



Rep. Marcus C. Evans, Jr.

Filed: 5/21/2026

10400SB3393ham001

LRB104 17748 SPS 38003 a

1 AMENDMENT TO SENATE BILL 3393

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

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

6 (5 ILCS 140/7.5)

7 (Text of Section before amendment by P.A. 104-441 and
8 104-457)

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

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

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

1 Records Confidentiality Act.

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

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

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

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

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

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

1 that Act.

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

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

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

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

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

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

1 death penalty prior to trial or sentencing.

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

5 (p) Security portions of system safety program plans,
6 investigation reports, surveys, schedules, lists, data, or
7 information compiled, collected, or prepared by or for the
8 Department of Transportation under Sections 2705-300 and
9 2705-616 of the Department of Transportation Law of the
10 Civil Administrative Code of Illinois, the Regional
11 Transportation Authority under Section 2.11 of the
12 Regional Transportation Authority Act, or the St. Clair
13 County Transit District under the Bi-State Transit Safety
14 Act (repealed).

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

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

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

21 (t) (Blank).

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

25 (v) Names and information of people who have applied
26 for or received Firearm Owner's Identification Cards under

1 the Firearm Owners Identification Card Act or applied for
2 or received a concealed carry license under the Firearm
3 Concealed Carry Act, unless otherwise authorized by the
4 Firearm Concealed Carry Act; and databases under the
5 Firearm Concealed Carry Act, records of the Concealed
6 Carry Licensing Review Board under the Firearm Concealed
7 Carry Act, and law enforcement agency objections under the
8 Firearm Concealed Carry Act.

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

12 (w) Personally identifiable information which is
13 exempted from disclosure under subsection (g) of Section
14 19.1 of the Toll Highway Act.

15 (x) Information which is exempted from disclosure
16 under Section 5-1014.3 of the Counties Code or Section
17 8-11-21 of the Illinois Municipal Code.

18 (y) Confidential information under the Adult
19 Protective Services Act and its predecessor enabling
20 statute, the Elder Abuse and Neglect Act, including
21 information about the identity and administrative finding
22 against any caregiver of a verified and substantiated
23 decision of abuse, neglect, or financial exploitation of
24 an eligible adult maintained in the Registry established
25 under Section 7.5 of the Adult Protective Services Act.

26 (z) Records and information provided to a fatality

1 review team or the Illinois Fatality Review Team Advisory
2 Council under Section 15 of the Adult Protective Services
3 Act.

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

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

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

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

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

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

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

21 (hh) Records that are exempt from disclosure under
22 Section 1A-16.7 of the Election Code.

23 (ii) Information which is exempted from disclosure
24 under Section 2505-800 of the Department of Revenue Law of
25 the Civil Administrative Code of Illinois.

26 (jj) Information and reports that are required to be

1 submitted to the Department of Labor by registering day
2 and temporary labor service agencies but are exempt from
3 disclosure under subsection (a-1) of Section 45 of the Day
4 and Temporary Labor Services Act.

5 (kk) Information prohibited from disclosure under the
6 Seizure and Forfeiture Reporting Act.

7 (ll) Information the disclosure of which is restricted
8 and exempted under Section 5-30.8 of the Illinois Public
9 Aid Code.

10 (mm) Records that are exempt from disclosure under
11 Section 4.2 of the Crime Victims Compensation Act.

12 (nn) Information that is exempt from disclosure under
13 Section 70 of the Higher Education Student Assistance Act.

14 (oo) Communications, notes, records, and reports
15 arising out of a peer support counseling session
16 prohibited from disclosure under the First Responders
17 Suicide Prevention Act.

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

22 (qq) Information and records held by the Department of
23 Public Health and its authorized representatives collected
24 under the Reproductive Health Act.

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

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

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

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

9 (vv) Information that is exempt from disclosure under
10 subsections (f) and (j) of Section 5-36 of the Illinois
11 Public Aid Code.

12 (wv) Information that is exempt from disclosure under
13 Section 16.8 of the State Treasurer Act.

14 (xx) Information that is exempt from disclosure or
15 information that shall not be made public under the
16 Illinois Insurance Code.

17 (yy) Information prohibited from being disclosed under
18 the Illinois Educational Labor Relations Act.

19 (zz) Information prohibited from being disclosed under
20 the Illinois Public Labor Relations Act.

21 (aaa) Information prohibited from being disclosed
22 under Section 1-167 of the Illinois Pension Code.

23 (bbb) Information that is prohibited from disclosure
24 by the Illinois Police Training Act and the Illinois State
25 Police Act.

26 (ccc) Records exempt from disclosure under Section

1 2605-304 of the Illinois State Police Law of the Civil
2 Administrative Code of Illinois.

3 (ddd) Information prohibited from being disclosed
4 under Section 35 of the Address Confidentiality for
5 Victims of Domestic Violence, Sexual Assault, Human
6 Trafficking, or Stalking Act.

7 (eee) Information prohibited from being disclosed
8 under subsection (b) of Section 75 of the Domestic
9 Violence Fatality Review Act.

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

17 (ggg) Information prohibited from disclosure under
18 paragraph (3) of subsection (a) of Section 14 of the Nurse
19 Agency Licensing Act.

20 (hhh) Information submitted to the Illinois State
21 Police in an affidavit or application for an assault
22 weapon endorsement, assault weapon attachment endorsement,
23 .50 caliber rifle endorsement, or .50 caliber cartridge
24 endorsement under the Firearm Owners Identification Card
25 Act.

26 (iii) Data exempt from disclosure under Section 50 of

1 the School Safety Drill Act.

2 (jjj) Information exempt from disclosure under Section
3 30 of the Insurance Data Security Law.

4 (kkk) Confidential business information prohibited
5 from disclosure under Section 45 of the Paint Stewardship
6 Act.

7 (lll) Data exempt from disclosure under Section
8 2-3.196 of the School Code.

9 (mmm) Information prohibited from being disclosed
10 under subsection (e) of Section 1-129 of the Illinois
11 Power Agency Act.

12 (nnn) Materials received by the Department of Commerce
13 and Economic Opportunity that are confidential under the
14 Music and Musicians Tax Credit and Jobs Act.

15 (ooo) Data or information provided pursuant to Section
16 20 of the Statewide Recycling Needs and Assessment Act.

17 (ppp) Information that is exempt from disclosure under
18 Section 28-11 of the Lawful Health Care Activity Act.

19 (qqq) Information that is exempt from disclosure under
20 Section 7-101 of the Illinois Human Rights Act.

21 (rrr) Information prohibited from being disclosed
22 under Section 4-2 of the Uniform Money Transmission
23 Modernization Act.

24 (sss) Information exempt from disclosure under Section
25 40 of the Student-Athlete Endorsement Rights Act.

