plan and schedule for achieving those goals.

(B) For purposes of this paragraph (11), diversity composition shall be based on the percentage, which shall be a minimum of 25%, of eligible expenditures for contract awards for materials and services (which shall be defined in the plan) to business enterprises owned by minority persons, women, or persons with disabilities as defined in Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, to LGBTQ business enterprises, to veteran-owned business enterprises, and to business enterprises located in environmental justice communities. The diversity composition goals of the plan may include eligible expenditures in areas for vendor or supplier opportunities in addition to development and construction of the project, and may exclude from eligible expenditures materials and services with limited market availability, limited production and availability from suppliers in the United States, such as solar panels and storage batteries, and material and services that are subject to critical energy infrastructure or cybersecurity requirements or restrictions. The plan may provide that the diversity composition goals may be met through Tier 1 Direct or Tier 2 subcontracting expenditures or a combination thereof for the project.

(C) The plan shall provide for, but not be limited to: (i) internal initiatives, including multi-tier initiatives, by the applicant or owner, or by its engineering, procurement and construction contractor if one is used for the project, which for purposes of this paragraph (11) shall be referred to as the EPC contractor, to enable diverse businesses to be considered fairly for selection to provide materials and services; (ii) requirements for the applicant or owner or its EPC contractor to proactively solicit and utilize diverse businesses to provide materials and services; and (iii) requirements for the applicant or owner or its EPC contractor to hire a diverse workforce for the project. The plan shall include a description of the applicant's or owner's diversity recruiting efforts both for the project and for other areas of the applicant's or owner's business operations. The plan shall provide for the imposition of financial penalties on the applicant's or owner's EPC contractor for failure to exercise best efforts to comply with and execute the EPC contractor's diversity obligations under the plan. The plan may provide for the applicant or owner to set aside a portion of the work on the project to serve as an incubation program for qualified businesses, as specified in the plan, owned by minority persons, women, persons with disabilities, LGBTQ persons, and veterans, and businesses located in environmental justice communities, seeking to enter the renewable energy industry.

(D) The applicant or owner may submit a revised or updated plan to the Commission from time to time as circumstances warrant. The applicant or owner shall file annual reports with the Commission detailing the applicant's or owner's progress in implementing its plan and achieving its goals and any modifications the applicant or owner has made to its plan to better achieve its diversity, equity and inclusion goals. The applicant or owner shall file a final report on the fifth June 1 following the commercial operation date of the new renewable energy resource or new energy storage facility, but the applicant or owner shall thereafter continue to be subject to applicable reporting requirements of Section 5-117 of the Public Utilities Act.

(c-10) Equity accountability system. It is the purpose of this subsection (c-10) to create an equity accountability system, which includes the minimum equity standards for all renewable energy procurements, the equity category of the Adjustable Block Program, and the equity prioritization for noncompetitive procurements, that is successful in advancing priority access to the clean energy economy for businesses and workers from communities that have been excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes. Further, it is the purpose of this subsection to ensure that this equity accountability system is successful in advancing equity across Illinois by providing access to the clean energy economy for businesses and workers from communities that have been historically excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes.

(1) Minimum equity standards. The Agency shall create programs with the purpose of increasing access to and development of equity eligible contractors, who are prime

contractors and subcontractors, across all of the programs it manages. All applications for renewable energy credit procurements shall comply with specific minimum equity commitments. Starting in the delivery year immediately following the next long-term renewable resources procurement plan, at least 10% of the project workforce for each entity participating in a procurement program outlined in this subsection (c-10) must be done by equity eligible persons or equity eligible contractors. The Agency shall increase the minimum percentage each delivery year thereafter by increments that ensure a statewide average of 30% of the project workforce for each entity participating in a procurement program is done by equity eligible persons or equity eligible contractors by 2030. The Agency shall propose a schedule of percentage increases to the minimum equity standards in its draft revised renewable energy resources procurement plan submitted to the Commission for approval pursuant to paragraph (5) of subsection (b) of Section 16-111.5 of the Public Utilities Act. In determining these annual increases, the Agency shall have the discretion to establish different minimum equity standards for different types of procurements and different regions of the State if the Agency finds that doing so will further the purposes of this subsection (c-10). The proposed schedule of annual increases shall be revisited and updated on an annual basis. Revisions shall be developed with stakeholder input, including from equity eligible persons, equity eligible contractors, clean energy industry representatives, and community-based organizations that work with such persons and contractors.

(A) At the start of each delivery year, the Agency shall require a compliance plan from each entity participating in a procurement program of subsection (c) of this Section, and entities opting to comply with the minimum equity standard through the Illinois Solar for All Program under Section 1-56 of this Act, that demonstrates how they will achieve compliance with the minimum equity standard percentage for work completed in that delivery year. If an entity applies for its approved vendor or designee status between delivery years, the Agency shall require a compliance plan at the time of application.

(B) Halfway through each delivery year, the Agency shall require each entity participating in a procurement program to confirm that it will achieve compliance in that delivery year, when applicable. The Agency may offer corrective action plans to entities that are not on track to achieve compliance.

(C) At the end of each delivery year, each entity participating and completing work in that delivery year in a procurement program of subsection (c) shall submit a report to the Agency that demonstrates how it achieved compliance with the minimum equity standards percentage for that delivery year.

(D) The Agency shall prohibit participation in procurement programs by an approved vendor or designee, as applicable, or entities with which an approved vendor or designee, as applicable, shares a common parent company if an approved vendor or designee, as applicable, failed to meet the minimum equity standards for the prior delivery year. Waivers approved for lack of equity eligible persons or equity eligible contractors in a geographic area of a project shall not count against the approved vendor or designee. The Agency shall offer a corrective action plan for any such entities to assist them in obtaining compliance and shall allow continued access to procurement programs upon an approved vendor or designee demonstrating compliance.

(E) The Agency shall pursue efficiencies achieved by combining with other approved vendor or designee reporting.

(2) Equity accountability system within the Adjustable Block program. The equity category described in item (vi) of subparagraph (K) of subsection (c) is only available to applicants that are equity eligible contractors.

(3) Equity accountability system within competitive

procurements. Through its long-term renewable resources procurement plan, the Agency shall develop requirements for ensuring that competitive procurement processes, including utility-scale solar, utility-scale wind, and brownfield site photovoltaic projects, advance the equity goals of this subsection (c-10). Subject to Commission approval, the Agency shall develop bid application requirements and a bid evaluation methodology for ensuring that utilization of equity eligible contractors, whether as bidders or as participants on project development, is optimized, including requiring that winning or successful applicants for utility-scale projects are or will partner with equity eligible contractors and giving preference to bids through which a higher portion of contract value flows to equity eligible contractors. To the extent practicable, entities participating in competitive procurements shall also be required to meet all the equity accountability requirements for approved vendors and their designees under this subsection (c-10). In developing these requirements, the Agency shall also consider whether equity goals can be further advanced through additional measures.

(4) In the first revision to the long-term renewable energy resources procurement plan and each revision thereafter, the Agency shall include the following:

(A) The current status and number of equity eligible contractors listed in the Energy Workforce Equity Database designed in subsection (c-25), including the number of equity eligible contractors with current certifications as issued by the Agency.

(B) A mechanism for measuring, tracking, and reporting project workforce at the approved vendor or designee level, as applicable, which shall include a measurement methodology and records to be made available for audit by the Agency or the Program Administrator.

(C) A program for approved vendors, designees, eligible persons, and equity eligible contractors to receive trainings, guidance, and other support from the Agency or its designee regarding the equity category outlined in item (vi) of subparagraph (K) of paragraph (1) of subsection (c) and in meeting the minimum equity standards of this subsection (c-10).

(D) A process for certifying equity eligible contractors and equity eligible persons. The certification process shall coordinate with the Energy Workforce Equity Database set forth in subsection (c-25).

(E) An application for waiver of the minimum equity standards of this subsection, which the Agency shall have the discretion to grant in rare circumstances. The Agency may grant such a waiver where the applicant provides evidence of significant efforts toward meeting the minimum equity commitment, including: use of the Energy Workforce Equity Database; efforts to hire or contract with entities that hire eligible persons; and efforts to establish contracting relationships with eligible contractors. The Agency shall support applicants in understanding the Energy Workforce Equity Database and other resources for pursuing compliance of the minimum equity standards. Waivers shall be project-specific, unless the Agency deems it necessary to grant a waiver across a portfolio of projects, and in effect for no longer than one year. Any waiver extension or subsequent waiver request from an applicant shall be subject to the requirements of this Section and shall specify efforts made to reach compliance. When considering whether to grant a waiver, and to what extent, the Agency shall consider the degree to which similarly situated applicants have been able to meet these minimum equity commitments. For repeated waiver requests for specific lack of eligible persons or eligible contractors available, the Agency shall make recommendations to target recruitment to add such eligible persons or eligible contractors to the database.

(5) The Agency shall collect information about work on

projects or portfolios of projects subject to these minimum equity standards to ensure compliance with this subsection (c-10). Reporting in furtherance of this requirement may be combined with other annual reporting requirements. Such reporting shall include proof of certification of each equity eligible contractor or equity eligible person during the applicable time period.

As part of the reporting requirement under this subparagraph (5), the Agency shall collect and report information about the use of equity eligible contractors and equity eligible persons, as well as Minimum Equity Standard compliance and waiver usage on the Adjustable Block program and utility-scale projects subject to project labor agreements. The Agency shall note any instances of the projects being unable to meet or requiring a waiver to meet Minimum Equity Standard requirements and the location of those projects.

On an annual basis, the Agency shall submit a written summary of its findings on an annual basis to the General Assembly and the Governor and shall make the report and summary available on the Agency's website.

(6) The Agency shall keep confidential all information and communication that provides private or personal information.

(7) Modifications to the equity accountability system. As part of the update of the long-term renewable resources

procurement plan to be initiated in 2023, or sooner if the Agency deems necessary, the Agency shall determine the extent to which the equity accountability system described in this subsection (c-10) has advanced the goals of this amendatory Act of the 102nd General Assembly, including through the inclusion of equity eligible persons and equity eligible contractors in renewable energy credit projects. If the Agency finds that the equity accountability system has failed to meet those goals to its fullest potential, the Agency may revise the following criteria for future Agency procurements: (A) the percentage of project workforce, or other appropriate workforce measure, certified as equity eligible persons or equity eligible contractors; (B) definitions for equity investment eligible persons and equity investment eligible community; and (C) such other modifications necessary to advance the goals of this amendatory Act of the 102nd General Assembly effectively. Such revised criteria may also establish distinct equity accountability systems for different types of procurements or different regions of the State if the Agency finds that doing so will further the purposes of such programs. Revisions shall be developed with stakeholder input, including from equity eligible persons, equity eligible contractors, and community-based organizations that work with such persons and contractors.

(c-15) Racial discrimination elimination powers and process.

(1) Purpose. It is the purpose of this subsection to empower the Agency and other State actors to remedy racial discrimination in Illinois' clean energy economy as effectively and expediently as possible, including through the use of race-conscious remedies, such as race-conscious contracting and hiring goals, as consistent with State and federal law.

(2) Racial disparity and discrimination review process.

(A) Within one year after awarding contracts using the equity actions processes established in this Section, the Agency shall publish a report evaluating the effectiveness of the equity actions point criteria of this Section in increasing participation of equity eligible persons and equity eligible contractors. The report shall disaggregate participating workers and contractors by race and ethnicity. The report shall be forwarded to the Governor, the General Assembly, and the Illinois Commerce Commission and be made available to the public.

(B) As soon as is practicable thereafter, the Agency, in consultation with the Department of Commerce and Economic Opportunity, Department of Labor, and other agencies that may be relevant, shall commission and publish a disparity and availability study that measures the presence and impact of discrimination on minority businesses and workers in Illinois' clean energy economy. The Agency may hire consultants and experts to conduct the disparity and availability study, with the retention of those consultants and experts exempt from the requirements of Section 20-10 of the Illinois Procurement Code. The Illinois Power Agency shall forward a copy of its findings and recommendations to the Governor, the General Assembly, and the Illinois Commerce Commission. If the disparity and availability study establishes a strong basis in evidence that there is discrimination in Illinois' clean energy economy, the Agency, Department of Commerce and Economic Opportunity, Department of Labor, Department of Corrections, and other appropriate agencies shall take appropriate remedial actions, including race-conscious remedial actions as consistent with State and federal law, to effectively remedy this discrimination. Such remedies may include modification of the equity accountability system as described in subsection (c-10).

(c-20) Program data collection.

(1) Purpose. Data collection, data analysis, and reporting are critical to ensure that the benefits of the

clean energy economy provided to Illinois residents and businesses are equitably distributed across the State. The Agency shall collect data from program applicants in order to track and improve equitable distribution of benefits across Illinois communities for all procurements the Agency conducts. The Agency shall use this data to, among other things, measure any potential impact of racial discrimination on the distribution of benefits and provide information necessary to correct any discrimination through methods consistent with State and federal law.

(2) Agency collection of program data. The Agency shall collect demographic and geographic data for each entity awarded contracts under any Agency-administered program.

(3) Required information to be collected. The Agency shall collect the following information from applicants and program participants where applicable:

(A) demographic information, including racial or ethnic identity for real persons employed, contracted, or subcontracted through the program and owners of businesses or entities that apply to receive renewable energy credits from the Agency;

(B) geographic location of the residency of real persons employed, contracted, or subcontracted through the program and geographic location of the headquarters of the business or entity that applies to receive renewable energy credits from the Agency; and

(C) any other information the Agency determines is necessary for the purpose of achieving the purpose of this subsection.

(4) Publication of collected information. The Agency shall publish, at least annually, information on the demographics of program participants on an aggregate basis.

(5) Nothing in this subsection shall be interpreted to limit the authority of the Agency, or other agency or department of the State, to require or collect demographic information from applicants of other State programs.

(c-25) Energy Workforce Equity Database.

(1) The Agency, in consultation with the Department of Commerce and Economic Opportunity, shall create an Energy Workforce Equity Database, and may contract with a third party to do so ("database program administrator"). If the Department decides to contract with a third party, that third party shall be exempt from the requirements of Section 20-10 of the Illinois Procurement Code. The Energy Workforce Equity Database shall be a searchable database of suppliers, vendors, and subcontractors for clean energy industries that is:

(A) publicly accessible;

(B) easy for people to find and use;

(C) organized by company specialty or field;

(D) region-specific; and

(E) populated with information including, but not limited to, contacts for suppliers, vendors, or subcontractors who are minority and women-owned business enterprise certified or who participate or have participated in any of the programs described in this Act.

(2) The Agency shall create an easily accessible, public facing online tool using the database information that includes, at a minimum, the following:

(A) a map of environmental justice and equity investment eligible communities;

(B) job postings and recruiting opportunities;

(C) a means by which recruiting clean energy companies can find and interact with current or former participants of clean energy workforce training programs;

(D) information on workforce training service providers and training opportunities available to prospective workers;

(E) renewable energy company diversity reporting;

(F) a list of equity eligible contractors with their contact information, types of work performed, and locations worked in;

(G) reporting on outcomes of the programs described in the workforce programs of the Energy

Transition Act, including information such as, but not limited to, retention rate, graduation rate, and placement rates of trainees; and

(H) information about the Jobs and Environmental Justice Grant Program, the Clean Energy Jobs and Justice Fund, and other sources of capital.

(3) The Agency shall ensure the database is regularly updated to ensure information is current and shall coordinate with the Department of Commerce and Economic Opportunity to ensure that it includes information on individuals and entities that are or have participated in the Clean Jobs Workforce Network Program, Clean Energy Contractor Incubator Program, Returning Residents Clean Jobs Training Program, or Clean Energy Primes Contractor Accelerator Program.