26 (ttt) Audio recordings made under Section 30 of the

1 Illinois State Police Act, except to the extent authorized
2 under that Section.

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

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

8 (Source: P.A. 103-8, eff. 6-7-23; 103-34, eff. 6-9-23;
9 103-142, eff. 1-1-24; 103-372, eff. 1-1-24; 103-472, eff.
10 8-1-24; 103-508, eff. 8-4-23; 103-580, eff. 12-8-23; 103-592,
11 eff. 6-7-24; 103-605, eff. 7-1-24; 103-636, eff. 7-1-24;
12 103-724, eff. 1-1-25; 103-786, eff. 8-7-24; 103-859, eff.
13 8-9-24; 103-991, eff. 8-9-24; 103-1049, eff. 8-9-24; 103-1081,
14 eff. 3-21-25; 104-10, eff. 6-16-25; 104-18, eff. 6-30-25;
15 104-417, eff. 8-15-25; 104-428, eff. 8-18-25; revised
16 9-10-25.)

17 (Text of Section after amendment by P.A. 104-457 but
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16 104-417, eff. 8-15-25; 104-428, eff. 8-18-25; 104-457, eff.
17 6-1-26; revised 1-7-26.)

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14 exempted from disclosure under subsection (g) of Section
15 19.1 of the Toll Highway Act.

16 (x) Information which is exempted from disclosure
17 under Section 5-1014.3 of the Counties Code or Section
18 8-11-21 of the Illinois Municipal Code.

19 (y) Confidential information under the Adult
20 Protective Services Act and its predecessor enabling
21 statute, the Elder Abuse and Neglect Act, including
22 information about the identity and administrative finding
23 against any caregiver of a verified and substantiated
24 decision of abuse, neglect, or financial exploitation of
25 an eligible adult maintained in the Registry established
26 under Section 7.5 of the Adult Protective Services Act.

1 (z) Records and information provided to a fatality
2 review team or the Illinois Fatality Review Team Advisory
3 Council under Section 15 of the Adult Protective Services
4 Act.

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

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

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

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

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

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

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

22 (hh) Records that are exempt from disclosure under
23 Section 1A-16.7 of the Election Code.

24 (ii) Information which is exempted from disclosure
25 under Section 2505-800 of the Department of Revenue Law of
26 the Civil Administrative Code of Illinois.

1 (jj) Information and reports that are required to be
2 submitted to the Department of Labor by registering day
3 and temporary labor service agencies but are exempt from
4 disclosure under subsection (a-1) of Section 45 of the Day
5 and Temporary Labor Services Act.

6 (kk) Information prohibited from disclosure under the
7 Seizure and Forfeiture Reporting Act.

8 (ll) Information the disclosure of which is restricted
9 and exempted under Section 5-30.8 of the Illinois Public
10 Aid Code.

11 (mm) Records that are exempt from disclosure under
12 Section 4.2 of the Crime Victims Compensation Act.

13 (nn) Information that is exempt from disclosure under
14 Section 70 of the Higher Education Student Assistance Act.

15 (oo) Communications, notes, records, and reports
16 arising out of a peer support counseling session
17 prohibited from disclosure under the First Responders
18 Suicide Prevention Act.

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

23 (qq) Information and records held by the Department of
24 Public Health and its authorized representatives collected
25 under the Reproductive Health Act.

26 (rr) Information that is exempt from disclosure under

1 the Cannabis Regulation and Tax Act.

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

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

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

10 (vv) Information that is exempt from disclosure under
11 subsections (f) and (j) of Section 5-36 of the Illinois
12 Public Aid Code.

13 (ww) Information that is exempt from disclosure under
14 Section 16.8 of the State Treasurer Act.

15 (xx) Information that is exempt from disclosure or
16 information that shall not be made public under the
17 Illinois Insurance Code.

18 (yy) Information prohibited from being disclosed under
19 the Illinois Educational Labor Relations Act.

20 (zz) Information prohibited from being disclosed under
21 the Illinois Public Labor Relations Act.

22 (aaa) Information prohibited from being disclosed
23 under Section 1-167 of the Illinois Pension Code.

24 (bbb) Information that is prohibited from disclosure
25 by the Illinois Police Training Act and the Illinois State
26 Police Act.

1 (ccc) Records exempt from disclosure under Section
2 2605-304 of the Illinois State Police Law of the Civil
3 Administrative Code of Illinois.

4 (ddd) Information prohibited from being disclosed
5 under Section 35 of the Address Confidentiality for
6 Victims of Domestic Violence, Sexual Assault, Human
7 Trafficking, or Stalking Act.

8 (eee) Information prohibited from being disclosed
9 under subsection (b) of Section 75 of the Domestic
10 Violence Fatality Review Act.

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

18 (ggg) Information prohibited from disclosure under
19 paragraph (3) of subsection (a) of Section 14 of the Nurse
20 Agency Licensing Act.

21 (hhh) Information submitted to the Illinois State
22 Police in an affidavit or application for an assault
23 weapon endorsement, assault weapon attachment endorsement,
24 .50 caliber rifle endorsement, or .50 caliber cartridge
25 endorsement under the Firearm Owners Identification Card
26 Act.

1 (iii) Data exempt from disclosure under Section 50 of
2 the School Safety Drill Act.

3 (jjj) Information exempt from disclosure under Section
4 30 of the Insurance Data Security Law.

5 (kkk) Confidential business information prohibited
6 from disclosure under Section 45 of the Paint Stewardship
7 Act.

8 (lll) Data exempt from disclosure under Section
9 2-3.196 of the School Code.

10 (mmm) Information prohibited from being disclosed
11 under subsection (e) of Section 1-129 of the Illinois
12 Power Agency Act.

13 (nnn) Materials received by the Department of Commerce
14 and Economic Opportunity that are confidential under the
15 Music and Musicians Tax Credit and Jobs Act.

16 (ooo) Data or information provided pursuant to Section
17 20 of the Statewide Recycling Needs and Assessment Act.

18 (ppp) Information that is exempt from disclosure under
19 Section 28-11 of the Lawful Health Care Activity Act.

20 (qqq) Information that is exempt from disclosure under
21 Section 7-101 of the Illinois Human Rights Act.

22 (rrr) Information prohibited from being disclosed
23 under Section 4-2 of the Uniform Money Transmission
24 Modernization Act.

25 (sss) Information exempt from disclosure under Section
26 40 of the Student-Athlete Endorsement Rights Act.

1 (ttt) Audio recordings made under Section 30 of the
2 Illinois State Police Act, except to the extent authorized
3 under that Section.

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

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

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

12 (Source: P.A. 103-8, eff. 6-7-23; 103-34, eff. 6-9-23;
13 103-142, eff. 1-1-24; 103-372, eff. 1-1-24; 103-472, eff.
14 8-1-24; 103-508, eff. 8-4-23; 103-580, eff. 12-8-23; 103-592,
15 eff. 6-7-24; 103-605, eff. 7-1-24; 103-636, eff. 7-1-24;
16 103-724, eff. 1-1-25; 103-786, eff. 8-7-24; 103-859, eff.
17 8-9-24; 103-991, eff. 8-9-24; 103-1049, eff. 8-9-24; 103-1081,
18 eff. 3-21-25; 104-10, eff. 6-16-25; 104-18, eff. 6-30-25;
19 104-417, eff. 8-15-25; 104-428, eff. 8-18-25; 104-441, eff.
20 9-12-26; 104-457, eff. 6-1-26; revised 1-7-26.)

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

23 (5 ILCS 315/14) (from Ch. 48, par. 1614)

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

1 disputes.

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

1 the other, in writing, arbitration, and shall submit a copy of
2 the request to the Board.