(c-30) Enforcement of minimum equity standards. All entities seeking renewable energy credits must submit an annual report to demonstrate compliance with each of the equity commitments required under subsection (c-10). If the Agency concludes the entity has not met or maintained its minimum equity standards required under the applicable subparagraphs under subsection (c-10), the Agency shall deny the entity's ability to participate in procurement programs in subsection (c), including by withholding approved vendor or designee status. The Agency may require the entity to enter into a corrective action plan. An entity that is not recertified for failing to meet required equity actions in subparagraph (c-10) may reapply once they have a corrective action plan and achieve compliance with the minimum equity standards.

(d) Clean coal portfolio standard.

(1) The procurement plans shall include electricity generated using clean coal. Each utility shall enter into one or more sourcing agreements with the initial clean coal facility, as provided in paragraph (3) of this subsection (d), covering electricity generated by the initial clean coal facility representing at least 5% of each utility's total supply to serve the load of eligible retail customers in 2015 and each year thereafter, as described in paragraph (3) of this subsection (d), subject to the limits specified in paragraph (2) of this subsection (d). It is the goal of the State that by January 1, 2025, 25% of the electricity used in the State shall be generated by cost-effective clean coal facilities. For purposes of this subsection (d), "cost-effective" means that the expenditures pursuant to such sourcing agreements do not cause the limit stated in paragraph (2) of this subsection (d) to be exceeded and do not exceed cost-based benchmarks, which shall be developed to assess all expenditures pursuant to such sourcing agreements covering electricity generated by clean coal facilities, other than the initial clean coal facility, by the procurement

administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval.

A utility party to a sourcing agreement shall immediately retire any emission credits that it receives in connection with the electricity covered by such agreement.

Utilities shall maintain adequate records documenting the purchases under the sourcing agreement to comply with this subsection (d) and shall file an accounting with the load forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act.

A utility shall be deemed to have complied with the clean coal portfolio standard specified in this subsection (d) if the utility enters into a sourcing agreement as required by this subsection (d).

(2) For purposes of this subsection (d), the required execution of sourcing agreements with the initial clean coal facility for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the planning year ending immediately prior to the agreement's execution. For purposes of this subsection (d), the amount paid per kilowatthour means the total amount paid for electric

service expressed on a per kilowatthour basis. For purposes of this subsection (d), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges and add-on taxes.

Notwithstanding the requirements of this subsection (d), the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any given year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to:

(A) in 2010, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(B) in 2011, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2010 or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(C) in 2012, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2011 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(D) in 2013, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2012 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009; and

(E) thereafter, the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of (i) 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or (ii) the incremental amount per kilowatthour paid for these resources in 2013. These requirements may be altered only as provided by statute.

No later than June 30, 2015, the Commission shall review the limitation on the total amount paid under sourcing agreements, if any, with clean coal facilities pursuant to this subsection (d) and report to the General Assembly its findings as to whether that limitation unduly constrains the amount of electricity generated by cost-effective clean coal facilities that is covered by sourcing agreements.

(3) Initial clean coal facility. In order to promote development of clean coal facilities in Illinois, each electric utility subject to this Section shall execute a sourcing agreement to source electricity from a proposed clean coal facility in Illinois (the "initial clean coal facility") that will have a nameplate capacity of at least 500 MW when commercial operation commences, that has a final Clean Air Act permit on June 1, 2009 (the effective date of Public Act 95-1027), and that will meet the definition of clean coal facility in Section 1-10 of this Act when commercial operation commences. The sourcing agreements with this initial clean coal facility shall be subject to both approval of the initial clean coal facility by the General Assembly and satisfaction of the requirements of paragraph (4) of this subsection (d) and shall be executed within 90 days after any such approval by the General Assembly. The Agency and the Commission shall have authority to inspect all books and records associated with the initial clean coal facility during the term of such a sourcing agreement. A utility's sourcing agreement for electricity produced by the initial clean coal facility shall include:

(A) a formula contractual price (the "contract price") approved pursuant to paragraph (4) of this subsection (d), which shall:

(i) be determined using a cost of service methodology employing either a level or deferred capital recovery component, based on a capital structure consisting of 45% equity and 55% debt, and a return on equity as may be approved by the Federal Energy Regulatory Commission, which in any case may not exceed the lower of 11.5% or the rate of return approved by the General Assembly pursuant to paragraph (4) of this subsection (d); and

(ii) provide that all miscellaneous net revenue, including but not limited to net revenue from the sale of emission allowances, if any, substitute natural gas, if any, grants or other support provided by the State of Illinois or the United States Government, firm transmission rights, if any, by-products produced by the facility, energy or capacity derived from the facility and not covered by a sourcing agreement pursuant to paragraph (3) of this subsection (d) or item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, whether generated from the synthesis gas derived from coal, from SNG, or from natural gas, shall be credited against the revenue requirement for this initial clean coal facility;

(B) power purchase provisions, which shall:

(i) provide that the utility party to such sourcing agreement shall pay the contract price for electricity delivered under such sourcing agreement;

(ii) require delivery of electricity to the regional transmission organization market of the utility that is party to such sourcing agreement;

(iii) require the utility party to such sourcing agreement to buy from the initial clean coal facility in each hour an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount purchased by the utility in any year will be limited by paragraph (2) of this subsection (d); and

(iv) be considered pre-existing contracts in such utility's procurement plans for eligible retail customers;

(C) contract for differences provisions, which shall:

(i) require the utility party to such sourcing agreement to contract with the initial clean coal facility in each hour with respect to an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the utility's service territory in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount paid by the utility in any year will be limited by paragraph (2) of this subsection (d);

(ii) provide that the utility's payment obligation in respect of the quantity of electricity determined pursuant to the preceding clause (i) shall be limited to an amount equal to (1) the difference between the contract price determined pursuant to subparagraph (A) of paragraph (3) of this subsection (d) and the day-ahead price for electricity delivered to the regional transmission organization market of the utility that is party to such sourcing agreement (or any successor delivery point at which such utility's supply obligations are financially settled on an hourly basis) (the "reference price") on the day preceding the day on which the electricity is delivered to the initial clean coal facility busbar, multiplied by (2) the quantity of electricity determined pursuant to the preceding clause (i); and

(iii) not require the utility to take physical delivery of the electricity produced by the facility;

(D) general provisions, which shall:

(i) specify a term of no more than 30 years, commencing on the commercial operation date of the facility;

(ii) provide that utilities shall maintain adequate records documenting purchases under the sourcing agreements entered into to comply with this subsection (d) and shall file an accounting with the load forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act;

(iii) provide that all costs associated with the initial clean coal facility will be periodically reported to the Federal Energy Regulatory Commission and to purchasers in accordance with applicable laws governing cost-based wholesale power contracts;

(iv) permit the Illinois Power Agency to assume ownership of the initial clean coal facility, without monetary consideration and otherwise on reasonable terms acceptable to the Agency, if the Agency so requests no less than 3 years prior to the end of the stated contract term;

(v) require the owner of the initial clean coal facility to provide documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon emissions from the facility that have been captured and sequestered and report any quantities of carbon released from the site or sites at which carbon emissions were sequestered in prior years, based on continuous monitoring of such sites. If, in any year after the first year of commercial operation, the owner of the facility fails to demonstrate that the initial clean coal facility captured and sequestered at least 50% of the total carbon emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, the owner of the facility must offset excess emissions. Any such carbon offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable. The cost of such offsets for the facility that are not recoverable shall not exceed $15 million in any given year. No costs of any such purchases of carbon offsets may be recovered from a utility or its customers. All carbon offsets purchased for this purpose and any carbon emission credits associated with sequestration of carbon from the facility must be permanently retired. The initial clean coal facility shall not forfeit its designation as a clean coal facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased. However, the Attorney General, on behalf of the People of the State of Illinois, may specifically enforce the facility's sequestration requirement and the other terms of this contract provision. Compliance with the sequestration requirements and offset purchase requirements specified in paragraph (3) of this subsection (d) shall be reviewed annually by an independent expert retained by the owner of the initial clean coal facility, with the advance written approval of the Attorney General. The Commission may, in the course of the review specified in item (vii), reduce the allowable return on equity for the facility if the facility willfully fails to comply with the carbon capture and sequestration requirements set forth in this item (v);

(vi) include limits on, and accordingly provide for modification of, the amount the utility is required to source under the sourcing agreement consistent with paragraph (2) of this subsection (d);

(vii) require Commission review: (1) to determine the justness, reasonableness, and prudence of the inputs to the formula referenced in subparagraphs (A)(i) through (A)(iii) of paragraph (3) of this subsection (d), prior to an adjustment in those inputs including, without limitation, the capital structure and return on equity, fuel costs, and other operations and maintenance costs and (2) to approve the costs to be passed through to customers under the sourcing agreement by which the utility satisfies its statutory obligations. Commission review shall occur no less than every 3 years, regardless of whether any adjustments have been proposed, and shall be completed within 9 months;

(viii) limit the utility's obligation to such amount as the utility is allowed to recover through tariffs filed with the Commission, provided that neither the clean coal facility nor the utility waives any right to assert federal pre-emption or any other argument in response to a purported disallowance of recovery costs;

(ix) limit the utility's or alternative retail electric supplier's obligation to incur any liability until such time as the facility is in commercial operation and generating power and energy and such power and energy is being delivered to the facility busbar;

(x) provide that the owner or owners of the initial clean coal facility, which is the counterparty to such sourcing agreement, shall have the right from time to time to elect whether the obligations of the utility party thereto shall be governed by the power purchase provisions or the contract for differences provisions;

(xi) append documentation showing that the formula rate and contract, insofar as they relate to the power purchase provisions, have been approved by the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act;

(xii) provide that any changes to the terms of the contract, insofar as such changes relate to the power purchase provisions, are subject to review under the public interest standard applied by the Federal Energy Regulatory Commission pursuant to Sections 205 and 206 of the Federal Power Act; and

(xiii) conform with customary lender requirements in power purchase agreements used as the basis for financing non-utility generators.

(4) Effective date of sourcing agreements with the initial clean coal facility. Any proposed sourcing agreement with the initial clean coal facility shall not become effective unless the following reports are prepared and submitted and authorizations and approvals obtained:

(i) Facility cost report. The owner of the initial clean coal facility shall submit to the Commission, the Agency, and the General Assembly a front-end engineering and design study, a facility cost report, method of financing (including but not limited to structure and associated costs), and an operating and maintenance cost quote for the facility (collectively "facility cost report"), which shall be prepared in accordance with the requirements of this paragraph (4) of subsection (d) of this Section, and shall provide the Commission and the Agency access to the work papers, relied upon documents, and any other backup documentation related to the facility cost report.

(ii) Commission report. Within 6 months following receipt of the facility cost report, the Commission, in consultation with the Agency, shall submit a report to the General Assembly setting forth its analysis of the facility cost report. Such report shall include, but not be limited to, a comparison of the costs associated with electricity generated by the initial clean coal facility to the costs associated with electricity generated by other types of generation facilities, an analysis of the rate impacts on residential and small business customers over the life of the sourcing agreements, and an analysis of the likelihood that the initial clean coal facility will commence commercial operation by and be delivering power to the facility's busbar by 2016. To assist in the preparation of its report, the Commission, in consultation with the Agency, may hire one or more experts or consultants, the costs of which shall be paid for by the owner of the initial clean coal facility. The Commission and Agency may begin the process of selecting such experts or consultants prior to receipt of the facility cost report.

(iii) General Assembly approval. The proposed sourcing agreements shall not take effect unless, based on the facility cost report and the Commission's report, the General Assembly enacts authorizing legislation approving (A) the projected price, stated in cents per kilowatthour, to be charged for electricity generated by the initial clean coal facility, (B) the projected impact on residential and small business customers' bills over the life of the sourcing agreements, and (C) the maximum allowable return on equity for the project; and

(iv) Commission review. If the General Assembly enacts authorizing legislation pursuant to subparagraph (iii) approving a sourcing agreement, the Commission shall, within 90 days of such enactment, complete a review of such sourcing agreement. During such time period, the Commission shall implement any directive of the General Assembly, resolve any disputes between the parties to the sourcing agreement concerning the terms of such agreement, approve the form of such agreement, and issue an order finding that the sourcing agreement is prudent and reasonable.

The facility cost report shall be prepared as follows:

(A) The facility cost report shall be prepared by duly licensed engineering and construction firms detailing the estimated capital costs payable to one or more contractors or suppliers for the engineering, procurement and construction of the components comprising the initial clean coal facility and the estimated costs of operation and maintenance of the facility. The facility cost report shall include:

(i) an estimate of the capital cost of the core plant based on one or more front end engineering and design studies for the gasification island and related facilities. The core plant shall include all civil, structural, mechanical, electrical, control, and safety systems.

(ii) an estimate of the capital cost of the balance of the plant, including any capital costs associated with sequestration of carbon dioxide emissions and all interconnects and interfaces required to operate the facility, such as transmission of electricity, construction or backfeed power supply, pipelines to transport substitute natural gas or carbon dioxide, potable water supply, natural gas supply, water supply, water discharge, landfill, access roads, and coal delivery.

The quoted construction costs shall be expressed in nominal dollars as of the date that the quote is prepared and shall include capitalized financing costs during construction, taxes, insurance, and other owner's costs, and an assumed escalation in materials and labor beyond the date as of which the construction cost quote is expressed.

(B) The front end engineering and design study for the gasification island and the cost study for the balance of plant shall include sufficient design work to permit quantification of major categories of materials, commodities and labor hours, and receipt of quotes from vendors of major equipment required to construct and operate the clean coal facility.

(C) The facility cost report shall also include an operating and maintenance cost quote that will provide the estimated cost of delivered fuel, personnel, maintenance contracts, chemicals, catalysts, consumables, spares, and other fixed and variable operations and maintenance costs. The delivered fuel cost estimate will be provided by a recognized third party expert or experts in the fuel and transportation industries. The balance of the operating and maintenance cost quote, excluding delivered fuel costs, will be developed based on the inputs provided by duly licensed engineering and construction firms performing the construction cost quote, potential vendors under long-term service agreements and plant operating agreements, or recognized third party plant operator or operators.

The operating and maintenance cost quote (including the cost of the front end engineering and design study) shall be expressed in nominal dollars as of the date that the quote is prepared and shall include taxes, insurance, and other owner's costs, and an assumed escalation in materials and labor beyond the date as of which the operating and maintenance cost quote is expressed.

(D) The facility cost report shall also include an analysis of the initial clean coal facility's ability to deliver power and energy into the applicable regional transmission organization markets and an analysis of the expected capacity factor for the initial clean coal facility.

(E) Amounts paid to third parties unrelated to the owner or owners of the initial clean coal facility to prepare the core plant construction cost quote, including the front end engineering and design study, and the operating and maintenance cost quote will be reimbursed through Coal Development Bonds.

(5) Re-powering and retrofitting coal-fired power plants previously owned by Illinois utilities to qualify as clean coal facilities. During the 2009 procurement planning process and thereafter, the Agency and the Commission shall consider sourcing agreements covering electricity generated by power plants that were previously owned by Illinois utilities and that have been or will be converted into clean coal facilities, as defined by Section 1-10 of this Act. Pursuant to such procurement planning process, the owners of such facilities may propose to the Agency sourcing agreements with utilities and alternative retail electric suppliers required to comply with subsection (d) of this Section and item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, covering electricity generated by such facilities. In the case of sourcing agreements that are power purchase agreements, the contract price for electricity sales shall

be established on a cost of service basis. In the case of sourcing agreements that are contracts for differences, the contract price from which the reference price is subtracted shall be established on a cost of service basis. The Agency and the Commission may approve any such utility sourcing agreements that do not exceed cost-based benchmarks developed by the procurement administrator, in consultation with the Commission staff, Agency staff and the procurement monitor, subject to Commission review and approval. The Commission shall have authority to inspect all books and records associated with these clean coal facilities during the term of any such contract.

(6) Costs incurred under this subsection (d) or pursuant to a contract entered into under this subsection (d) shall be deemed prudently incurred and reasonable in amount and the electric utility shall be entitled to full cost recovery pursuant to the tariffs filed with the Commission.

(d-5) Zero emission standard.

(1) Beginning with the delivery year commencing on June 1, 2017, the Agency shall, for electric utilities that serve at least 100,000 retail customers in this State, procure contracts with zero emission facilities that are reasonably capable of generating cost-effective zero emission credits in an amount approximately equal to 16% of the actual amount of electricity delivered by each

electric utility to retail customers in the State during calendar year 2014. For an electric utility serving fewer than 100,000 retail customers in this State that requested, under Section 16-111.5 of the Public Utilities Act, that the Agency procure power and energy for all or a portion of the utility's Illinois load for the delivery year commencing June 1, 2016, the Agency shall procure contracts with zero emission facilities that are reasonably capable of generating cost-effective zero emission credits in an amount approximately equal to 16% of the portion of power and energy to be procured by the Agency for the utility. The duration of the contracts procured under this subsection (d-5) shall be for a term of 10 years ending May 31, 2027. The quantity of zero emission credits to be procured under the contracts shall be all of the zero emission credits generated by the zero emission facility in each delivery year; however, if the zero emission facility is owned by more than one entity, then the quantity of zero emission credits to be procured under the contracts shall be the amount of zero emission credits that are generated from the portion of the zero emission facility that is owned by the winning supplier.

The 16% value identified in this paragraph (1) is the average of the percentage targets in subparagraph (B) of paragraph (1) of subsection (c) of this Section for the 5 delivery years beginning June 1, 2017.

The procurement process shall be subject to the following provisions:

(A) Those zero emission facilities that intend to participate in the procurement shall submit to the Agency the following eligibility information for each zero emission facility on or before the date established by the Agency:

(i) the in-service date and remaining useful life of the zero emission facility;

(ii) the amount of power generated annually for each of the years 2005 through 2015, and the projected zero emission credits to be generated over the remaining useful life of the zero emission facility, which shall be used to determine the capability of each facility;

(iii) the annual zero emission facility cost projections, expressed on a per megawatthour basis, over the next 6 delivery years, which shall include the following: operation and maintenance expenses; fully allocated overhead costs, which shall be allocated using the methodology developed by the Institute for Nuclear Power Operations; fuel expenditures; non-fuel capital expenditures; spent fuel expenditures; a return on working capital; the cost of operational and market risks that could be avoided by ceasing operation; and any other costs necessary for continued operations, provided that "necessary" means, for purposes of this item (iii), that the costs could reasonably be avoided only by ceasing operations of the zero emission facility; and

(iv) a commitment to continue operating, for the duration of the contract or contracts executed under the procurement held under this subsection (d-5), the zero emission facility that produces the zero emission credits to be procured in the procurement.

The information described in item (iii) of this subparagraph (A) may be submitted on a confidential basis and shall be treated and maintained by the Agency, the procurement administrator, and the Commission as confidential and proprietary and exempt from disclosure under subparagraphs (a) and (g) of paragraph (1) of Section 7 of the Freedom of Information Act. The Office of Attorney General shall have access to, and maintain the confidentiality of, such information pursuant to Section 6.5 of the Attorney General Act.

(B) The price for each zero emission credit procured under this subsection (d-5) for each delivery year shall be in an amount that equals the Social Cost of Carbon, expressed on a price per megawatthour basis. However, to ensure that the procurement remains affordable to retail customers in this State if electricity prices increase, the price in an applicable delivery year shall be reduced below the Social Cost of Carbon by the amount ("Price Adjustment") by which the market price index for the applicable delivery year exceeds the baseline market price index for the consecutive 12-month period ending May 31, 2016. If the Price Adjustment is greater than or equal to the Social Cost of Carbon in an applicable delivery year, then no payments shall be due in that delivery year. The components of this calculation are defined as follows:

(i) Social Cost of Carbon: The Social Cost of Carbon is $16.50 per megawatthour, which is based on the U.S. Interagency Working Group on Social Cost of Carbon's price in the August 2016 Technical Update using a 3% discount rate, adjusted for inflation for each year of the program. Beginning with the delivery year commencing June 1, 2023, the price per megawatthour shall increase by $1 per megawatthour, and continue to increase by an additional $1 per megawatthour each delivery year thereafter.

(ii) Baseline market price index: The baseline market price index for the consecutive 12-month period ending May 31, 2016 is $31.40 per megawatthour, which is based on the sum of (aa) the average day-ahead energy price across all hours of such 12-month period at the PJM Interconnection LLC Northern Illinois Hub, (bb) 50% multiplied by the Base Residual Auction, or its successor, capacity price for the rest of the RTO zone group determined by PJM Interconnection LLC, divided by 24 hours per day, and (cc) 50% multiplied by the Planning Resource Auction, or its successor, capacity price for Zone 4 determined by the Midcontinent Independent System Operator, Inc., divided by 24 hours per day.

(iii) Market price index: The market price index for a delivery year shall be the sum of projected energy prices and projected capacity prices determined as follows:

(aa) Projected energy prices: the projected energy prices for the applicable delivery year shall be calculated once for the year using the forward market price for the PJM Interconnection, LLC Northern Illinois Hub. The forward market price shall be calculated as follows: the energy forward prices for each month of the applicable delivery year averaged for each trade date during the calendar year immediately preceding that delivery year to produce a single energy forward price for the delivery year. The forward market price calculation shall use data published by the Intercontinental Exchange, or its successor.

(bb) Projected capacity prices:

(I) For the delivery years commencing June 1, 2017, June 1, 2018, and June 1, 2019, the projected capacity price shall be equal to the sum of (1) 50% multiplied by the Base Residual Auction, or its successor, price for the rest of the RTO zone group as determined by PJM Interconnection LLC, divided by 24 hours per day and, (2) 50% multiplied by the resource auction price determined in the resource auction administered by the Midcontinent Independent System Operator, Inc., in which the largest percentage of load cleared for Local Resource Zone 4, divided by 24 hours per day, and where such price is determined by the Midcontinent Independent System Operator, Inc.

(II) For the delivery year commencing June 1, 2020, and each year thereafter, the projected capacity price shall be equal to the sum of (1) 50% multiplied by the Base Residual Auction, or its successor, price for the ComEd zone as determined by PJM Interconnection LLC, divided by 24 hours per day, and (2) 50% multiplied by the resource auction price determined in the resource auction administered by the Midcontinent Independent System Operator, Inc., in which the largest percentage of load cleared for Local Resource Zone 4, divided by 24 hours per day, and where such price is determined by the Midcontinent Independent System Operator, Inc.

For purposes of this subsection (d-5):

"Rest of the RTO" and "ComEd Zone" shall have the meaning ascribed to them by PJM Interconnection, LLC.

"RTO" means regional transmission organization.

(C) No later than 45 days after June 1, 2017 (the effective date of Public Act 99-906), the Agency shall publish its proposed zero emission standard procurement plan. The plan shall be consistent with the provisions of this paragraph (1) and shall provide that winning bids shall be selected based on public interest criteria that include, but are not limited to, minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the citizens of this State. In particular, the selection of winning bids shall take into account the incremental environmental benefits resulting from the procurement, such as any existing environmental benefits that are preserved by the procurements held under Public Act 99-906 and would cease to exist if the procurements were not held, including the preservation of zero emission facilities. The plan shall also describe in detail how each public interest factor shall be considered and weighted in the bid selection process to ensure that the public interest criteria are applied to the procurement and given full effect.

For purposes of developing the plan, the Agency shall consider any reports issued by a State agency, board, or commission under House Resolution 1146 of the 98th General Assembly and paragraph (4) of subsection (d) of this Section, as well as publicly available analyses and studies performed by or for regional transmission organizations that serve the State and their independent market monitors.

Upon publishing of the zero emission standard procurement plan, copies of the plan shall be posted and made publicly available on the Agency's website. All interested parties shall have 10 days following the date of posting to provide comment to the Agency on the plan. All comments shall be posted to the Agency's website. Following the end of the comment period, but no more than 60 days later than June 1, 2017 (the effective date of Public Act 99-906), the Agency shall revise the plan as necessary based on the comments received and file its zero emission standard procurement plan with the Commission.

If the Commission determines that the plan will result in the procurement of cost-effective zero emission credits, then the Commission shall, after notice and hearing, but no later than 45 days after the Agency filed the plan, approve the plan or approve with modification. For purposes of this subsection (d-5), "cost effective" means the projected costs of procuring zero emission credits from zero emission facilities do not cause the limit stated in paragraph (2) of this subsection to be exceeded.

(C-5) As part of the Commission's review and acceptance or rejection of the procurement results, the Commission shall, in its public notice of successful bidders:

(i) identify how the winning bids satisfy the public interest criteria described in subparagraph (C) of this paragraph (1) of minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the citizens of this State;

(ii) specifically address how the selection of winning bids takes into account the incremental environmental benefits resulting from the procurement, including any existing environmental benefits that are preserved by the procurements held under Public Act 99-906 and would have ceased to exist if the procurements had not been held, such as the preservation of zero emission facilities;

(iii) quantify the environmental benefit of preserving the resources identified in item (ii) of this subparagraph (C-5), including the following:

(aa) the value of avoided greenhouse gas emissions measured as the product of the zero emission facilities' output over the contract term multiplied by the U.S. Environmental Protection Agency eGrid subregion carbon dioxide emission rate and the U.S. Interagency Working Group on Social Cost of Carbon's price in the August 2016 Technical Update using a 3% discount rate, adjusted for inflation for each delivery year; and

(bb) the costs of replacement with other zero carbon dioxide resources, including wind and photovoltaic, based upon the simple average of the following:

(I) the price, or if there is more than one price, the average of the prices, paid for renewable energy credits from new utility-scale wind projects in the procurement events specified in item (i) of subparagraph (G) of paragraph (1) of subsection (c) of this Section; and

(II) the price, or if there is more than one price, the average of the prices, paid for renewable energy credits from new utility-scale solar projects and brownfield site photovoltaic projects in the procurement events specified in item (ii) of subparagraph (G) of paragraph (1) of subsection (c) of this Section and, after January 1, 2015, renewable energy credits from photovoltaic distributed generation projects in procurement events held under subsection (c) of this Section.

Each utility shall enter into binding contractual arrangements with the winning suppliers.

The procurement described in this subsection (d-5), including, but not limited to, the execution of all contracts procured, shall be completed no later than May 10, 2017. Based on the effective date of Public Act 99-906, the Agency and Commission may, as appropriate, modify the various dates and timelines under this subparagraph and subparagraphs (C) and (D) of this paragraph (1). The procurement and plan approval processes required by this subsection (d-5) shall be conducted in conjunction with the procurement and plan approval processes required by subsection (c) of this Section and Section 16-111.5 of the Public Utilities Act, to the extent practicable. Notwithstanding whether a procurement event is conducted under Section 16-111.5 of the Public Utilities Act, the Agency shall immediately initiate a procurement process on June 1, 2017 (the effective date of Public Act 99-906).

(D) Following the procurement event described in this paragraph (1) and consistent with subparagraph

(B) of this paragraph (1), the Agency shall calculate the payments to be made under each contract for the next delivery year based on the market price index for that delivery year. The Agency shall publish the payment calculations no later than May 25, 2017 and every May 25 thereafter.

(E) Notwithstanding the requirements of this subsection (d-5), the contracts executed under this subsection (d-5) shall provide that the zero emission facility may, as applicable, suspend or terminate performance under the contracts in the following instances:

(i) A zero emission facility shall be excused from its performance under the contract for any cause beyond the control of the resource, including, but not restricted to, acts of God, flood, drought, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, acts of public enemy, explosions, orders, regulations or restrictions imposed by governmental, military, or lawfully established civilian authorities, which, in any of the foregoing cases, by exercise of commercially reasonable efforts the zero emission facility could not reasonably have been expected to avoid, and which, by the exercise of commercially reasonable efforts, it has been unable to overcome. In such event, the zero emission facility shall be excused from performance for the duration of the event, including, but not limited to, delivery of zero emission credits, and no payment shall be due to the zero emission facility during the duration of the event.

(ii) A zero emission facility shall be permitted to terminate the contract if legislation is enacted into law by the General Assembly that imposes or authorizes a new tax, special assessment, or fee on the generation of electricity, the ownership or leasehold of a generating unit, or the privilege or occupation of such generation, ownership, or leasehold of generation units by a zero emission facility. However, the provisions of this item (ii) do not apply to any generally applicable tax, special assessment or fee, or requirements imposed by federal law.

(iii) A zero emission facility shall be permitted to terminate the contract in the event that the resource requires capital expenditures in excess of $40,000,000 that were neither known nor reasonably foreseeable at the time it executed the contract and that a prudent owner or operator of such resource would not undertake.

(iv) A zero emission facility shall be permitted to terminate the contract in the event the Nuclear Regulatory Commission terminates the resource's license.

(F) If the zero emission facility elects to terminate a contract under subparagraph (E) of this paragraph (1), then the Commission shall reopen the docket in which the Commission approved the zero emission standard procurement plan under subparagraph (C) of this paragraph (1) and, after notice and hearing, enter an order acknowledging the contract termination election if such termination is consistent with the provisions of this subsection (d-5).

(2) For purposes of this subsection (d-5), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (d-5), the total amount paid for electric service includes, without limitation, amounts paid for supply, transmission, distribution, surcharges, and add-on taxes.

Notwithstanding the requirements of this subsection (d-5), the contracts executed under this subsection (d-5) shall provide that the total of zero emission credits procured under a procurement plan shall be subject to the limitations of this paragraph (2). For each delivery year, the contractual volume receiving payments in such year shall be reduced for all retail customers based on the amount necessary to limit the net increase that delivery year to the costs of those credits included in the amounts paid by eligible retail customers in connection with electric service to no more than 1.65% of the amount paid per kilowatthour by eligible retail customers during the year ending May 31, 2009. The result of this computation shall apply to and reduce the procurement for all retail customers, and all those customers shall pay the same single, uniform cents per kilowatthour charge under subsection (k) of Section 16-108 of the Public Utilities Act. To arrive at a maximum dollar amount of zero emission credits to be paid for the particular delivery year, the resulting per kilowatthour amount shall be applied to the actual amount of kilowatthours of electricity delivered by the electric utility in the delivery year immediately prior to the procurement, to all retail customers in its service territory. Unpaid contractual volume for any delivery year shall be paid in any subsequent delivery year in which such payments can be made without exceeding the amount specified in this paragraph (2). The calculations required by this paragraph (2) shall be made only once for each procurement plan year. Once the determination as to the amount of zero emission credits to be paid is made based on the calculations set forth in this paragraph (2), no subsequent rate impact determinations shall be made and no adjustments to those contract amounts shall be allowed. All costs incurred under those contracts and in implementing this subsection (d-5) shall be recovered by the electric utility as provided in this Section.

No later than June 30, 2019, the Commission shall review the limitation on the amount of zero emission credits procured under this subsection (d-5) and report to the General Assembly its findings as to whether that limitation unduly constrains the procurement of cost-effective zero emission credits.

(3) Six years after the execution of a contract under this subsection (d-5), the Agency shall determine whether the actual zero emission credit payments received by the supplier over the 6-year period exceed the Average ZEC Payment. In addition, at the end of the term of a contract executed under this subsection (d-5), or at the time, if any, a zero emission facility's contract is terminated under subparagraph (E) of paragraph (1) of this subsection (d-5), then the Agency shall determine whether the actual zero emission credit payments received by the supplier over the term of the contract exceed the Average ZEC Payment, after taking into account any amounts previously credited back to the utility under this paragraph (3). If

the Agency determines that the actual zero emission credit payments received by the supplier over the relevant period exceed the Average ZEC Payment, then the supplier shall credit the difference back to the utility. The amount of the credit shall be remitted to the applicable electric utility no later than 120 days after the Agency's determination, which the utility shall reflect as a credit on its retail customer bills as soon as practicable; however, the credit remitted to the utility shall not exceed the total amount of payments received by the facility under its contract.