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

9 (c) Within 7 days after the request of either party, the
10 parties shall request a panel of impartial arbitrators from
11 which they shall select the neutral chairman according to the
12 procedures provided in this Section. If the parties have
13 agreed to a contract that contains a grievance resolution
14 procedure as provided in Section 8, the chairman shall be
15 selected using their agreed contract procedure unless they
16 mutually agree to another procedure. If the parties fail to
17 notify the Board of their selection of neutral chairman within
18 7 days after receipt of the list of impartial arbitrators, the
19 Board shall appoint, at random, a neutral chairman from the
20 list. In the absence of an agreed contract procedure for
21 selecting an impartial arbitrator, either party may request a
22 panel from the Board. Within 7 days of the request of either
23 party, the Board shall select from the Public Employees Labor
24 Mediation Roster 7 persons who are on the labor arbitration
25 panels of either the American Arbitration Association or the
26 Federal Mediation and Conciliation Service, or who are members

1 of the National Academy of Arbitrators, as nominees for
2 impartial arbitrator of the arbitration panel. The parties may
3 select an individual on the list provided by the Board or any
4 other individual mutually agreed upon by the parties. Within 7
5 days following the receipt of the list, the parties shall
6 notify the Board of the person they have selected. Unless the
7 parties agree on an alternate selection procedure, they shall
8 alternatively strike one name from the list provided by the
9 Board until only one name remains. A coin toss shall determine
10 which party shall strike the first name. If the parties fail to
11 notify the Board in a timely manner of their selection for
12 neutral chairman, the Board shall appoint a neutral chairman
13 from the Illinois Public Employees Mediation/Arbitration
14 Roster.

15 (d) The chairman shall call a hearing to begin within 15
16 days and give reasonable notice of the time and place of the
17 hearing. The hearing shall be held at the offices of the Board
18 or at such other location as the Board deems appropriate. The
19 chairman shall preside over the hearing and shall take
20 testimony. Any oral or documentary evidence and other data
21 deemed relevant by the arbitration panel may be received in
22 evidence. The proceedings shall be informal. Technical rules
23 of evidence shall not apply and the competency of the evidence
24 shall not thereby be deemed impaired. A verbatim record of the
25 proceedings shall be made and the arbitrator shall arrange for
26 the necessary recording service. Transcripts may be ordered at

1 the expense of the party ordering them, but the transcripts
2 shall not be necessary for a decision by the arbitration
3 panel. The expense of the proceedings, including a fee for the
4 chairman, shall be borne equally by each of the parties to the
5 dispute. The delegates, if public officers or employees, shall
6 continue on the payroll of the public employer without loss of
7 pay. The hearing conducted by the arbitration panel may be
8 adjourned from time to time, but unless otherwise agreed by
9 the parties, shall be concluded within 30 days of the time of
10 its commencement. Majority actions and rulings shall
11 constitute the actions and rulings of the arbitration panel.
12 Arbitration proceedings under this Section shall not be
13 interrupted or terminated by reason of any unfair labor
14 practice charge filed by either party at any time.

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

1 punished by the court as contempt.

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

11 (g) At or before the conclusion of the hearing held
12 pursuant to subsection (d), the arbitration panel shall
13 identify the economic issues in dispute, and direct each of
14 the parties to submit, within such time limit as the panel
15 shall prescribe, to the arbitration panel and to each other
16 its last offer of settlement on each economic issue. The
17 determination of the arbitration panel as to the issues in
18 dispute and as to which of these issues are economic shall be
19 conclusive. The arbitration panel, within 30 days after the
20 conclusion of the hearing, or such further additional periods
21 to which the parties may agree, shall make written findings of
22 fact and promulgate a written opinion and shall mail or
23 otherwise deliver a true copy thereof to the parties and their
24 representatives and to the Board. As to each economic issue,
25 the arbitration panel shall adopt the last offer of settlement
26 which, in the opinion of the arbitration panel, more nearly

1 complies with the applicable factors prescribed in subsection
2 (h). The findings, opinions and order as to all other issues
3 shall be based upon the applicable factors prescribed in
4 subsection (h).

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

13 (1) The lawful authority of the employer.

14 (2) Stipulations of the parties.

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

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

23 (A) In public employment in comparable
24 communities.

25 (B) In private employment in comparable
26 communities.

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

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

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

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

17 (i) In the case of peace officers, the arbitration
18 decision shall be limited to wages, hours, and conditions of
19 employment (which may include residency requirements in
20 municipalities with a population under 100,000, but those
21 residency requirements shall not allow residency outside of
22 Illinois) and shall not include the following: i) residency
23 requirements in municipalities with a population of at least
24 100,000; ii) the type of equipment, other than uniforms,
25 issued or used; iii) manning; iv) the total number of
26 employees employed by the department; v) mutual aid and

1 assistance agreements to other units of government; and vi)
2 the criterion pursuant to which force, including deadly force,
3 can be used; provided, nothing herein shall preclude an
4 arbitration decision regarding equipment or manning levels if
5 such decision is based on a finding that the equipment or
6 manning considerations in a specific work assignment involve a
7 serious risk to the safety of a peace officer beyond that which
8 is inherent in the normal performance of police duties.
9 Limitation of the terms of the arbitration decision pursuant
10 to this subsection shall not be construed to limit the factors
11 upon which the decision may be based, as set forth in
12 subsection (h).

13 In the case of fire fighter, and fire department or fire
14 district paramedic matters, the arbitration decision shall be
15 limited to wages, hours, and conditions of employment
16 (including manning and also including residency requirements
17 in municipalities with a population under 1,000,000, but those
18 residency requirements shall not allow residency outside of
19 Illinois) and shall not include the following matters: i)
20 residency requirements in municipalities with a population of
21 at least 1,000,000; ii) the type of equipment (other than
22 uniforms and fire fighter turnout gear) issued or used; iii)
23 the total number of employees employed by the department; iv)
24 mutual aid and assistance agreements to other units of
25 government; and v) the criterion pursuant to which force,
26 including deadly force, can be used; provided, however,

1 nothing herein shall preclude an arbitration decision
2 regarding equipment levels if such decision is based on a
3 finding that the equipment considerations in a specific work
4 assignment involve a serious risk to the safety of a fire
5 fighter beyond that which is inherent in the normal
6 performance of fire fighter duties. Limitation of the terms of
7 the arbitration decision pursuant to this subsection shall not
8 be construed to limit the facts upon which the decision may be
9 based, as set forth in subsection (h).

10 The changes to this subsection (i) made by Public Act
11 90-385 (relating to residency requirements) do not apply to
12 persons who are employed by a combined department that
13 performs both police and firefighting services; these persons
14 shall be governed by the provisions of this subsection (i)
15 relating to peace officers, as they existed before the
16 amendment by Public Act 90-385.