For purposes of this Section, the Average ZEC Payment shall be calculated by multiplying the quantity of zero emission credits delivered under the contract times the average contract price. The average contract price shall be determined by subtracting the amount calculated under subparagraph (B) of this paragraph (3) from the amount calculated under subparagraph (A) of this paragraph (3), as follows:

(A) The average of the Social Cost of Carbon, as defined in subparagraph (B) of paragraph (1) of this subsection (d-5), during the term of the contract.

(B) The average of the market price indices, as defined in subparagraph (B) of paragraph (1) of this subsection (d-5), during the term of the contract, minus the baseline market price index, as defined in subparagraph (B) of paragraph (1) of this subsection (d-5).

If the subtraction yields a negative number, then the Average ZEC Payment shall be zero.

(4) Cost-effective zero emission credits procured from zero emission facilities shall satisfy the applicable definitions set forth in Section 1-10 of this Act.

(5) The electric utility shall retire all zero emission credits used to comply with the requirements of this subsection (d-5).

(6) Electric utilities shall be entitled to recover all of the costs associated with the procurement of zero emission credits through an automatic adjustment clause tariff in accordance with subsection (k) and (m) of Section 16-108 of the Public Utilities Act, and the contracts executed under this subsection (d-5) shall provide that the utilities' payment obligations under such contracts shall be reduced if an adjustment is required under subsection (m) of Section 16-108 of the Public Utilities Act.

(7) This subsection (d-5) shall become inoperative on January 1, 2028.

(d-10) Nuclear Plant Assistance; carbon mitigation credits.

(1) The General Assembly finds:

(A) The health, welfare, and prosperity of all

Illinois citizens require that the State of Illinois act to avoid and not increase carbon emissions from electric generation sources while continuing to ensure affordable, stable, and reliable electricity to all citizens.

(B) Absent immediate action by the State to preserve existing carbon-free energy resources, those resources may retire, and the electric generation needs of Illinois' retail customers may be met instead by facilities that emit significant amounts of carbon pollution and other harmful air pollutants at a high social and economic cost until Illinois is able to develop other forms of clean energy.

(C) The General Assembly finds that nuclear power generation is necessary for the State's transition to 100% clean energy, and ensuring continued operation of nuclear plants advances environmental and public health interests through providing carbon-free electricity while reducing the air pollution profile of the Illinois energy generation fleet.

(D) The clean energy attributes of nuclear generation facilities support the State in its efforts to achieve 100% clean energy.

(E) The State currently invests in various forms of clean energy, including, but not limited to, renewable energy, energy efficiency, and low-emission vehicles, among others.

(F) The Environmental Protection Agency commissioned an independent audit which provided a detailed assessment of the financial condition of the Illinois nuclear fleet to evaluate its financial viability and whether the environmental benefits of such resources were at risk. The report identified the risk of losing the environmental benefits of several specific nuclear units. The report also identified that the LaSalle County Generating Station will continue to operate through 2026 and therefore is not eligible to participate in the carbon mitigation credit program.

(G) Nuclear plants provide carbon-free energy, which helps to avoid many health-related negative impacts for Illinois residents.

(H) The procurement of carbon mitigation credits representing the environmental benefits of carbon-free generation will further the State's efforts at achieving 100% clean energy and decarbonizing the electricity sector in a safe, reliable, and affordable manner. Further, the procurement of carbon emission credits will enhance the health and welfare of Illinois residents through decreased reliance on more highly polluting generation.

(I) The General Assembly therefore finds it necessary to establish carbon mitigation credits to ensure decreased reliance on more carbon-intensive energy resources, for transitioning to a fully decarbonized electricity sector, and to help ensure health and welfare of the State's residents.

(2) As used in this subsection:

"Baseline costs" means costs used to establish a customer protection cap that have been evaluated through an independent audit of a carbon-free energy resource conducted by the Environmental Protection Agency that evaluated projected annual costs for operation and maintenance expenses; fully allocated overhead costs, which shall be allocated using the methodology developed by the Institute for Nuclear Power Operations; fuel expenditures; nonfuel capital expenditures; spent fuel expenditures; a return on working capital; the cost of operational and market risks that could be avoided by ceasing operation; and any other costs necessary for continued operations, provided that "necessary" means, for purposes of this definition, that the costs could reasonably be avoided only by ceasing operations of the carbon-free energy resource.

"Carbon mitigation credit" means a tradable credit that represents the carbon emission reduction attributes of one megawatt-hour of energy produced from a carbon-free energy resource.

"Carbon-free energy resource" means a generation facility that: (1) is fueled by nuclear power; and (2) is interconnected to PJM Interconnection, LLC.

(3) Procurement.

(A) Beginning with the delivery year commencing on

June 1, 2022, the Agency shall, for electric utilities serving at least 3,000,000 retail customers in the State, seek to procure contracts for no more than approximately 54,500,000 cost-effective carbon mitigation credits from carbon-free energy resources because such credits are necessary to support current levels of carbon-free energy generation and ensure the State meets its carbon dioxide emissions reduction goals. The Agency shall not make a partial award of a contract for carbon mitigation credits covering a fractional amount of a carbon-free energy resource's projected output.

(B) Each carbon-free energy resource that intends to participate in a procurement shall be required to submit to the Agency the following information for the resource on or before the date established by the Agency:

(i) the in-service date and remaining useful life of the carbon-free energy resource;

(ii) the amount of power generated annually for each of the past 10 years, which shall be used to determine the capability of each facility;

(iii) a commitment to be reflected in any contract entered into pursuant to this subsection (d-10) to continue operating the carbon-free energy resource at a capacity factor of at least 88% annually on average for the duration of the contract or contracts executed under the procurement held under this subsection (d-10), except in an instance described in subparagraph (E) of paragraph (1) of subsection (d-5) of this Section or made impracticable as a result of compliance with law or regulation;

(iv) financial need and the risk of loss of the environmental benefits of such resource, which shall include the following information:

(I) the carbon-free energy resource's cost projections, expressed on a per megawatt-hour basis, over the next 5 delivery years, which shall include the following: operation and maintenance expenses; fully allocated overhead costs, which shall be allocated using the methodology developed by the Institute for Nuclear Power Operations; fuel expenditures; nonfuel capital expenditures; spent fuel expenditures; a return on working capital; the cost of operational and market risks that could be avoided by ceasing operation; and any other costs necessary for continued operations, provided that "necessary" means, for purposes of this subitem (I), that the costs could reasonably be avoided only by ceasing operations of the carbon-free energy resource; and

(II) the carbon-free energy resource's revenue projections, including energy, capacity, ancillary services, any other direct State support, known or anticipated federal attribute credits, known or anticipated tax credits, and any other direct federal support.

The information described in this subparagraph (B) may be submitted on a confidential basis and shall be treated and maintained by the Agency, the procurement administrator, and the Commission as confidential and proprietary and exempt from disclosure under subparagraphs (a) and (g) of paragraph (1) of Section 7 of the Freedom of Information Act. The Office of the Attorney General shall have access to, and maintain the confidentiality of, such information pursuant to Section 6.5 of the Attorney General Act.

(C) The Agency shall solicit bids for the contracts described in this subsection (d-10) from carbon-free energy resources that have satisfied the requirements of subparagraph (B) of this paragraph (3). The contracts procured pursuant to a procurement event shall reflect, and be subject to, the following terms, requirements, and limitations:

(i) Contracts are for delivery of carbon mitigation credits, and are not energy or capacity sales contracts requiring physical delivery. Pursuant to item (iii), contract payments shall fully deduct the value of any monetized federal production tax credits, credits issued pursuant to a federal clean energy standard, and other federal credits if applicable.

(ii) Contracts for carbon mitigation credits shall commence with the delivery year beginning on June 1, 2022 and shall be for a term of 5 delivery years concluding on May 31, 2027.

(iii) The price per carbon mitigation credit to be paid under a contract for a given delivery year shall be equal to an accepted bid price less the sum of:

(I) one of the following energy price indices, selected by the bidder at the time of the bid for the term of the contract:

(aa) the weighted-average hourly day-ahead price for the applicable delivery year at the busbar of all resources procured pursuant to this subsection (d-10), weighted by actual production from the resources; or

(bb) the projected energy price for the PJM Interconnection, LLC Northern Illinois Hub for the applicable delivery year determined according to subitem (aa) of item (iii) of subparagraph (B) of paragraph (1) of subsection (d-5).

(II) the Base Residual Auction Capacity Price for the ComEd zone as determined by PJM Interconnection, LLC, divided by 24 hours per day, for the applicable delivery year for the first 3 delivery years, and then any subsequent delivery years unless the PJM Interconnection, LLC applies the Minimum Offer Price Rule to participating carbon-free energy resources because they supply carbon mitigation credits pursuant to this Section at which time, upon notice by the carbon-free energy resource to the Commission and subject to the Commission's confirmation, the value under this subitem shall be zero, as further described in the carbon mitigation credit procurement plan; and

(III) any value of monetized federal tax credits, direct payments, or similar subsidy provided to the carbon-free energy resource from any unit of government that is not already reflected in energy prices.

If the price-per-megawatt-hour calculation performed under item (iii) of this subparagraph (C) for a given delivery year results in a net positive value, then the electric utility counterparty to the contract shall multiply such net value by the applicable contract quantity and remit the amount to the supplier.

To protect retail customers from retail rate impacts that may arise upon the initiation of carbon policy changes, if the price-per-megawatt-hour calculation performed under item (iii) of this subparagraph (C) for a given delivery year results in a net negative value, then the supplier counterparty to the contract shall multiply such net value by the applicable contract quantity and remit such amount to the electric utility counterparty. The electric utility shall reflect such amounts remitted by suppliers as a credit on its retail customer bills as soon as practicable.

(iv) To ensure that retail customers in Northern Illinois do not pay more for carbon mitigation credits than the value such credits provide, and notwithstanding the provisions of this subsection (d-10), the Agency shall not accept bids for contracts that exceed a customer protection cap equal to the baseline costs of carbon-free energy resources.

The baseline costs for the applicable year shall be the following:

(I) For the delivery year beginning June 1, 2022, the baseline costs shall be an amount equal to $30.30 per megawatt-hour.

(II) For the delivery year beginning June 1, 2023, the baseline costs shall be an amount equal to $32.50 per megawatt-hour.

(III) For the delivery year beginning June 1, 2024, the baseline costs shall be an amount equal to $33.43 per megawatt-hour.

(IV) For the delivery year beginning June 1, 2025, the baseline costs shall be an amount equal to $33.50 per megawatt-hour.

(V) For the delivery year beginning June 1, 2026, the baseline costs shall be an amount equal to $34.50 per megawatt-hour.

An Environmental Protection Agency consultant forecast, included in a report issued April 14, 2021, projects that a carbon-free energy resource has the opportunity to earn on average approximately $30.28 per megawatt-hour, for the sale of energy and capacity during the time period between 2022 and 2027. Therefore, the sale of carbon mitigation credits provides the opportunity to receive an additional amount per megawatt-hour in addition to the projected prices for energy and capacity.

Although actual energy and capacity prices may vary from year-to-year, the General Assembly finds that this customer protection cap will help ensure that the cost of carbon mitigation credits will be less than its value, based upon the social cost of carbon identified in the Technical Support Document issued in February 2021 by the U.S. Interagency Working Group on Social Cost of Greenhouse Gases and the PJM Interconnection, LLC carbon dioxide marginal emission rate for 2020, and that a carbon-free energy resource receiving payment for carbon mitigation credits receives no more than necessary to keep those units in operation.

(D) No later than 7 days after the effective date of this amendatory Act of the 102nd General Assembly, the Agency shall publish its proposed carbon mitigation credit procurement plan. The Plan shall provide that winning bids shall be selected by taking into consideration which resources best match public interest criteria that include, but are not limited to, minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the citizens of this State. The selection of winning bids shall also take into account the incremental environmental benefits resulting from the procurement or procurements, such as any existing environmental benefits that are preserved by a procurement held under this subsection (d-10) and would cease to exist if the procurement were not held, including the preservation of carbon-free energy resources. For those bidders having the same public interest criteria score, the relative ranking of such bidders shall be determined by price. The Plan shall describe in detail how each public interest factor shall be considered and weighted in the bid selection process to ensure that the public interest criteria are applied to the procurement. The Plan shall, to the extent practical and permissible by federal law, ensure that successful bidders make commercially reasonable efforts to apply for federal tax credits, direct payments, or similar subsidy programs that support carbon-free generation and for which the successful bidder is eligible. Upon publishing of the carbon mitigation credit procurement plan, copies of the plan shall be posted and made publicly available on the Agency's website. All interested parties shall have 7 days following the date of posting to provide comment to the Agency on the plan. All comments shall be posted to the Agency's website. Following the end of the comment period, but no more than 19 days later than the effective date of this amendatory Act of the 102nd General Assembly, the Agency shall revise the plan as necessary based on the comments received and file its carbon mitigation credit procurement plan with the Commission.

(E) If the Commission determines that the plan is likely to result in the procurement of cost-effective carbon mitigation credits, then the Commission shall, after notice and hearing and opportunity for comment, but no later than 42 days after the Agency filed the plan, approve the plan or approve it with modification. For purposes of this subsection (d-10), "cost-effective" means carbon mitigation credits that are procured from carbon-free energy resources at prices that are within the limits specified in this paragraph (3). As part of the Commission's review and acceptance or rejection of the procurement results, the Commission shall, in its public notice of successful bidders:

(i) identify how the selected carbon-free energy resources satisfy the public interest criteria described in this paragraph (3) of minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the citizens of this State;

(ii) specifically address how the selection of carbon-free energy resources takes into account the incremental environmental benefits resulting from the procurement, including any existing environmental benefits that are preserved by the procurements held under this amendatory Act of the 102nd General Assembly and would have ceased to exist if the procurements had not been held, such as the preservation of carbon-free energy resources;

(iii) quantify the environmental benefit of preserving the carbon-free energy resources procured pursuant to this subsection (d-10), including the following:

(I) an assessment value of avoided greenhouse gas emissions measured as the product of the carbon-free energy resources' output over the contract term, using generally accepted methodologies for the valuation of avoided emissions; and

(II) an assessment of costs of replacement with other carbon-free energy resources and renewable energy resources, including wind and photovoltaic generation, based upon an assessment of the prices paid for renewable energy credits through programs and procurements conducted pursuant to subsection (c) of Section 1-75 of this Act, and the additional storage necessary to produce the same or similar capability of matching customer usage patterns.

(F) The procurements described in this paragraph (3), including, but not limited to, the execution of all contracts procured, shall be completed no later than December 3, 2021. The procurement and plan approval processes required by this paragraph (3) shall be conducted in conjunction with the procurement and plan approval processes required by Section 16-111.5 of the Public Utilities Act, to the extent practicable. However, the Agency and Commission may, as appropriate, modify the various dates and timelines under this subparagraph and subparagraphs (D) and (E) of this paragraph (3) to meet the December 3, 2021 contract execution deadline. Following the completion of such procurements, and consistent with this paragraph (3), the Agency shall calculate the payments to be made under each contract in a timely fashion.

(F-1) Costs incurred by the electric utility pursuant to a contract authorized by this subsection (d-10) shall be deemed prudently incurred and reasonable in amount, and the electric utility shall be entitled to full cost recovery pursuant to a tariff or tariffs filed with the Commission.

(G) The counterparty electric utility shall retire all carbon mitigation credits used to comply with the requirements of this subsection (d-10).

(H) If a carbon-free energy resource is sold to another owner, the rights, obligations, and commitments under this subsection (d-10) shall continue to the subsequent owner.

(I) This subsection (d-10) shall become inoperative on January 1, 2028.

(d-20) Energy storage system portfolio standard.

(1) The General Assembly finds that the deployment of energy storage systems is necessary to successfully integrate high levels of renewable energy, to avoid the creation and increase of carbon emissions from electric

generation sources, and to ensure affordable, stable, clean, reliable, and resilient electricity.

(2) The Agency shall develop an energy storage system resources procurement plan that includes the competitive procurement events, procurement programs, or both, as necessary (i) to meet the goals set forth in this subsection (d-20), (ii) to meet the planning requirements established under Sections 16-201 and 16-202 of the Public Utilities Act, (iii) to meet the clean energy policy established by Public Act 102-662, and (iv) to cause electric utilities serving more than 300,000 customers in the State as of January 1, 2019 to contract for energy storage resources. The energy storage system resources procurement plan approval processes shall be conducted consistent with the processes outlined in paragraph (6) of subsection (b) of Section 16-111.5 of the Public Utilities Act, with the initial energy storage system resources procurement plan released for comment in calendar year 2027. The Agency shall review and may revise the energy storage system resources procurement plan at least every 2 years. The Agency shall establish, and the Commission shall approve or approve as modified, an energy storage system resources procurement plan that includes:

(A) storage targets in addition to the initial procurements specified in paragraph (3) of this subsection (d-20) at levels identified through the integrated resource planning process outlined in Section 16-202 of the Public Utilities Act;

(B) a bid selection process that is based on the bid price, when compared with an equal energy storage duration and interconnected to the same independent system operator (ISO) or regional transmission organization (RTO), and that may provide for consideration of the following:

(i) the project's viability and ability to meet or exceed operational date targets;

(ii) the developer's experience;

(iii) requirements for demonstration of binding site control that are sufficient for proposed energy storage facilities;

(iv) the availability or dependence on any transmission expansion or upgrades needed; and

(v) other resource adequacy and reliability considerations;

(C) consideration of the need to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time;

(D) proposals for the financial support of energy storage systems using contract models, which may include, but are not limited to, the following:

(i) an indexed storage credit procurement, including payments to energy storage system owners or operators with any offsets and refunds for potential energy and capacity revenues;

(ii) support for energy storage system resources through contract structures that do not create contractual obligations on utilities that are not contingent on full and timely cost recovery, that avoid negative financial impacts on the utilities, and that are agreed upon by the utilities; and

(iii) other approaches as deemed suitable by the Agency and the Commission; and

(E) consideration that the Agency may include a methodology that could prioritize procurement of energy storage resources that are located in communities eligible to receive Energy Transition Community Grants pursuant to Section 10-20 of the Energy Community Reinvestment Act.

In developing its procurement plan and conducting the storage procurements outlined in this paragraph (2) and in paragraph (3), the Agency may use the services of expert consulting firms identified in paragraphs (1) and (2) of subsection (a) of this Section.

(3) Notwithstanding whether an energy storage system resources procurement plan has been approved, the following provisions shall apply to the Agency's initial

procurement of energy storage system resources under this subsection (d-20):

(A) The Agency shall conduct an initial energy storage procurement on or before August 26, 2026 or 90 days after the effective date of this amendatory Act of the 104th General Assembly, whichever is earlier. For the purposes of this initial energy storage procurement, the Agency shall conduct a procurement that results in electric utilities that served more than 300,000 customers in the State as of January 1, 2019 contracting for at least 1,038 megawatts of cost-effective stand-alone energy storage systems that can achieve commercial operation on or before December 31, 2029 or an alternative date proposed by the Agency that is no later than December 31, 2030. The procurement target shall be separated for projects interconnected within Midcontinent Independent System Operator Local Resource Zone 4 (MISO Zone 4) and for projects interconnected within the PJM Interconnection, LLC ComEd Locational Deliverability Area (PJM ComEd Area) as follows:

(i) 450 megawatts in MISO Zone 4; and

(ii) 588 megawatts in the PJM ComEd Area.

For purposes of this subsection (d-20), "stand-alone" means systems that are (i) separately metered by a revenue-quality meter that satisfies the requirements of the RTO; (ii) operate independently without constraints or hindrances from other generation units; and (iii) demonstrate the ability to charge and discharge independent of any generation unit output.

(B) The Agency shall conduct a series of additional energy storage procurements that result in electric utilities contracting for energy storage resources in an amount of 3,000 megawatts of cumulative energy storage capacity for projects committed to reaching commercial operation on or before December 31, 2030, or an alternative date proposed by the Agency, subject to extension for a delay due to interconnection of the energy storage system, a delay in obtaining permits necessary to build or operate the energy storage system, or other circumstances at the discretion of the Agency.

The additional energy storage resources procurements shall be conducted in calendar years 2027 and 2028 in a manner that ensures the quantities listed in this subparagraph (B), and as updated in the integrated resource plan approved by the Commission pursuant to Section 16-201 of the Public Utilities Act, are met in the specified timeframe. To the extent the integrated resource planning process outlined in Section 16-202 of the Public Utilities Act authorizes energy storage system procurement amounts above the amount identified in this subparagraph (B), the Agency shall conduct additional energy storage procurements in 2028, 2029, 2030, and thereafter that result in electric utilities contracting for energy storage resources at those additional identified levels. The procurements shall be conducted in a manner that maximizes projects available in the MISO and PJM queues, ensures the likelihood of project development through the development of project maturity requirements, enables sufficient competition for price competitiveness, and aligns to the extent practicable with regional transmission organization study phases. The procurements shall select projects interconnected to MISO Zone 4 and the PJM ComEd Area and shall follow either (i) a similar geographic split to the ratio of quantities established in subparagraph (A) of this paragraph (3), (ii) an alternative geographic split proposed by the Agency based on project availability in advanced stages of the MISO and PJM queues, or (iii) that is informed by MISO and PJM planning activities, auctions, or reports that indicate capacity resource shortages or impending shortages and that reflect the assessments made through the processes outlined in subparagraph (A) of paragraph (2). The additional energy storage capacity procurements may be adjusted upward if determined necessary through the planning process outlined in Section 16-201 of the Public Utilities Act at times determined by the Commission.

(C) The initial energy storage resources procurement under subparagraph (A) of this paragraph (3) shall adopt a standard indexed storage credit contract modeled after the contract and follow a process modeled after the process included in the staff report submitted to the Governor, General Assembly, and Commission pursuant to subsection (g) of Section 16-135 of the Public Utilities Act on May 1, 2025. In developing the procurement rules and procurement process for the initial procurement, the Agency shall provide an opportunity for comment on the indexed storage credit contract included in the May 1, 2025 staff report and shall adopt modifications to the contract consistent with the process outlined in paragraph (2) of subsection (e) of Section 16-111.5 of the Public Utilities Act.

(D) For the additional energy storage resources procurements conducted in accordance with subparagraph (B) of this paragraph (3), the Agency may, among other considerations, consider other contract structures if such contract structures and agreements do not create contractual obligations on utilities that are not contingent on full and timely cost recovery, avoid negative financial impacts on the utilities, and are agreed upon by the participating utility.

(E) The initial and additional energy storage resources procurements under this paragraph (3) shall solicit 20-year contracts.

(F) The Agency shall submit its proposed selection of successful bids for each procurement event pursuant to paragraphs (2) and (3) to the Commission for approval consistent with the processes outlined in Section 16-111.5 of the Public Utilities Act to the extent practicable.

(4) The energy storage system resources procurement plans developed by the Agency may consider alternatives to the initial and additional procurement terms described in paragraph (3) of this subsection (d-20), including, but not limited to:

(A) alternatives to the standard indexed storage credit contract used in the initial terms described in subparagraph (C) of paragraph (3) of this subsection (d-20);

(B) energy storage systems that are not stand-alone;

(C) proportionate allocations between MISO Zone 4 and the PJM ComEd Area that are not based upon load share, including allocations reflecting the assessments made through the processes outlined in subparagraph (A) of paragraph (2);

(D) contract lengths other than 20 years;

(E) energy storage system durations other than 4 hours; and

(F) energy storage systems connected to the distribution systems of the electric utilities.

The Agency may propose specific timelines for energy storage system resources procurements, which may differ across RTO zones, that are based in part upon a consideration of (i) the timing of the release of interconnection cost information through both MISO and PJM interconnection queue processes, (ii) factors that maximize the likelihood of successful project development, (iii) enabling sufficient competition for price competitiveness, and (iv) aligning to the extent practicable with RTO study phases.

(5) The Agency shall procure cost-effective energy storage credits or other contract instruments intended to facilitate the successful development of energy storage projects. The procurement administrator shall establish confidential price benchmarks based on publicly available data on regional technology costs. Confidential price benchmarks shall be developed by the procurement administrator, in consultation with Commission staff, Agency staff, and the procurement monitor, and shall be subject to Commission review and approval. Price

benchmarks shall reflect development costs, financing costs, and related costs resulting from requirements imposed through other provisions of State law. As used in this paragraph (5), "cost-effective" means a bidder's bid price that does not exceed confidential price benchmarks.

(6) All procurements under this subsection (d-20) shall comply with the geographic requirements in subparagraph (I) of paragraph (1) of subsection (c) of Section 1-75 and shall follow the procurement processes and procedures described in this Section and Section 16-111.5 of the Public Utilities Act, to the extent practicable. The processes and procedures may be expedited to accommodate the schedule established by this Section. The Agency shall require all bidders to pay to the Agency a nonrefundable deposit determined by the Agency and no less than $10,000 per bid as practical. The Agency may also assess bidder and supplier fees to cover the cost of procurement events and develop collateral requirements to maximize the likelihood of successful project development. Bidders in the initial and additional procurements described in paragraph (3) of this subsection (d-20) shall also demonstrate experience in developing to commercial readiness. As used in this paragraph (6), "developing to commercial readiness" means having notice to proceed in owning or operating energy facilities with a combined nameplate capacity of at least 100 megawatts.

(7) In order to advance priority access to the clean energy economy for businesses and workers from communities that have been excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes, the Agency shall apply its equity accountability system and minimum equity standards established under subsections (c-10), (c-15), (c-20), (c-25), and (c-30) of this Section to energy storage procurement and programs and may include any proposed modifications to the equity accountability system and minimum equity standards that may be warranted with respect to energy storage resources in its plan submission to the Commission under Section 16-111.5 of the Public Utilities Act.

(8) Projects shall be developed in compliance with the prevailing wage and project labor agreement requirements for renewable energy projects in subparagraph (Q) of paragraph (1) of subsection (c) of Section 1-75.

(9) An entity operating an energy storage facility shall demonstrate that it has entered into a labor peace agreement with a bona fide labor organization that is actively engaged in representing its employees. The labor peace agreement shall apply to the employees necessary for the ongoing maintenance and operation of the energy storage facility. The existence of a labor peace agreement

shall be an ongoing material condition of an entity's authorization to maintain and operate the energy storage facility.

(10) In order to promote the competitive development of energy storage systems in furtherance of the State's interest in the health, safety, and welfare of its residents, storage credits shall not be eligible to be selected under this subsection (d-20) if the energy storage resources are sourced from an energy storage system whose costs were being recovered through rates regulated by the State or any other state or states on or after January 1, 2017. No entity shall be permitted to bid unless it certifies to the Agency that it is not an electric utility, as defined in Section 16-102 of the Public Utilities Act, serving more than 10,000 customers in the State.

(11) The Agency shall require, as a prerequisite to payment for any storage credits, that the winning bidder provide the Agency or its designee a copy of the interconnection agreement under which the applicable energy storage system is connected to the transmission or distribution system.

(12) Contracts shall provide that, if the cost recovery mechanism referenced in subsection (k) of Section 16-108 of the Public Utilities Act remains in full force without amendment or the utility is otherwise authorized

or entitled to full, prompt, and uninterrupted recovery of its costs through any other mechanism, then such seller shall be entitled to full, prompt, and uninterrupted payment under the applicable contract notwithstanding the application of this paragraph (12).

(e) The draft procurement plans are subject to public comment, as required by Section 16-111.5 of the Public Utilities Act.

(f) The Agency shall submit the final procurement plan to the Commission. The Agency shall revise a procurement plan if the Commission determines that it does not meet the standards set forth in Section 16-111.5 of the Public Utilities Act.

(g) The Agency shall assess fees to each affected utility to recover the costs incurred in preparation of procurement plans and in the operation of programs.

(h) The Agency shall assess fees to each bidder to recover the costs incurred in connection with a competitive procurement process.

(i) A renewable energy credit, carbon emission credit, zero emission credit, or carbon mitigation credit can only be used once to comply with a single portfolio or other standard as set forth in subsection (c), subsection (d), or subsection (d-5) of this Section, respectively. A renewable energy credit, carbon emission credit, zero emission credit, or carbon mitigation credit cannot be used to satisfy the requirements of more than one standard. If more than one type of credit is issued for the same megawatt hour of energy, only one credit can be used to satisfy the requirements of a single standard. After such use, the credit must be retired together with any other credits issued for the same megawatt hour of energy.

(Source: P.A. 103-380, eff. 1-1-24; 103-580, eff. 12-8-23; 103-1066, eff. 2-20-25; 104-458, eff. 6-1-26.)

Section 30. The Illinois Procurement Code is amended by changing Section 15-35 as follows:

(30 ILCS 500/15-35)

Sec. 15-35. Vendor portal. Each chief procurement officer may, in consultation with the agencies under his or her jurisdiction and the Procurement Policy Board, establish a vendor portal. The vendor portal shall allow a potential vendor to provide certifications, disclosures, registrations, and other documentation needed to do business with a State agency in advance of any particular procurement. A potential vendor who registers with the vendor portal and provides this information may submit its registration number, with a confirmation that the portal information remains current, as part of its response to a competitive selection or a contracting process, rather than submit the same information in full. One or more chief procurement officers may jointly operate a vendor portal if a single portal would better serve the needs of the State agencies and the vendor community. A chief procurement officer may accept, for use on procurements and contracts under his or her jurisdiction, the registration from another chief procurement officer's vendor portal. This Section applies notwithstanding any laws to the contrary except for later enacted laws that specifically refer to this Section.

Nothing in this Section shall preclude a State agency from implementing its own pre-qualification, certification, disclosure, and registration requirements necessary to conduct and manage its program operation.

This Section does not apply to any contract for any project as to which federal funds are available for expenditure when its provisions may be in conflict with federal law or federal regulation.

Notwithstanding any other provision of law, the vendor portal for the Department of Transportation shall include any locally applicable project labor agreement requirements.

(Source: P.A. 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

Section 35. The Illinois Income Tax Act is amended by changing Section 214 as follows:

(35 ILCS 5/214)

Sec. 214. Tax credit for affordable housing donations.

(a) Beginning with taxable years ending on or after

December 31, 2001 and until the taxable year ending on December 31, 2026, a taxpayer who makes a donation under Section 7.28 of the Illinois Housing Development Act is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 in an amount equal to 50% of the value of the donation. For taxable years ending before December 31, 2023, partners, shareholders of subchapter S corporations, and owners of limited liability companies (if the limited liability company is treated as a partnership for purposes of federal and State income taxation) are entitled to a credit under this Section to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 703 and subchapter S of the Internal Revenue Code. For taxable years ending on or after December 31, 2023, partners and shareholders of subchapter S corporations are entitled to a credit under this Section as provided in Section 251. Persons or entities not subject to the tax imposed by subsections (a) and (b) of Section 201 and who make a donation under Section 7.28 of the Illinois Housing Development Act are entitled to a credit as described in this subsection and may transfer that credit as described in subsection (c).

(b) If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The tax credit shall be applied to the earliest year for which there is a tax liability. If there are credits for more than one year that are available to offset a liability, the earlier credit shall be applied first.