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

22 (j) Arbitration procedures shall be deemed to be initiated
23 by the filing of a letter requesting mediation as required
24 under subsection (a) of this Section. The commencement of a
25 new municipal fiscal year after the initiation of arbitration
26 procedures under this Act, but before the arbitration

1 decision, or its enforcement, shall not be deemed to render a
2 dispute moot, or to otherwise impair the jurisdiction or
3 authority of the arbitration panel or its decision. Increases
4 in rates of compensation awarded by the arbitration panel may
5 be effective only at the start of the fiscal year next
6 commencing after the date of the arbitration award. If a new
7 fiscal year has commenced either since the initiation of
8 arbitration procedures under this Act or since any mutually
9 agreed extension of the statutorily required period of
10 mediation under this Act by the parties to the labor dispute
11 causing a delay in the initiation of arbitration, the
12 foregoing limitations shall be inapplicable, and such awarded
13 increases may be retroactive to the commencement of the fiscal
14 year, any other statute or charter provisions to the contrary,
15 notwithstanding. At any time the parties, by stipulation, may
16 amend or modify an award of arbitration.

17 (k) Orders of the arbitration panel shall be reviewable,
18 upon appropriate petition by either the public employer or the
19 exclusive bargaining representative, by the circuit court for
20 the county in which the dispute arose or in which a majority of
21 the affected employees reside, but only for reasons that the
22 arbitration panel was without or exceeded its statutory
23 authority; the order is arbitrary, or capricious; or the order
24 was procured by fraud, collusion or other similar and unlawful
25 means. Such petitions for review must be filed with the
26 appropriate circuit court within 90 days following the

1 issuance of the arbitration order. The pendency of such
2 proceeding for review shall not automatically stay the order
3 of the arbitration panel. The party against whom the final
4 decision of any such court shall be adverse, if such court
5 finds such appeal or petition to be frivolous, shall pay
6 reasonable attorneys' fees and costs to the successful party
7 as determined by said court in its discretion. If said court's
8 decision affirms the award of money, such award, if
9 retroactive, shall bear interest at the rate of 12 percent per
10 annum from the effective retroactive date.

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

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

24 (n) All of the terms decided upon by the arbitration panel
25 shall be included in an agreement to be submitted to the public
26 employer's governing body for ratification and adoption by

1 law, ordinance or the equivalent appropriate means.

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

26 (o) If the governing body of the employer votes to reject

1 the panel's decision, the parties shall return to the panel
2 within 30 days from the issuance of the reasons for rejection
3 for further proceedings and issuance of a supplemental
4 decision. All reasonable costs of such supplemental proceeding
5 including the exclusive representative's reasonable attorney's
6 fees, as established by the Board, shall be paid by the
7 employer.

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

13 The amendatory changes to this Section made by Public Act
14 101-652 take effect July 1, 2022.

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

16 (5 ILCS 315/17) (from Ch. 48, par. 1617)

17 Sec. 17. Right to strike.

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

25 (1) the employees are represented by an exclusive

1 bargaining representative;

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

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

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

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

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

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

1 cause such employee to be paid any wages or other compensation
2 for such periods of participation, except for wages or
3 compensation earned before participation in such strike.

4 (Source: P.A. 86-412.)

5 Section 15. The Department of Labor Law of the Civil
6 Administrative Code of Illinois is amended by adding Section
7 1505-230 as follows:

8 (20 ILCS 1505/1505-230 new)

9 Sec. 1505-230. Labor mediation services program.

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

24 (b) If the Federal Mediation and Conciliation Service is

1 unable to provide mediation services and the services of the
2 Department have been invoked by a party or have been proffered
3 by the Department, then the Department shall assign a mediator
4 appointed under subsection (d) to facilitate a settlement to
5 the dispute. All information disclosed by a party to a
6 mediator in the performance of mediation functions under the
7 program shall not be divulged unless required by law.

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

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

1 the Personnel Code.

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

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

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

21 (20 ILCS 3805/7.28)

22 Sec. 7.28. Tax credit for donation to sponsors. The
23 Authority may administer and adopt rules for an affordable
24 housing tax donation credit program to provide tax credits for

1 donations as set forth in this Section.

2 (a) In this Section:

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

5 "Affordable housing project" means either:

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

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

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

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

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

21 (2) a unit for sale to homebuyers whose gross
22 household income is at or below (A) 60% of the area median
23 income (for taxable years beginning prior to January 1,
24 2022) or (B) 120% of the area median income (for taxable
25 years beginning on or after January 1, 2022) and who pay no
26 more than 30% of their gross household income for mortgage

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

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

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

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

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

1 market rental rates.

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

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

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

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

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

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

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

23 (d) Tax credits for employer-assisted housing projects are
24 limited to that pool of tax credits that have been set aside
25 for employer-assisted housing. Tax credits for general
26 operating support are limited to 10% of the total tax credit

1 reservation for the related project (other than general
2 operating support) and are also limited to that pool of tax
3 credits that have been set aside for general operating
4 support. Tax credits for technical assistance are limited to
5 that pool of tax credits that have been set aside for technical
6 assistance.

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

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

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

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

26 (f) The administrative housing agency that reserves tax

1 credits for an affordable housing project must record against
2 the land upon which the affordable housing project is located
3 an instrument to assure that the property maintains its
4 affordable housing compliance for a minimum of 10 years. The
5 Authority has flexibility to assure that the instrument does
6 not cause undue hardship on homeowners.

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

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

10 (20 ILCS 3855/1-75)

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

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

15 (a) The Planning and Procurement Bureau shall each year,
16 beginning in 2008, develop procurement plans and conduct
17 competitive procurement processes in accordance with the
18 requirements of Section 16-111.5 of the Public Utilities Act
19 for the eligible retail customers of electric utilities that
20 on December 31, 2005 provided electric service to at least
21 100,000 customers in Illinois. Beginning with the delivery
22 year commencing on June 1, 2017, the Planning and Procurement
23 Bureau shall develop plans and processes for the procurement
24 of zero emission credits from zero emission facilities in

1 accordance with the requirements of subsection (d-5) of this
2 Section. Beginning on the effective date of this amendatory
3 Act of the 102nd General Assembly, the Planning and
4 Procurement Bureau shall develop plans and processes for the
5 procurement of carbon mitigation credits from carbon-free
6 energy resources in accordance with the requirements of
7 subsection (d-10) of this Section. The Planning and
8 Procurement Bureau shall also develop procurement plans and
9 conduct competitive procurement processes in accordance with
10 the requirements of Section 16-111.5 of the Public Utilities
11 Act for the eligible retail customers of small
12 multi-jurisdictional electric utilities that (i) on December
13 31, 2005 served less than 100,000 customers in Illinois and
14 (ii) request a procurement plan for their Illinois
15 jurisdictional load. This Section shall not apply to a small
16 multi-jurisdictional utility until such time as a small
17 multi-jurisdictional utility requests the Agency to prepare a
18 procurement plan for their Illinois jurisdictional load. For
19 the purposes of this Section, the term "eligible retail
20 customers" has the same definition as found in Section
21 16-111.5(a) of the Public Utilities Act.

22 Beginning with the plan or plans to be implemented in the
23 2017 delivery year, the Agency shall no longer include the
24 procurement of renewable energy resources in the annual
25 procurement plans required by this subsection (a), except as
26 provided in subsection (q) of Section 16-111.5 of the Public

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

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

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

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

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

26 (C) 10 years of experience in the electricity

1 sector, including managing supply risk;

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

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

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

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

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

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

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

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

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

1 Energy Regulatory Commission and regional transmission
2 organizations;

3 (E) expertise in credit and contract protocols;

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

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

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

24 (A) failure to satisfy qualification criteria;

25 (B) identification of a conflict of interest; or

26 (C) evidence of inappropriate bias for or against

1 potential bidders or the affected utilities.

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

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

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

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

1 expert or expert consulting firm so selected with
2 Commission approval.

3 (b) The experts or expert consulting firms retained by the
4 Agency shall, as appropriate, prepare procurement plans, and
5 conduct a competitive procurement process as prescribed in
6 Section 16-111.5 of the Public Utilities Act, to ensure
7 adequate, reliable, affordable, efficient, and environmentally
8 sustainable electric service at the lowest total cost over
9 time, taking into account any benefits of price stability, for
10 eligible retail customers of electric utilities that on
11 December 31, 2005 provided electric service to at least
12 100,000 customers in the State of Illinois, and for eligible
13 Illinois retail customers of small multi-jurisdictional
14 electric utilities that (i) on December 31, 2005 served less
15 than 100,000 customers in Illinois and (ii) request a
16 procurement plan for their Illinois jurisdictional load.

17 (c) Renewable portfolio standard.

18 (1) (A) The Agency shall develop a long-term renewable
19 resources procurement plan that shall include procurement
20 programs and competitive procurement events necessary to
21 meet the goals set forth in this subsection (c). The
22 initial long-term renewable resources procurement plan
23 shall be released for comment no later than 160 days after
24 June 1, 2017 (the effective date of Public Act 99-906).
25 The Agency shall review, and may revise on an expedited
26 basis, the long-term renewable resources procurement plan

1 at least every 2 years, which shall be conducted in
2 conjunction with the procurement plan under Section
3 16-111.5 of the Public Utilities Act to the extent
4 practicable to minimize administrative expense. No later
5 than 120 days after the effective date of this amendatory
6 Act of the 103rd General Assembly, the Agency shall
7 release for comment a revision to the long-term renewable
8 resources procurement plan, updating elements of the most
9 recently approved plan as needed to comply with this
10 amendatory Act of the 103rd General Assembly, and any
11 long-term renewable resources procurement plan update
12 published by the Agency but not yet approved by the
13 Illinois Commerce Commission shall be withdrawn. The
14 long-term renewable resources procurement plans shall be
15 subject to review and approval by the Commission under
16 Section 16-111.5 of the Public Utilities Act.

17 (B) Subject to subparagraph (F) of this paragraph (1),
18 the long-term renewable resources procurement plan shall
19 attempt to meet the goals for procurement of renewable
20 energy credits at levels of at least the following overall
21 percentages: 13% by the 2017 delivery year; increasing by
22 at least 1.5% each delivery year thereafter to at least
23 25% by the 2025 delivery year; increasing by at least 3%
24 each delivery year thereafter to at least 40% by the 2030
25 delivery year, and continuing at no less than 40% for each
26 delivery year thereafter. The Agency shall attempt to

1 procure 50% by delivery year 2040. The Agency shall
2 determine the annual increase between delivery year 2030
3 and delivery year 2040, if any, taking into account energy
4 demand, other energy resources, and other public policy
5 goals. In the event of a conflict between these goals and
6 the new wind, new photovoltaic, and hydropower procurement
7 requirements described in items (i) through (iii) of
8 subparagraph (C) of this paragraph (1), the long-term plan
9 shall prioritize compliance with the new wind, new
10 photovoltaic, and hydropower procurement requirements
11 described in items (i) through (iii) of subparagraph (C)
12 of this paragraph (1) over the annual percentage targets
13 described in this subparagraph (B). The Agency shall not
14 comply with the annual percentage targets described in
15 this subparagraph (B) by procuring renewable energy
16 credits that are unlikely to lead to the development of
17 new renewable resources or new, modernized, or retooled
18 hydropower facilities.

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

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

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

13 For the delivery year beginning June 1, 2019, and for
14 each year thereafter, the procurement plans shall attempt
15 to include, subject to the prioritization outlined in this
16 subparagraph (B), cost-effective renewable energy
17 resources equal to a minimum percentage of each utility's
18 load for all retail customers as follows: 16% by June 1,
19 2019; increasing by 1.5% each year thereafter to 25% by
20 June 1, 2025; and 25% by June 1, 2026; increasing by at
21 least 3% each delivery year thereafter to at least 40% by
22 the 2030 delivery year, and continuing at no less than 40%
23 for each delivery year thereafter. The Agency shall
24 attempt to procure 50% by delivery year 2040. The Agency
25 shall determine the annual increase between delivery year
26 2030 and delivery year 2040, if any, taking into account

1 energy demand, other energy resources, and other public
2 policy goals.

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

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

14 (i) At least 10,000,000 renewable energy credits
15 delivered annually by the end of the 2021 delivery
16 year, and increasing ratably to reach 45,000,000
17 renewable energy credits delivered annually from new
18 wind and solar projects, from repowered wind projects,
19 or from retooled hydropower facilities by the end of
20 delivery year 2030 such that the goals in subparagraph
21 (B) of this paragraph (1) are met entirely by
22 procurements of renewable energy credits from new wind
23 and photovoltaic projects. Of that amount, to the
24 extent possible, the Agency shall endeavor to procure
25 45% from new and repowered wind and hydropower
26 projects and shall procure at least 55% from

1 photovoltaic projects. Of the amount to be procured
2 from photovoltaic projects, the Agency shall procure:
3 at least 50% from solar photovoltaic projects using
4 the program outlined in subparagraph (K) of this
5 paragraph (1) from distributed renewable energy
6 generation devices or community renewable generation
7 projects; at least 47% from utility-scale solar
8 projects; at least 3% from brownfield site
9 photovoltaic projects that are not community renewable
10 generation projects. The Agency may propose
11 adjustments to these percentages, including
12 establishing percentage-based goals for the
13 procurement of renewable energy credits from
14 modernized or retooled hydropower facilities and
15 repowered wind projects, through its long-term
16 renewable resources plan described in subparagraph (A)
17 of this paragraph (1) as necessary based on developer
18 interest, market conditions, budget considerations,
19 resource adequacy needs, or other factors.

20 In developing the long-term renewable resources
21 procurement plan, the Agency shall consider other
22 approaches, in addition to competitive procurements,
23 that can be used to procure renewable energy credits
24 from brownfield site photovoltaic projects and thereby
25 help return blighted or contaminated land to
26 productive use while enhancing public health and the

1 well-being of Illinois residents, including those in
2 environmental justice communities, as defined using
3 existing methodologies and findings used by the Agency
4 and its Administrator in its Illinois Solar for All
5 Program. The Agency shall also consider other
6 approaches, in addition to competitive procurements,
7 to procure renewable energy credits from new and
8 existing hydropower facilities to support the
9 development and maintenance of these facilities. The
10 Agency shall explore options to convert existing dams
11 but shall not consider approaches to develop new dams
12 where they do not already exist. To encourage the
13 continued operation of utility-scale wind projects,
14 the Agency shall consider and may propose other
15 approaches in addition to competitive procurements to
16 procure renewable energy credits from repowered wind
17 projects.