(c) The transfer of the tax credit allowed under this Section may be made (i) to the purchaser of land that has been designated solely for affordable housing projects in accordance with the Illinois Housing Development Act or (ii) to another donor who has also made a donation in accordance with Section 7.28 of the Illinois Housing Development Act. Construction projects funded in whole or in part by the proceeds of tax credits transferred pursuant to this subsection shall be considered public works within the meaning of the Prevailing Wage Act, unless such construction projects are owner-occupied residential structures. This requirement applies only to the initial construction of the project and does not apply in perpetuity to either future modifications to the structure or other construction projects not funded by the proceeds of the transfer or sale of the credit.

(d) A taxpayer claiming the credit provided by this Section must maintain and record any information that the Department may require by regulation regarding the project for which the credit is claimed. When claiming the credit provided by this Section, the taxpayer must provide information regarding the taxpayer's donation to the project under the Illinois Housing Development Act.

(Source: P.A. 102-16, eff. 6-17-21; 102-175, eff. 7-29-21;

103-396, eff. 1-1-24.)

Section 40. The Illinois Educational Labor Relations Act is amended by changing Section 12 as follows:

(115 ILCS 5/12) (from Ch. 48, par. 1712)

Sec. 12. Impasse procedures.

(a) This subsection (a) applies only to collective bargaining between an educational employer that is not a public school district organized under Article 34 of the School Code and an exclusive representative of its employees. If the parties engaged in collective bargaining have not reached an agreement by 90 days before the scheduled start of the forthcoming school year, the parties shall notify the Illinois Educational Labor Relations Board concerning the status of negotiations. This notice shall include a statement on whether mediation has been used.

Upon demand of either party, collective bargaining between the employer and an exclusive bargaining representative must begin within 60 days of the date of certification of the representative by the Board, or in the case of an existing exclusive bargaining representative, within 60 days of the receipt by a party of a demand to bargain issued by the other party. Once commenced, collective bargaining must continue for at least a 60 day period, unless a contract is entered into.

Except as otherwise provided in subsection (b) of this

Section, if after a reasonable period of negotiation and within 90 days of the scheduled start of the forth-coming school year, the parties engaged in collective bargaining have reached an impasse, either party may petition the Board to initiate mediation. Alternatively, the Board on its own motion may initiate mediation during this period. However, mediation shall be initiated by the Board at any time when jointly requested by the parties and the services of the mediators shall continuously be made available to the employer and to the exclusive bargaining representative for purposes of arbitration of grievances and mediation or arbitration of contract disputes. If requested by the parties, the mediator may perform fact-finding and in so doing conduct hearings and make written findings and recommendations for resolution of the dispute. Such mediation shall be provided by the Board and shall be held before qualified impartial individuals. Nothing prohibits the use of other individuals or organizations such as the Federal Mediation and Conciliation Service, the Illinois Department of Labor, or the American Arbitration Association selected by both the exclusive bargaining representative and the employer.

If the parties engaged in collective bargaining fail to reach an agreement within 45 days of the scheduled start of the forthcoming school year and have not requested mediation, the Illinois Educational Labor Relations Board shall invoke mediation.

Whenever mediation is initiated or invoked under this subsection (a), the parties may stipulate to defer selection of a mediator in accordance with rules adopted by the Board.

(a-5) This subsection (a-5) applies only to collective bargaining between a public school district or a combination of public school districts, including, but not limited to, joint cooperatives, that is not organized under Article 34 of the School Code and an exclusive representative of its employees.

(1) Any time 15 days after mediation has commenced, either party may initiate the public posting process. The mediator may initiate the public posting process at any time 15 days after mediation has commenced during the mediation process. Initiation of the public posting process must be filed in writing with the Board, and copies must be submitted to the parties on the same day the initiation is filed with the Board.

(2) Within 7 days after the initiation of the public posting process, each party shall submit to the mediator, the Board, and the other party in writing the most recent offer of the party, including a cost summary of the offer. Seven days after receipt of the parties' offers, the Board shall make public the offers and each party's cost summary dealing with those issues on which the parties have failed to reach agreement by immediately posting the offers on its Internet website, unless otherwise notified by the

mediator or jointly by the parties that agreement has been reached. On the same day of publication by the Board, at a minimum, the school district shall distribute notice of the availability of the offers on the Board's Internet website to all news media that have filed an annual request for notices from the school district pursuant to Section 2.02 of the Open Meetings Act. The parties' offers shall remain on the Board's Internet website until the parties have reached and ratified an agreement.

(a-10) This subsection (a-10) applies only to collective bargaining between a public school district organized under Article 34 of the School Code and an exclusive representative of its employees, other than educational employees who are forbidden from striking under this Act. For educational employees who are forbidden from striking, either the employer or exclusive representative may elect to utilize the fact-finding procedures set forth in this subsection (a-10), except as otherwise specified in paragraph (5) of this subsection (a-10).

(1) For collective bargaining agreements between an educational employer to which this subsection (a-10) applies and an exclusive representative of its employees, if the parties fail to reach an agreement after a reasonable period of mediation, the dispute shall be submitted to fact-finding in accordance with this subsection (a-10). Either the educational employer or the

exclusive representative may initiate fact-finding by submitting a written demand to the other party with a copy of the demand submitted simultaneously to the Board.

(2) Within 3 days following a party's demand for fact-finding, each party shall appoint one member of the fact-finding panel, unless the parties agree to proceed without a tri-partite panel. Following these appointments, if any, the parties shall select a qualified impartial individual to serve as the fact-finder and chairperson of the fact-finding panel, if applicable. An individual shall be considered qualified to serve as the fact-finder and chairperson of the fact-finding panel, if applicable, if he or she was not the same individual who was appointed as the mediator and if he or she satisfies the following requirements: membership in good standing with the National Academy of Arbitrators, Federal Mediation and Conciliation Service, or American Arbitration Association for a minimum of 10 years; membership on the mediation roster for the Illinois Labor Relations Board or Illinois Educational Labor Relations Board; issuance of at least 5 interest arbitration awards arising under the Illinois Public Labor Relations Act; and participation in impasse resolution processes arising under private or public sector collective bargaining statutes in other states. If the parties are unable to agree on a fact-finder, the parties shall request a panel of fact-finders who satisfy

the requirements set forth in this paragraph (2) from either the Federal Mediation and Conciliation Service or the American Arbitration Association and shall select a fact-finder from such panel in accordance with the procedures established by the organization providing the panel.

(3) The fact-finder shall have the following duties and powers:

(A) to require the parties to submit a statement of disputed issues and their positions regarding each issue either jointly or separately;

(B) to identify disputed issues that are economic in nature;

(C) to meet with the parties either separately or in executive sessions;

(D) to conduct hearings and regulate the time, place, course, and manner of the hearings;

(E) to request the Board to issue subpoenas requiring the attendance and testimony of witnesses or the production of evidence;

(F) to administer oaths and affirmations;

(G) to examine witnesses and documents;

(H) to create a full and complete written record of the hearings;

(I) to attempt mediation or remand a disputed issue to the parties for further collective bargaining;

(J) to require the parties to submit final offers for each disputed issue either individually or as a package or as a combination of both; and

(K) to employ any other measures deemed appropriate to resolve the impasse.

(4) If the dispute is not settled within 75 days after the appointment of the fact-finding panel, the fact-finding panel shall issue a private report to the parties that contains advisory findings of fact and recommended terms of settlement for all disputed issues and that sets forth a rationale for each recommendation. The fact-finding panel, acting by a majority of its members, shall base its findings and recommendations upon the following criteria as applicable:

(A) the lawful authority of the employer;

(B) the federal and State statutes or local ordinances and resolutions applicable to the employer;

(C) prior collective bargaining agreements and the bargaining history between the parties;

(D) stipulations of the parties;

(E) the interests and welfare of the public and the students and families served by the employer;

(F) the employer's financial ability to fund the proposals based on existing available resources, provided that such ability is not predicated on an assumption that lines of credit or reserve funds are available or that the employer may or will receive or develop new sources of revenue or increase existing sources of revenue;

(G) the impact of any economic adjustments on the employer's ability to pursue its educational mission;

(H) the present and future general economic conditions in the locality and State;

(I) a comparison of the wages, hours, and conditions of employment of the employees involved in the dispute with the wages, hours, and conditions of employment of employees performing similar services in public education in the 10 largest U.S. cities, except that for educational employees who are forbidden to strike, this comparison shall be based on comparable communities;

(J) the average consumer prices in urban areas for goods and services, which is commonly known as the cost of living;

(K) the overall compensation presently received by the employees involved in the dispute, including direct wage compensation; vacations, holidays, and other excused time; insurance and pensions; medical and hospitalization benefits; the continuity and stability of employment and all other benefits received; and how each party's proposed compensation structure supports the educational goals of the district, however for educational employees who are forbidden from striking, this analysis shall also include all other employees who are employed by the educational employer;

(L) changes in any of the circumstances listed in items (A) through (K) of this paragraph (4) during the fact-finding proceedings;

(M) the effect that any term the parties are at impasse on has or may have on the overall educational environment, learning conditions, and working conditions with the school district; and

(N) the effect that any term the parties are at impasse on has or may have in promoting the public policy of this State.

(5) The fact-finding panel's recommended terms of settlement shall be deemed agreed upon by the parties as the final resolution of the disputed issues and incorporated into the collective bargaining agreement executed by the parties, unless either party tenders to the other party and the chairperson of the fact-finding panel a notice of rejection of the recommended terms of settlement with a rationale for the rejection, within 15 days after the date of issuance of the fact-finding panel's report. With regard to educational employees who are forbidden from striking, if either party submits a

notice of rejection, either party may utilize mandatory interest arbitration proceedings established in subsection (e). For all other educational employees subject to this subsection (a-10), if either party submits a notice of rejection, the chairperson of the fact-finding panel shall publish the fact-finding panel's report and the notice of rejection for public information by delivering a copy to all newspapers of general circulation in the community with simultaneous written notice to the parties.

The changes made to this subsection (a-10) by this amendatory Act of the 103rd General Assembly apply only to collective bargaining agreements entered into, modified, extended, or renewed on or after the effective date of this amendatory Act of the 103rd General Assembly.

(b) (Blank).

(c) The costs of fact finding and mediation shall be shared equally between the employer and the exclusive bargaining agent, provided that, for purposes of mediation under this Act, if either party requests the use of mediation services from the Federal Mediation and Conciliation Service <u>or, if the Federal Mediation and Conciliation Service is unable to provide mediation services, from the Illinois Department of Labor</u>, the other party shall either join in such request or bear the additional cost of mediation services from another source. All other costs and expenses of complying with this Section must be borne by the party incurring them.

(c-5) If an educational employer or exclusive bargaining representative refuses to participate in mediation or fact finding when required by this Section, the refusal shall be deemed a refusal to bargain in good faith.

(d) Nothing in this Act prevents an employer and an exclusive bargaining representative from mutually submitting to final and binding impartial arbitration unresolved issues concerning the terms of a new collective bargaining agreement.

(e) This subsection only applies to collective bargaining between a public school district organized under Article 34 of the School Code and an exclusive representative of educational employees who are forbidden from striking under this Act after the parties reach impasse when bargaining an initial and any successor collective bargaining agreements. Educational employees who are forbidden from striking have the right to submit negotiation disputes regarding wages, hours, and conditions of employment that are mandatory subjects of bargaining for resolution through the following mandatory arbitration procedures:

(1) For collective bargaining agreements between an educational employer and exclusive representative, mediation shall commence 30 days prior to the expiration of a collective bargaining agreement; or upon 15 days' notice from either party; or at such later time as the mediation services chosen can be provided to the parties. In mediation under this Section, if either party requests

the use of mediation services from the Federal Mediation and Conciliation Service, the other party shall either join in such request or bear the additional cost of mediation services from another source. The mediator shall have a duty to keep the Board informed on the progress of the mediation. If any dispute has not been resolved within 15 days after the first meeting of the parties and the mediator, or within such other time limit as may be mutually agreed upon by the parties, either the exclusive representative or employer may request of the other, in writing, arbitration, and shall submit a copy of the request to the Board.

(2) Within 10 days after such a request for arbitration has been made, the educational employer shall choose a delegate and the employees' exclusive representative shall choose a delegate to a panel of arbitration as provided in this Section. The employer and employees shall forthwith advise the other and the Board of their selections. The parties may agree to waive the tripartite panel and use a sole arbitrator to resolve this issue.

(3) Within 7 days after the request of either party, the parties shall request a panel of impartial arbitrators from which they shall select the neutral chairperson, or sole arbitrator, according to the procedures provided in this Section. If the parties have agreed to a contract

that contains a grievance resolution procedure, the chairperson or sole arbitrator shall be selected using their agreed contract procedure unless they mutually agree to another procedure. If the parties fail to notify the Board of their selection of a neutral chairperson within 7 days after receipt of the list of impartial arbitrators, the Board shall appoint, at random, a neutral chairperson from the list. In the absence of an agreed contract procedure for selecting an impartial arbitrator, the parties shall submit a request to the Federal Mediation and Conciliation Service for a panel of 7 arbitrators who are members in good standing with the National Academy of Arbitrators, and have issued at least 5 interest arbitration awards arising under the Illinois Public Labor Relations Act or this Act. The parties shall conduct a coin toss to determine who strikes first, and the parties shall alternately strike arbitrators from the list until one remains. The parties shall promptly notify the Board of their selection.

(4) The chairperson or sole arbitrator shall call a hearing to begin within 15 days and give reasonable notice of the time and place of the hearing. The hearing shall be held at the offices of the Board or at such other location as the Board deems appropriate. The chairperson or sole arbitrator shall preside over the hearing and shall take testimony. Any oral or documentary evidence and other data

deemed relevant by the arbitration panel may be received in evidence. The proceedings shall be informal. Technical rules of evidence shall not apply and the competency of the evidence shall not thereby be deemed impaired. A verbatim record of the proceedings shall be made and the arbitrator shall arrange for the necessary recording service. Transcripts may be ordered at the expense of the party ordering them, but the transcripts shall not be necessary for a decision by the arbitration panel or sole arbitrator. The expense of the proceedings, including a fee for the chairperson or sole arbitrator, shall be borne equally by each of the parties to the dispute. The delegates, if public officers or employees, shall continue on the payroll of the public employer without loss of pay. The hearing conducted by the arbitration panel or sole arbitrator may be adjourned from time to time, but unless otherwise agreed by the parties, shall be concluded within 30 days of the time of its commencement. Majority actions and rulings shall constitute the actions and rulings of the arbitration panel. Arbitration proceedings under this Section shall not be interrupted or terminated by reason of any unfair labor practice charge filed by either party at any time.

(5) The arbitration panel or sole arbitrator may administer oaths, require the attendance of witnesses, and the production of such books, papers, contracts,

agreements, and documents as may be deemed by it material to a just determination of the issues in dispute, and for such purpose may issue subpoenas. If any person refuses to obey a subpoena, or refuses to be sworn or to testify, or if any witness, party, or attorney is guilty of any contempt while in attendance at any hearing, the arbitration panel or sole arbitrator may, or the Attorney General if requested shall, invoke the aid of any circuit court within the jurisdiction in which the hearing is being held, which court shall issue an appropriate order. Any failure to obey the order may be punished by the court as contempt.

(6) At any time before the rendering of an award, the chairperson of the arbitration panel or sole arbitrator, if the chairperson of the arbitration panel or sole arbitrator is of the opinion that it would be useful or beneficial to do so, may remand the dispute to the parties for further collective bargaining for a period not to exceed 2 weeks. If the dispute is remanded for further collective bargaining, the time provisions of this Act shall be extended for a time period equal to that of the remand. The chairperson of the arbitration panel or sole arbitrator shall notify the Board of the remand.