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

24 (iii) For purposes of this Section:

25 "New wind projects" means wind renewable energy
26 facilities that are energized after June 1, 2017 for

1 the delivery year commencing June 1, 2017.

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

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

18 For purposes of calculating whether the Agency has
19 procured enough new wind and solar renewable energy
20 credits required by this subparagraph (C), renewable
21 energy facilities that have a multi-year renewable
22 energy credit delivery contract with the utility
23 through at least delivery year 2030 shall be
24 considered new, however no renewable energy credits
25 from contracts entered into before June 1, 2021 shall
26 be used to calculate whether the Agency has procured

1 the correct proportion of new wind and new solar
2 contracts described in this subparagraph (C) for
3 delivery year 2021 and thereafter.

4 (D) Renewable energy credits shall be cost effective.
5 For purposes of this subsection (c), "cost effective"
6 means that the costs of procuring renewable energy
7 resources do not cause the limit stated in subparagraph
8 (E) of this paragraph (1) to be exceeded and, for
9 renewable energy credits procured through a competitive
10 procurement event, do not exceed benchmarks based on
11 market prices for like products in the region. For
12 purposes of this subsection (c), "like products" means
13 contracts for renewable energy credits from the same or
14 substantially similar technology, same or substantially
15 similar vintage (new or existing), the same or
16 substantially similar quantity, and the same or
17 substantially similar contract length and structure.
18 Benchmarks shall reflect development, financing, or
19 related costs resulting from requirements imposed through
20 other provisions of State law, including, but not limited
21 to, requirements in subparagraphs (P) and (Q) of this
22 paragraph (1) and the Renewable Energy Facilities
23 Agricultural Impact Mitigation Act. Confidential
24 benchmarks shall be developed by the procurement
25 administrator, in consultation with the Commission staff,
26 Agency staff, and the procurement monitor and shall be

1 subject to Commission review and approval. If price
2 benchmarks for like products in the region are not
3 available, the procurement administrator shall establish
4 price benchmarks based on publicly available data on
5 regional technology costs and expected current and future
6 regional energy prices. The benchmarks in this Section
7 shall not be used to curtail or otherwise reduce
8 contractual obligations entered into by or through the
9 Agency prior to June 1, 2017 (the effective date of Public
10 Act 99-906).

11 (E) For purposes of this subsection (c), the required
12 procurement of cost-effective renewable energy resources
13 for a particular year commencing prior to June 1, 2017
14 shall be measured as a percentage of the actual amount of
15 electricity (megawatt-hours) supplied by the electric
16 utility to eligible retail customers in the delivery year
17 ending immediately prior to the procurement, and, for
18 delivery years commencing on and after June 1, 2017, the
19 required procurement of cost-effective renewable energy
20 resources for a particular year shall be measured as a
21 percentage of the actual amount of electricity
22 (megawatt-hours) delivered by the electric utility in the
23 delivery year ending immediately prior to the procurement,
24 to all retail customers in its service territory. For
25 purposes of this subsection (c), the amount paid per
26 kilowatthour means the total amount paid for electric

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

6 Notwithstanding the requirements of this subsection
7 (c), and except as provided in subparagraph (E-5) of
8 paragraph (1) of this subsection (c), the total of
9 renewable energy resources procured under the procurement
10 plan for any single year shall be subject to the
11 limitations of this subparagraph (E). Such procurement
12 shall be reduced for all retail customers based on the
13 amount necessary to limit the annual estimated average net
14 increase due to the costs of these resources included in
15 the amounts paid by eligible retail customers in
16 connection with electric service to no more than 4.25% of
17 the amount paid per kilowatthour by those customers during
18 the year ending May 31, 2009. To arrive at a maximum dollar
19 amount of renewable energy resources to be procured for
20 the particular delivery year, the resulting per
21 kilowatthour amount shall be applied to the actual amount
22 of kilowatthours of electricity delivered, or applicable
23 portion of such amount as specified in paragraph (1) of
24 this subsection (c), as applicable, by the electric
25 utility in the delivery year immediately prior to the
26 procurement to all retail customers in its service

1 territory. The calculations required by this subparagraph
2 (E) shall be made only once for each delivery year at the
3 time that the renewable energy resources are procured.
4 Once the determination as to the amount of renewable
5 energy resources to procure is made based on the
6 calculations set forth in this subparagraph (E) and the
7 contracts procuring those amounts are executed between the
8 seller and applicable electric utility, no subsequent rate
9 impact determinations shall be made and no adjustments to
10 those contract amounts shall be allowed. As provided in
11 subparagraph (E-5) of paragraph (1) of this subsection
12 (c), the seller shall be entitled to full, prompt, and
13 uninterrupted payment under the applicable contract
14 notwithstanding the application of this subparagraph (E),
15 and all costs incurred under such contracts shall be fully
16 recoverable by the electric utility as provided in this
17 Section.

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

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

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

17 (iii) The Agency shall promptly notify the
18 Commission that existing contractual obligations are
19 reasonably expected to exceed the maximum collection
20 authorized under subparagraph (E) of paragraph (1) of
21 this subsection (c) for the applicable delivery year.
22 The Agency shall also explain and confirm how the
23 operation of items (i) and (ii) of this subparagraph
24 (E-5) ensures that the electric utility will continue
25 to make prompt and uninterrupted payment under
26 existing contractual obligations. The Agency shall

1 provide this information to the Commission through a
2 notice filed in the Commission docket approving the
3 Agency's operative Long-Term Renewable Resources
4 Procurement Plan that includes the applicable delivery
5 year.

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

23 (aa) If the Agency determines that additional
24 renewable energy credit procurement contract
25 awards could be made without exceeding the
26 limitations of subparagraph (E), then the

1 procurements shall be authorized at a scale
2 determined not to exceed the limitations of
3 subparagraph (E) in a manner consistent with the
4 priorities of this Section.

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

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

20 (dd) With respect to the procurement of
21 renewable energy credits authorized through
22 programs administered under subsection (b) of
23 Section 1-56 and subparagraphs (K) through (M) of
24 paragraph (1) of subsection (k) of Section 1-75 of
25 this Act, the award of contracts for the
26 procurement of renewable energy credits shall be

1 suspended or reduced only at the conclusion of the
2 program year in which the notice provided for
3 under item (iii) of this subparagraph (E-5) is
4 made.

5 (ee) The contract shall provide that, so long
6 as at least one of: (i) the cost recovery
7 mechanisms referenced in subsection (k) of Section
8 16-108 and subsection (l) of Section 16-111.5 of
9 the Public Utilities Act remains in full force
10 without limitation or (ii) the utility is
11 otherwise authorized and or entitled to full,
12 prompt, and uninterrupted recovery of its costs
13 through any other mechanism, then such seller
14 shall be entitled to full, prompt, and
15 uninterrupted payment under the applicable
16 contract notwithstanding the application of this
17 subparagraph (E).