(7) At or before the conclusion of the hearing held pursuant to paragraph (4), the arbitration panel or sole arbitrator shall identify the economic issues in dispute,

and direct each of the parties to submit, within such time limit as the panel shall prescribe, to the arbitration panel or sole arbitrator and to each other its last offer of settlement on each economic issue. The determination of the arbitration panel or sole arbitrator as to the issues in dispute and as to which of these issues are economic shall be conclusive. The arbitration panel or sole arbitrator, within 30 days after the conclusion of the hearing, or such further additional periods to which the parties may agree, shall make written findings of fact and adopt a written opinion and shall mail or otherwise deliver a true copy thereof to the parties and their representatives and to the Board. As to each economic issue, the arbitration panel or sole arbitrator shall adopt the last offer of settlement which, in the opinion of the arbitration panel or sole arbitrator, more nearly complies with the applicable factors prescribed in paragraph (8). The findings, opinions, and order as to all other issues shall be based upon the applicable factors prescribed in paragraph (8).

(8) The arbitration decision shall be limited to mandatory subjects of bargaining. If there is no agreement between the parties, or if there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the

proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions, and order upon the following factors, as applicable:

(A) the lawful authority of the employer;

(B) the federal and State statutes or local ordinances and resolutions applicable to the employer;

(C) prior collective bargaining agreements and the bargaining history between the parties;

(D) stipulations of the parties;

(E) the interests and welfare of the public and the students and families served by the employer;

(F) the employer's financial ability to fund the proposals based on existing available resources, provided that such ability is not predicated on an assumption that lines of credit or reserve funds are available or that the employer may or will receive or develop new sources of revenue or increase existing sources of revenue;

(G) the impact of any economic adjustments on the employer's ability to pursue its educational mission;

(H) the present and future general economic conditions in the locality and State;

(I) a comparison of the wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services in public education in the 10 largest cities in the United States;

(J) the average consumer prices in urban areas for goods and services, which is commonly known as the cost of living;

(K) the overall compensation presently received by the employees involved in the dispute and by all other employees who are employed by the educational employer, including direct wage compensation; vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received, and how each party's proposed compensation structure supports the educational goals of the district;

(L) changes in any of the circumstances listed in items (A) through (K) of this paragraph (8) during the arbitration proceedings;

(M) the effect that any term the parties are at impasse on has or may have on the overall educational environment, learning conditions, and working conditions with the school district; and

(N) the effect that any term the parties are at impasse on has or may have in promoting the public policy of this State.

No terms in the arbitration award or order may conflict with any terms and conditions set forth in a collective bargaining agreement between the educational employer and another collective bargaining representative.

(9) Arbitration procedures shall be deemed to be initiated by the filing of a letter requesting mediation as required under paragraph (1). The commencement of a new fiscal year after the initiation of arbitration procedures under this Act, but before the arbitration decision, or its enforcement, shall not be deemed to render a dispute moot, or to otherwise impair the jurisdiction or authority of the arbitration panel or sole arbitrator or its decision. Increases in rates of compensation awarded by the arbitration panel or sole arbitrator may be effective only at the start of the fiscal year next commencing after the date of the arbitration award. If a new fiscal year has commenced either since the initiation of arbitration procedures under this Act or since any mutually agreed extension of the statutorily required period of mediation under this Act by the parties to the labor dispute causing a delay in the initiation of arbitration, the foregoing limitations shall be inapplicable, and such awarded increases may be retroactive to the commencement of the fiscal year, any other statute or charter provisions to the contrary, notwithstanding. At any time the parties, by stipulation, may amend or modify an award of arbitration.

(10) Orders of the arbitration panel or sole

arbitrator shall be reviewable, upon appropriate petition by either the educational employer or the exclusive bargaining representative, by the circuit court for the county in which the dispute arose or in which a majority of the affected employees reside, but only for reasons that the arbitration panel or sole arbitrator was without or exceeded its statutory authority; the order is arbitrary, or capricious; or the order was procured by fraud, collusion, or other similar and unlawful means. Such petitions for review must be filed with the appropriate circuit court within 90 days following the issuance of the arbitration order. The pendency of such proceeding for review shall not automatically stay the order of the arbitration panel or sole arbitrator. The party against whom the final decision of any such court shall be adverse, if such court finds such appeal or petition to be frivolous, shall pay reasonable attorney's fees and costs to the successful party as determined by said court in its discretion. If said court's decision affirms the award of money, such award, if retroactive, shall bear interest at the rate of 12% per annum from the effective retroactive date.

(11) During the pendency of proceedings before the arbitration panel or sole arbitrator, existing wages, hours, and other conditions of employment shall not be changed by action of either party without the consent of

the other but a party may so consent without prejudice to the party's rights or position under this Act. The proceedings are deemed to be pending before the arbitration panel or sole arbitrator upon the initiation of arbitration procedures under this Act.

(12) The educational employees covered by this Section may not withhold services, nor may educational employers lock out or prevent such employees from performing services at any time.

(13) All of the terms decided upon by the arbitration panel or sole arbitrator shall be included in an agreement to be submitted to the educational employer's governing body for ratification and adoption by law, ordinance, or the equivalent appropriate means.

The governing body shall review each term decided by the arbitration panel or sole arbitrator. If the governing body fails to reject one or more terms of the arbitration panel's or sole arbitrator's decision by a 3/5 vote of those duly elected and qualified members of the governing body, at the next regularly scheduled meeting of the governing body after issuance, such term or terms shall become a part of the collective bargaining agreement of the parties. If the governing body affirmatively rejects one or more terms of the arbitration panel's or sole arbitrator's decision, it must provide reasons for such rejection with respect to each term so rejected, within 20 days of such rejection and the parties shall return to the arbitration panel or sole arbitrator for further proceedings and issuance of a supplemental decision with respect to the rejected terms. Any supplemental decision by an arbitration panel, sole arbitrator, or other decision maker agreed to by the parties shall be submitted to the governing body for ratification and adoption in accordance with the procedures and voting requirements set forth in this Section. The voting requirements of this subsection shall apply to all disputes submitted to arbitration pursuant to this Section notwithstanding any contrary voting requirements contained in any existing collective bargaining agreement between the parties.

(14) If the governing body of the employer votes to reject the panel's or sole arbitrator's decision, the parties shall return to the panel or sole arbitrator within 30 days from the issuance of the reasons for rejection for further proceedings and issuance of a supplemental decision. All reasonable costs of such supplemental proceeding including the exclusive representative's reasonable attorney's fees, as established by the Board, shall be paid by the educational employer.

(15) Notwithstanding the provisions of this Section, the educational employer and exclusive representative may agree to submit unresolved disputes concerning wages,

hours, terms, and conditions of employment to an alternative form of impasse resolution.

(16) The costs of mediation and arbitration shall be shared equally between the educational employer and the exclusive bargaining agent, provided that for purposes of mediation under this Act, if either party requests the use of mediation services from the Federal Mediation and Conciliation Service, the other party shall either join in such request or bear the additional cost of mediation services from another source. All other costs and expenses of complying with this Section must be borne by the party incurring them, except as otherwise expressly provided.

(17) If an educational employer or exclusive bargaining representative refuses to participate in mediation or arbitration when required by this Section, the refusal shall be deemed a refusal to bargain in good faith.

(18) Nothing in this Act prevents an employer and an exclusive bargaining representative who are not subject to mandatory arbitration under this Section from mutually submitting to final and binding impartial arbitration unresolved issues concerning the terms of a new collective bargaining agreement.

This subsection (e) applies only to collective bargaining agreements entered into, modified, extended, or renewed on or after the effective date of this amendatory Act of the 103rd

General Assembly.
(Source: P.A. 103-1067, eff. 1-1-26.)

Section 45. The Broadband Infrastructure Advancement Act is amended by changing Section 4-20 and by adding Section 4-30 as follows:

(220 ILCS 81/4-20)

Sec. 4-20. Use of other broadband funds. The Department of Commerce and Economic Opportunity, the Office of Broadband, or any other State agency, board, office, or commission appropriated funding to provide grants for broadband deployment, broadband expansion, broadband access, broadband affordability, and broadband improvement projects must establish program eligibility and selection criteria by administrative rules.

The Department of Commerce and Economic Opportunity, when evaluating grant applications for the deployment of broadband network, must consider the expediency with which a project can be completed and broadband Internet access service delivered. Projects for which the Department awards grants to deploy broadband service in unserved areas or underserved areas shall include, as a project expense, costs necessarily incurred for the acquisition of any license, easement, right-of-way, or other property interest, or for the use of or for access to public utility (as defined in Section 3-105 of the Public

Utilities Act) owned or State or local government owned infrastructure or assets for such project that are used directly in the provision of broadband service to locations in such unserved or underserved areas.

If a grantee for the Connect Illinois Program or the grantee's contractors intend to solicit bids for the construction or development of the project, the grantee or the contractor shall post the solicitation on a public website for the duration of the solicitation period and for 30 days after the close of the solicitation period. The grantee shall provide the URL for the public website to the Department and the Office of Broadband shall make one URL for each grantee publicly available on the Office of Broadband's website. Each bid solicitation by a grantee shall be posted to the same URL.

(Source: P.A. 104-426, eff. 8-15-25.)

(220 ILCS 81/4-30 new)

Sec. 4-30. Apprenticeship participation requirements for covered broadband projects.

(a) As used in this Section:

"Covered broadband project" means any broadband infrastructure deployment that receives, in whole or in part, grant or loan funds administered by the Department after the effective date of this amendatory Act of the 104th General Assembly or any successor broadband funding program administered by the Department.

"Registered apprenticeship program" means a program registered with and approved by the Office of Apprenticeship within the U.S. Department of Labor's Employment and Training Administration under 29 CFR Parts 29 and 30 and that covers one or more trades employed in construction, installation, or maintenance of a covered broadband project.

(b) Not less than 60 days after the effective date of this amendatory Act of the 104th General Assembly, a person or entity shall not be eligible to receive grant or loan funds for a covered broadband project unless the applicant demonstrates, at the time of application and on a continuous basis throughout project construction, that the applicant, if self-performing, or the applicant's contractor and subcontractors, participation in a registered apprenticeship program. A covered broadband project shall comply with the requirements of this Section as a continuing condition of eligibility throughout the construction phase of the project. The project owner shall be responsible for ensuring that each contractor and subcontractor performing work on the covered broadband project complies with the apprenticeship participation requirement of this Section, unless a good-faith effort determination or waiver has been granted under subsection (c).

(c) An applicant, contractor, or subcontractor that cannot satisfy the requirements of subsections (b) and (c) through immediate program participation may demonstrate a good-faith effort to comply with the requirements by showing that the applicant, contractor, or subcontractor:

(1) contacted at least 3 registered apprenticeship programs in each applicable trade and requested apprentice referrals not less than 30 days before beginning construction; and

(2) documented responses, including the identity of each registered apprenticeship program contacted, the date of contact, and the reason any referred apprentices were not employed.

An applicant, contractor, or subcontractor may seek a full waiver upon a showing that no registered apprenticeship program exists covering any of the occupational classifications required for the covered broadband project. A waiver granted under this subsection is valid only for the duration of the project and only for the specific trade classifications for which program unavailability is demonstrated.

An applicant may seek a partial waiver upon a showing that all programs contacted under paragraph (1) declined to refer apprentices and no alternative programs are available within 50 miles.

The Department shall document and publish all waivers granted under this subsection in its annual report.

(d) The Department may withhold, suspend, or recover grant or loan funds from any recipient of a covered broadband project that fails to comply with the requirements of this Section.

Before imposing sanctions under this subsection, the Department shall provide the applicant or recipient with written notice of non-compliance and a 60-day period to cure the deficiency, except where the non-compliance is willful, involves falsification of certified payroll records, or constitutes a second or subsequent violation within a 3-year period.

Any applicant that submits a materially false compliance certification under subsection (f) shall be ineligible to apply for covered broadband project grants for a period of 3 years from the date of the adverse determination. The Department shall maintain a public debarment list and shall notify the Department of Labor of all debarment determinations.

(e) Each applicant for a covered broadband project shall submit, with the initial application, a signed certification of compliance with this Section, identifying the registered apprenticeship program or programs under which construction work will be performed, or documenting the basis for a good-faith effort claim or waiver request under subsection (d). The Department shall include in its annual report a summary of:

(1) the number and total construction value of covered broadband projects subject to this Section;

(2) the number of apprentices employed on covered broadband projects and estimated total apprentice labor hours;

(3) waivers and good-faith effort determinations granted, including geographic and trade classification data; and

(4) enforcement actions taken, including fund recovery amounts.

(f) The Department may adopt rules necessary to implement and administer this Section.

(g) This Section applies to grant applications submitted to the Department at least 60 days after the effective date of this amendatory Act of the 104th General Assembly.

Section 50. The Code of Civil Procedure is amended by adding Section 8-804.6 as follows:

(735 ILCS 5/8-804.6 new)

Sec. 8-804.6. Mediator and parties to mediation.

(a) A mediator or an agency employing a mediator shall not be compelled to disclose, in any court or to any administrative board or agency arbitration or proceeding, whether civil or criminal, any mediation communications or mediation documents received or created during a mediation. Mediation communications and mediation documents shall not be admissible as evidence in any action or proceeding, including, but not limited to, a judicial, administrative, or arbitration action or proceeding.

(b) A mediator may not testify about, use, or reveal any information obtained during the course of a mediation in any proceeding.

Section 55. The Prevailing Wage Act is amended by changing Sections 2, 3, and 5 and by adding Section 2.2 as follows:

(820 ILCS 130/2)

Sec. 2. This Act applies to the wages of laborers, mechanics, and other workers employed in any public works, as hereinafter defined, by any public body and to anyone under contracts for public works. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.

As used in this Act, unless the context indicates otherwise:

"Public works" means all fixed works constructed or demolished by any public body, or paid for wholly or in part out of public funds. "Public works" as defined herein includes all projects financed in whole or in part with bonds, grants, loans, or other funds made available by or through the State or any of its political subdivisions, including, but not limited to: bonds issued under the Industrial Project Revenue Bond Act (Article 11, Division 74 of the Illinois Municipal Code), the