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

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

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

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

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

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

13 (i) Notwithstanding whether a long-term renewable
14 resources procurement plan has been approved, the
15 Agency shall conduct an initial forward procurement
16 for renewable energy credits from new utility-scale
17 wind projects within 160 days after June 1, 2017 (the
18 effective date of Public Act 99-906). For the purposes
19 of this initial forward procurement, the Agency shall
20 solicit 15-year contracts for delivery of 1,000,000
21 renewable energy credits delivered annually from new
22 utility-scale wind projects to begin delivery on June
23 1, 2019, if available, but not later than June 1, 2021,
24 unless the project has delays in the establishment of
25 an operating interconnection with the applicable
26 transmission or distribution system as a result of the

1 actions or inactions of the transmission or
2 distribution provider, or other causes for force
3 majeure as outlined in the procurement contract, in
4 which case, not later than June 1, 2022. Payments to
5 suppliers of renewable energy credits shall commence
6 upon delivery. Renewable energy credits procured under
7 this initial procurement shall be included in the
8 Agency's long-term plan and shall apply to all
9 renewable energy goals in this subsection (c).

10 (ii) Notwithstanding whether a long-term renewable
11 resources procurement plan has been approved, the
12 Agency shall conduct an initial forward procurement
13 for renewable energy credits from new utility-scale
14 solar projects and brownfield site photovoltaic
15 projects within one year after June 1, 2017 (the
16 effective date of Public Act 99-906). For the purposes
17 of this initial forward procurement, the Agency shall
18 solicit 15-year contracts for delivery of 1,000,000
19 renewable energy credits delivered annually from new
20 utility-scale solar projects and brownfield site
21 photovoltaic projects to begin delivery on June 1,
22 2019, if available, but not later than June 1, 2021,
23 unless the project has delays in the establishment of
24 an operating interconnection with the applicable
25 transmission or distribution system as a result of the
26 actions or inactions of the transmission or

1 distribution provider, or other causes for force
2 majeure as outlined in the procurement contract, in
3 which case, not later than June 1, 2022. The Agency may
4 structure this initial procurement in one or more
5 discrete procurement events. Payments to suppliers of
6 renewable energy credits shall commence upon delivery.
7 Renewable energy credits procured under this initial
8 procurement shall be included in the Agency's
9 long-term plan and shall apply to all renewable energy
10 goals in this subsection (c).

11 (iii) Notwithstanding whether the Commission has
12 approved the periodic long-term renewable resources
13 procurement plan revision described in Section
14 16-111.5 of the Public Utilities Act, the Agency shall
15 conduct at least one subsequent forward procurement
16 for renewable energy credits from new utility-scale
17 wind projects, new utility-scale solar projects, and
18 new brownfield site photovoltaic projects within 240
19 days after the effective date of this amendatory Act
20 of the 102nd General Assembly in quantities necessary
21 to meet the requirements of subparagraph (C) of this
22 paragraph (1) through the delivery year beginning June
23 1, 2021.

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

1 16-111.5 of the Public Utilities Act, the Agency shall
2 open capacity for each category in the Adjustable
3 Block program within 90 days after the effective date
4 of this amendatory Act of the 102nd General Assembly
5 manner:

6 (1) The Agency shall open the first block of
7 annual capacity for the category described in item
8 (i) of subparagraph (K) of this paragraph (1). The
9 first block of annual capacity for item (i) shall
10 be for at least 75 megawatts of total nameplate
11 capacity. The price of the renewable energy credit
12 for this block of capacity shall be 4% less than
13 the price of the last open block in this category.
14 Projects on a waitlist shall be awarded contracts
15 first in the order in which they appear on the
16 waitlist. Notwithstanding anything to the
17 contrary, for those renewable energy credits that
18 qualify and are procured under this subitem (1) of
19 this item (iv), the renewable energy credit
20 delivery contract value shall be paid in full,
21 based on the estimated generation during the first
22 15 years of operation, by the contracting
23 utilities at the time that the facility producing
24 the renewable energy credits is interconnected at
25 the distribution system level of the utility and
26 verified as energized and in compliance by the

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

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

14 (A) The price of the renewable energy
15 credit for any project on a waitlist for this
16 category before the opening of this block
17 shall be 4% less than the price of the last
18 open block in this category. Projects on the
19 waitlist shall be awarded contracts first in
20 the order in which they appear on the
21 waitlist. Any projects that are less than or
22 equal to 25 kilowatts in size on the waitlist
23 for this capacity shall be moved to the
24 waitlist for paragraph (1) of this item (iv).
25 Notwithstanding anything to the contrary,
26 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

1 for any project not on the waitlist for this
2 category before the opening of the block shall
3 be determined and published by the Agency.
4 Projects not on a waitlist as of the opening
5 of this block shall be subject to the
6 requirements of subparagraph (Q) of this
7 paragraph (1), as applicable. Projects not on
8 a waitlist as of the opening of this block
9 shall be subject to the contract provisions
10 outlined in item (iii) of subparagraph (L) of
11 this paragraph (1). The Agency shall strive to
12 publish updated prices and an updated
13 renewable energy credit delivery contract as
14 quickly as possible.

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

26 The first 2 blocks of annual capacity for item

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

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

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

19 (i) Each applicant firm having a
20 waitlisted project eligible for selection
21 shall receive no less than 500 kilowatts
22 in awarded capacity across all groups, and
23 no approved vendor may receive more than
24 20% of each Group's waitlist allocation.

25 (ii) Each applicant firm, upon
26 receiving an award of program capacity

1 proportionate to its waitlisted capacity,
2 may then determine which waitlisted
3 projects it chooses to be selected for a
4 contract award up to that capacity amount.

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

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

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

23 (D) Applicant firms shall submit their
24 portfolio of projects used to satisfy those
25 contract awards no less than 90 days after the
26 Agency's announcement. The total nameplate

1 capacity of all projects used to satisfy that
2 portfolio shall be no greater than the
3 Agency's nameplate capacity award amount
4 associated with that applicant firm. An
5 applicant firm may decline, in whole or in
6 part, its nameplate capacity award without
7 penalty, with such unmet capacity rolled over
8 to the next block opening for project
9 selection under item (iii) of subparagraph (K)
10 of this subsection (c). Any projects not
11 included in an applicant firm's portfolio may
12 reapply without prejudice upon the next block
13 reopening for project selection under item
14 (iii) of subparagraph (K) of this subsection
15 (c).

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

23 (i) Renewable energy credit prices
24 shall be fixed, without further adjustment
25 under any other provision of this Act or
26 for any other reason, at 10% lower than

1 prices applicable to the last open block
2 for this category, inclusive of any adders
3 available for achieving a minimum of 50%
4 of subscribers to the project's nameplate
5 capacity being residential or small
6 commercial customers with subscriptions of
7 below 25 kilowatts in size;

8 (ii) A requirement that a minimum of
9 50% of subscribers to the project's
10 nameplate capacity be residential or small
11 commercial customers with subscriptions of
12 below 25 kilowatts in size;

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

1 substitution rights.

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

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

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

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

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

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

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

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

1 (1) The purchase price of the indexed
2 renewable energy credit payment shall be
3 calculated for each settlement period. That
4 payment, for any settlement period, shall be equal
5 to the difference resulting from subtracting the
6 strike price from the index price for that
7 settlement period. If this difference results in a
8 negative number, the indexed REC counterparty
9 shall owe the seller the absolute value multiplied
10 by the quantity of energy produced in the relevant
11 settlement period. If this difference results in a
12 positive number, the seller shall owe the indexed
13 REC counterparty this amount multiplied by the
14 quantity of energy produced in the relevant
15 settlement period.