Industrial Building Revenue Bond Act, the Illinois Finance Authority Act, the Illinois Sports Facilities Authority Act, or the Build Illinois Bond Act; loans or other funds made available pursuant to the Build Illinois Act; loans or other funds made available pursuant to the Riverfront Development Fund under Section 10-15 of the River Edge Redevelopment Zone Act; <u>funds received from the sale or transfer of tax credits awarded by the State under Section 214 of the Illinois Income Tax Act if the sale or transfer occurs prior to construction beginning;</u> or funds from the Fund for Illinois' Future under Section 6z-47 of the State Finance Act, funds for school construction under Section 5 of the General Obligation Bond Act, funds authorized under Section 3 of the School Construction Bond Act, funds for school infrastructure under Section 6z-45 of the State Finance Act, and funds for transportation purposes under Section 4 of the General Obligation Bond Act. "Public works" also includes all federal construction projects administered or controlled by a public body if the prevailing rate of wages is equal to or greater than the prevailing wage determination by the United States Secretary of Labor for the same locality for the same type of construction used to classify the federal construction project. "Public works" also includes (i) all projects financed in whole or in part with funds from the Environmental Protection Agency under the Illinois Renewable Fuels Development Program Act for which there is no project labor agreement; (ii) all work performed pursuant to a public private agreement under the Public Private Agreements for the Illiana Expressway Act or the Public-Private Agreements for the South Suburban Airport Act; (iii) all projects undertaken under a public-private agreement under the Public-Private Partnerships for Transportation Act or the Department of Natural Resources World Shooting and Recreational Complex Act; and (iv) all transportation facilities undertaken under a design-build contract or a Construction Manager/General Contractor contract under the Innovations for Transportation Infrastructure Act. "Public works" also includes all projects at leased facility property used for airport purposes under Section 35 of the Local Government Facility Lease Act. "Public works" also includes the construction of a new wind power facility by a business designated as a High Impact Business under Section 5.5(a)(3)(E) of the Illinois Enterprise Zone Act, the construction of a new utility-scale solar power facility by a business designated as a High Impact Business under Section 5.5(a)(3)(E-5) of the Illinois Enterprise Zone Act, the construction of a new battery energy storage solution facility by a business designated as a High Impact Business under Section 5.5(a)(3)(I) of the Illinois Enterprise Zone Act, and the construction of a high voltage direct current converter station by a business designated as a High Impact Business under Section 5.5(a)(3)(J) of the Illinois Enterprise Zone Act. "Public works" also includes electric vehicle charging station projects financed pursuant to the Electric Vehicle Act and renewable energy projects required to pay the prevailing wage pursuant to the Illinois Power Agency Act. "Public works" also includes power washing projects by a public body or paid for wholly or in part out of public funds in which steam or pressurized water, with or without added abrasives or chemicals, is used to remove paint or other coatings, oils or grease, corrosion, or debris from a surface or to prepare a surface for a coating. "Public works" also includes all electric transmission systems projects subject to the Electric Transmission Systems Construction Standards Act. "Public works" does not include work done directly by any public utility company, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" also includes construction projects performed by a third party contracted by any public utility, as described in subsection (a) of Section 2.1, in public rights-of-way, as defined in Section 21-201 of the Public Utilities Act, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" also includes construction projects that exceed 15 aggregate miles of new fiber optic cable, performed by a third party contracted by any public utility, as described in subsection (b) of Section 2.1, in public rights-of-way, as defined in Section 21-201 of the Public Utilities Act, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" also includes any corrective action performed pursuant to Title XVI of the Environmental Protection Act for which payment from the Underground Storage Tank Fund is requested. "Public works" also includes all construction projects involving fixtures or permanent attachments affixed to light poles that are owned by a public body, including street light poles, traffic light poles, and other lighting fixtures, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, unless the project is performed by employees employed directly by the public body. "Public works" also includes work performed subject to the Mechanical Insulation Energy and Safety Assessment Act. "Public works" also includes the removal, hauling, and transportation of biosolids, lime sludge, and lime residue from a water treatment plant or facility and the disposal of biosolids, lime sludge, and lime residue removed from a water treatment plant or facility at a landfill. "Public works" also includes sewer inspection projects that use a closed-circuit television to identify issues in a sewer system, such as cracks in pipes, root intrusion, blockages, or other structural damage. <u>"Public works" also includes the routine inspection or testing of any fire sprinkler system, as defined in Section 10 of the Fire Sprinkler Contractor Licensing Act, when performed by a third party under contract with a public body or when paid for wholly</u>

or in part out of public funds. "Public works" also includes the installation, service, maintenance, on-site programming, configuration, calibration, commissioning, repair, or integration of a building automation system used to monitor or control heating, ventilation, air conditioning, hydronic, steam, or other mechanical building systems when performed by a third party under contract with a public body or paid for wholly or in part out of public funds. "Public works" does not include projects undertaken by the owner at an owner-occupied single-family residence or at an owner-occupied unit of a multi-family residence. "Public works" does not include work performed for soil and water conservation purposes on agricultural lands, whether or not done under public supervision or paid for wholly or in part out of public funds, done directly by an owner or person who has legal control of those lands. "Public works" does not include routine inspection or testing performed by employees of the State, a municipality, a county, a fire department, a fire protection district, or the Office of the State Fire Marshal when those employees perform the inspection or testing in the course of their official duties as described in subsection (c) of Section 17 of the Fire Sprinkler Contractor Licensing Act.

"Construction" means all work on public works involving laborers, workers or mechanics. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.

"Locality" means the county where the physical work upon public works is performed, except (1) that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work and (2) that, with respect to contracts for highway work with the Department of Transportation of this State, "locality" may at the discretion of the Secretary of the Department of Transportation be construed to include two or more adjacent counties from which workers may be accessible for work on such construction.

"Public body" means the State or any officer, board or commission of the State or any political subdivision or department thereof, or any institution supported in whole or in part by public funds, and includes every county, city, town, village, township, school district, irrigation, utility, reclamation improvement or other district and every other political subdivision, district or municipality of the state whether such political subdivision, municipality or district operates under a special charter or not.

"Labor organization" means an organization that is the exclusive representative of an employer's employees recognized or certified pursuant to the National Labor Relations Act.

The terms "general prevailing rate of hourly wages", "general prevailing rate of wages" or "prevailing rate of wages" when used in this Act mean the hourly cash wages plus full journeyman annualized fringe benefits for training and apprenticeship programs registered with the Office of Apprenticeship within the U.S. Department of Labor's Employment and Training Administration with full journeymen annualized fringe benefits for health and welfare, insurance, vacations, and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public works.

(Source: P.A. 103-8, eff. 6-7-23; 103-327, eff. 1-1-24; 103-346, eff. 1-1-24; 103-359, eff. 7-28-23; 103-447, eff. 8-4-23; 103-605, eff. 7-1-24; 103-1066, eff. 2-20-25; 104-17, eff. 7-1-26 (see Section 35-5 of P.A. 104-434 for effective date of P.A. 104-17); 104-23, eff. 6-30-25; 104-160, eff. 8-14-25; revised 12-2-25.)

(820 ILCS 130/2.2 new)

Sec. 2.2. Multiple classifications. A laborer, mechanic, or other worker entitled to prevailing wages under this Act who is classified under 2 or more prevailing wage classifications on a single public works project shall be paid the higher applicable prevailing wage rate for all subsequent hours worked on that project, beginning on the date the higher classification is assigned and continuing through the end of the worker's employment on the project.

(820 ILCS 130/3) (from Ch. 48, par. 39s-3)

Sec. 3. Not less than the general prevailing rate of hourly wages for work of a similar character on public works in the locality in which the work is performed, and not less than the general prevailing rate of hourly wages for legal holiday and overtime work, shall be paid to all laborers, workers<u>,</u> and mechanics employed by or on behalf of any public body engaged in the construction or demolition of public works. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented <u>and, notwithstanding any other provision of this Act, applies to field mechanics, technicians, or similar positions, including time spent transporting parts, materials, or equipment to and from a site, regardless of whether the person is employed by a contractor, subcontractor, seller, or supplier</u>. Only such laborers, workers and mechanics as are directly employed by contractors or subcontractors in actual construction work on the site of the building or construction job, and laborers, workers and mechanics engaged in the transportation of materials and equipment to or from the site, but not including the transportation by the sellers and suppliers or the manufacture or processing of materials or equipment, in the execution of any contract or contracts for public works with any public body shall be deemed to be employed upon public works. The wage for a tradesman performing maintenance is equivalent to that of a tradesman engaged in construction or demolition.

(Source: P.A. 95-341, eff. 8-21-07; 96-186, eff. 1-1-10.)

(820 ILCS 130/5) (from Ch. 48, par. 39s-5)

Sec. 5. Certified payroll.

(a) Any contractor and each subcontractor who participates in public works shall:

(1) make and keep, for a period of not less than 3 years from the date of the last payment made before January 1, 2014 (the effective date of Public Act 98-328) and for a period of 5 years from the date of the last payment made on or after January 1, 2014 (the effective date of Public Act 98-328) on a contract or subcontract for public works, records of all laborers, mechanics, and other workers employed by them on the project; the records shall include (i) the worker's name, (ii) the worker's address, (iii) the worker's telephone number when available, (iv) the last 4 digits of the worker's social security number, (v) the worker's gender, (vi) the worker's race, (vii) the worker's ethnicity, (viii) veteran status, (ix) the worker's classification or classifications, (x) the worker's skill level, such as apprentice or journeyman, (xi) the worker's gross and net wages paid in each pay period, (xii) the worker's number of hours worked each day, (xiii) the worker's starting and

ending times of work each day, (xiv) the worker's hourly wage rate, (xv) the worker's hourly overtime wage rate, (xvi) the worker's hourly fringe benefit rates, (xvii) the name and address of each fringe benefit fund, (xviii) the plan sponsor of each fringe benefit, if applicable, ~~and~~ (xix) the plan administrator of each fringe benefit, if applicable, and (xx) copies of the contractor's or subcontractor's registered apprenticeship program documentation, including the United States Department of Labor registered apprenticeship program number, and, for each apprentice employed by the contractor or subcontractor on the public works project, documentation sufficient to verify that the apprentice is registered in good standing in the applicable registered apprenticeship program; and

(2) no later than the 15th day of each calendar month file a certified payroll for the immediately preceding month with the public body in charge of the project until the Department of Labor activates the database created under Section 5.1 at which time certified payroll shall only be submitted to that database, except for projects done by State agencies that opt to have contractors submit certified payrolls directly to that State agency. A State agency that opts to directly receive certified payrolls must submit the required information in a specified electronic format to the Department of Labor no later than

10 days after the certified payroll was filed with the State agency. A certified payroll must be filed for only those calendar months during which construction on a public works project has occurred. The certified payroll shall consist of a complete copy of the records identified in paragraph (1) of this subsection (a), but may exclude the starting and ending times of work each day <u>and any copies of the contractor's registered apprenticeship programs documentation. The certified payroll shall contain all other information identified in paragraph (1) pertaining to apprentices</u>. The certified payroll shall be accompanied by a statement signed by the contractor or subcontractor or an officer, employee, or agent of the contractor or subcontractor which avers that: (i) he or she has examined the certified payroll records required to be submitted by the Act and such records are true and accurate; (ii) the hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required by this Act; and (iii) the contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class A misdemeanor. A general contractor is not prohibited from relying on the certification of a lower tier subcontractor, provided the general contractor does not knowingly rely upon a subcontractor's false certification. Any contractor or subcontractor subject to this Act and any officer,

employee, or agent of such contractor or subcontractor whose duty as such officer, employee, or agent it is to file such certified payroll who willfully fails to file such a certified payroll on or before the date such certified payroll is required by this paragraph to be filed and any person who willfully files a false certified payroll that is false as to any material fact is in violation of this Act and guilty of a Class A misdemeanor. The public body in charge of the project shall keep the records submitted in accordance with this paragraph (2) of subsection (a) before January 1, 2014 (the effective date of Public Act 98-328) for a period of not less than 3 years, and the records submitted in accordance with this paragraph (2) of subsection (a) on or after January 1, 2014 (the effective date of Public Act 98-328) for a period of 5 years, from the date of the last payment for work on a contract or subcontract for public works or until the Department of Labor activates the database created under Section 5.1, whichever is less. After the activation of the database created under Section 5.1, the Department of Labor rather than the public body in charge of the project shall keep the records and maintain the database. The records submitted in accordance with this paragraph (2) of subsection (a) shall be considered public records, except an employee's address, telephone number, social security number, race, ethnicity, and gender, and made available in accordance with the Freedom of Information Act. The public body shall accept any reasonable submissions by the contractor that meet the requirements of this Section.

A contractor, subcontractor, or public body may retain records required under this Section in paper or electronic format.

(b) Upon 7 business days' notice, the contractor and each subcontractor shall make available for inspection and copying at a location within this State during reasonable hours, the records identified in paragraph (1) of subsection (a) of this Section to the public body in charge of the project, its officers and agents, the Director of Labor and his deputies and agents, and to federal, State, or local law enforcement agencies and prosecutors.

(c) A contractor or subcontractor who remits contributions to fringe benefit funds that are jointly maintained and jointly governed by one or more employers and one or more labor organizations in accordance with the federal Labor Management Relations Act shall make and keep certified payroll records that include the information required under items (i) through (viii) of paragraph (1) of subsection (a) only. However, the information required under items (ix) through (xv) of paragraph (1) of subsection (a) shall be required for any contractor or subcontractor who remits contributions to a fringe benefit fund that is not jointly maintained and jointly governed by one or more employers and one or more labor organizations in accordance with the federal Labor Management Relations Act.

(d) Any contractor or subcontractor subject to this Act and any officer, employee, or agent of the contractor or subcontractor whose duty as the officer, employee, or agent is to file the certified payroll, who the Department of Labor finds has failed to file the certified payroll for any public works project as required under this Act, is subject to a civil penalty, payable to the Department of Labor, of up to $1,000 for a first offense and up to $2,000 for a second or subsequent offense no more than 5 years after the first offense. A second or subsequent offense that occurs more than 5 years after the first offense shall be considered a first offense. Each month in which a violation of this Section occurs shall constitute a separate offense.

A finding of an offense by the Department of Labor for failure to file the certified payroll may be challenged if a request for administrative hearing is received no later than 10 business days after receipt of the notice of the offense. The Department of Labor shall have the burden of establishing good cause for its action. Good cause exists if the Department of Labor establishes that the contractor or subcontractor participated in a public works project under this Act and failed to submit a certified payroll to the Department of Labor's electronic database no later than 15 calendar days after the immediately preceding month in which the public works were performed by the contractor or subcontractor. Any mitigating evidence that a contractor or subcontractor attempted to timely submit certified payrolls to the Department of Labor's electronic database but failed due to technical issues shall be considered. A contractor or subcontractor's lack of knowledge of the requirements of this Section shall not be considered as mitigating evidence.

All hearings held under this Section shall comply with the Illinois Administrative Procedure Act and the Department of Labor's rules for administrative hearings. The final administrative decision by the Department of Labor shall be rendered after the conclusion of the hearing. A final administrative decision made under this Section is subject to the Administrative Review Law. If a final administrative decision issued by the Department of Labor requires a contractor or subcontractor to pay a civil penalty, and the subcontractor or contractor has not: (i) made the required payment within 35 days after the issuance of the final administrative decision; or (ii) timely filed a complaint seeking review of the final administrative decision within 35 days after the issuance of the final administrative decision in a court of competent jurisdiction, the Department of Labor, by and through the Office of the Attorney General, may file a verified petition against the contractor or subcontractor to enforce the final administrative decision and to collect any amounts due in the circuit court of any county where an office of the Department of Labor is located.

(Source: P.A. 104-23, eff. 6-30-25.)

Section 60. The Paid Leave for All Workers Act is amended by changing Section 10 as follows:

(820 ILCS 192/10)

Sec. 10. Definitions. As used in this Act:

"Construction industry" means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, or adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, waterworks, parking facility, railroad, excavation or other structure, project, development, real property, or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to or fabrication into, any structure, project, development, real property, or improvement herein described of any material or article of merchandise.

"Construction industry" also includes moving construction related materials on the job site or to or from the job site, snow plowing, snow removal, and refuse collection.

"Department" means the Illinois Department of Labor.

"Domestic work" and "domestic worker" have the same meanings as defined in Section 10 of the Domestic Workers' Bill of Rights Act, except that "domestic worker" also includes independent contractors, sole proprietors, and partnerships.

"Employee" has the same application and meaning as that provided in Sections 1 and 2 of the Illinois Wage Payment and Collection Act. "Employee" also includes all domestic workers, and, for the purposes of this Act, domestic workers shall not be excluded as employees under the provisions of item (1), (2), or (3) of Section 2 of the Illinois Wage Payment and Collection Act. "Employee" does not include:

(1) an employee as defined in the federal Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.) or the Railway Labor Act;

(2) a student enrolled in and regularly attending classes in a college or university that is also the student's employer, and who is employed on a temporary basis at less than full time at the college or university, but this exclusion applies only to work performed for that college or university; ~~or~~

(3) a short-term employee who is employed by an institution of higher education for less than 2 consecutive calendar quarters during a calendar year and who does not have a reasonable expectation that they will be rehired by the same employer of the same service in a

subsequent calendar year; or ~~.~~

(4) an employee employed as a crew member of a towing vessel as defined by 46 CFR 136.105.

"Employer" has the same application and meaning as that provided in Sections 1 and 2 of the Illinois Wage Payment and Collection Act, except that for purposes of this Act, "employer" also means the State and units of local government, any political subdivision of the State or units of local government, or any State or local government agency.

"Employer" does not include school districts organized under the School Code or park districts organized under the Park District Code.

"Writing" or "written" means a printed or printable communication in physical or electronic format, including a communication that is transmitted through electronic mail, text message, or a computer system or is otherwise sent or stored electronically.

(Source: P.A. 102-1143, eff. 1-1-24.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

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