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

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

1 industry-standard, third-party forward price curve
2 for energy at the appropriate hub or load zone,
3 including the estimated magnitude and timing of
4 the price effects related to federal carbon
5 controls. Each forward price curve shall contain a
6 specific value of the forecasted market price of
7 electricity for each annual delivery year of the
8 contract. For procurement planning purposes, the
9 impact on the annual budget for the cost of
10 indexed renewable energy credits for each delivery
11 year shall be determined as the expected annual
12 contract expenditure for that year, equaling the
13 difference between (i) the sum across all relevant
14 contracts of the applicable strike price
15 multiplied by contract quantity and (ii) the sum
16 across all relevant contracts of the forward price
17 curve for the applicable load zone for that year
18 multiplied by contract quantity. The contracting
19 utility shall not assume an obligation in excess
20 of the estimated annual cost of the contracts for
21 indexed renewable energy credits. Forward curves
22 shall be revised on an annual basis as updated
23 forward price curves are released and filed with
24 the Commission in the proceeding approving the
25 Agency's most recent long-term renewable resources
26 procurement plan. If the expected contract spend

1 is higher or lower than the total quantity of
2 contracts multiplied by the forward price curve
3 value for that year, the forward price curve shall
4 be updated by the procurement administrator, in
5 consultation with the Agency, Commission staff,
6 and procurement monitors, using then-currently
7 available price forecast data and additional
8 budget dollars shall be obligated or reobligated
9 as appropriate.

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

20 (vi) All procurements under this subparagraph (G),
21 including the procurement of renewable energy credits
22 from hydropower facilities, shall comply with the
23 geographic requirements in subparagraph (I) of this
24 paragraph (1) and shall follow the procurement
25 processes and procedures described in this Section and
26 Section 16-111.5 of the Public Utilities Act to the

1 extent practicable, and these processes and procedures
2 may be expedited to accommodate the schedule
3 established by this subparagraph (G).

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

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

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

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

9 The informational filing shall identify each
10 facility that was eligible to satisfy the alternative
11 retail electric supplier's obligations under Section
12 16-115D of the Public Utilities Act as described in
13 this item (i).

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

20 (iii) The alternative retail electric supplier
21 shall notify the Agency and the applicable utility, no
22 later than February 28 of the year preceding the
23 applicable delivery year or 15 days after June 1, 2017
24 (the effective date of Public Act 99-906), whichever
25 is later, of its election under item (ii) of this
26 subparagraph (H) to supply renewable energy credits to

1 retail customers of the utility. Such election shall
2 identify the amount of renewable energy credits to be
3 supplied by the alternative retail electric supplier
4 to the utility's retail customers and the source of
5 the renewable energy credits identified in the
6 informational filing as described in item (i) of this
7 subparagraph (H), subject to the following
8 limitations:

9 For the delivery year beginning June 1, 2018,
10 the maximum amount of renewable energy credits to
11 be supplied by an alternative retail electric
12 supplier under this subparagraph (H) shall be 68%
13 multiplied by 25% multiplied by 14.5% multiplied
14 by the amount of metered electricity
15 (megawatt-hours) delivered by the alternative
16 retail electric supplier to Illinois retail
17 customers during the delivery year ending May 31,
18 2016.

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

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

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

20 If the requirements set forth in items (i) through
21 (iii) of this subparagraph (H) are met, the charges
22 that would otherwise be applicable to the retail
23 customers of the alternative retail electric supplier
24 under paragraph (6) of this subsection (c) for the
25 applicable delivery year shall be reduced by the ratio
26 of the quantity of renewable energy credits supplied

1 by the alternative retail electric supplier compared
2 to that supplier's target renewable energy credit
3 quantity. The supplier's target renewable energy
4 credit quantity for the delivery year beginning June
5 1, 2018 is 14.5% multiplied by the total amount of
6 metered electricity (megawatt-hours) delivered by the
7 alternative retail supplier in that delivery year,
8 provided that the 14.5% shall increase by 1.5% each
9 delivery year thereafter to 25% by the delivery year
10 beginning June 1, 2025, and thereafter the 25% value
11 shall apply to each delivery year.

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

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

1 State law, and contributing to a cleaner and healthier
2 environment for the citizens of this State. In order to
3 further these legislative purposes, renewable energy
4 credits shall be eligible to be counted toward the
5 renewable energy requirements of this subsection (c) if
6 they are generated from facilities located in this State.
7 The Agency may qualify renewable energy credits from
8 facilities located in states adjacent to Illinois or
9 renewable energy credits associated with the electricity
10 generated by a utility-scale wind energy facility or
11 utility-scale photovoltaic facility and transmitted by a
12 qualifying direct current project described in subsection
13 (b-5) of Section 8-406 of the Public Utilities Act to a
14 delivery point on the electric transmission grid located
15 in this State or a state adjacent to Illinois, if the
16 generator demonstrates and the Agency determines that the
17 operation of such facility or facilities will help promote
18 the State's interest in the health, safety, and welfare of
19 its residents based on the public interest criteria
20 described above. For the purposes of this Section,
21 renewable resources that are delivered via a high voltage
22 direct current converter station located in Illinois shall
23 be deemed generated in Illinois at the time and location
24 the energy is converted to alternating current by the high
25 voltage direct current converter station if the high
26 voltage direct current transmission line: (i) after the

1 effective date of this amendatory Act of the 102nd General
2 Assembly, was constructed with a project labor agreement;
3 (ii) is capable of transmitting electricity at 525kv;
4 (iii) has an Illinois converter station located and
5 interconnected in the region of the PJM Interconnection,
6 LLC; (iv) does not operate as a public utility; and (v) if
7 the high voltage direct current transmission line was
8 energized after June 1, 2023. To ensure that the public
9 interest criteria are applied to the procurement and given
10 full effect, the Agency's long-term procurement plan shall
11 describe in detail how each public interest factor shall
12 be considered and weighted for facilities located in
13 states adjacent to Illinois.

14 (J) In order to promote the competitive development of
15 renewable energy resources in furtherance of the State's
16 interest in the health, safety, and welfare of its
17 residents, renewable energy credits shall not be eligible
18 to be counted toward the renewable energy requirements of
19 this subsection (c) if they are sourced from a generating
20 unit whose costs were being recovered through rates
21 regulated by this State or any other state or states on or
22 after January 1, 2017. Each contract executed to purchase
23 renewable energy credits under this subsection (c) shall
24 provide for the contract's termination if the costs of the
25 generating unit supplying the renewable energy credits
26 subsequently begin to be recovered through rates regulated

1 by this State or any other state or states; and each
2 contract shall further provide that, in that event, the
3 supplier of the credits must return 110% of all payments
4 received under the contract. Amounts returned under the
5 requirements of this subparagraph (J) shall be retained by
6 the utility and all of these amounts shall be used for the
7 procurement of additional renewable energy credits from
8 new wind or new photovoltaic resources as defined in this
9 subsection (c). The long-term plan shall provide that
10 these renewable energy credits shall be procured in the
11 next procurement event.

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

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

18 The Adjustable Block program shall include for each
19 category of eligible projects for each delivery year: a
20 single block of nameplate capacity, a price for renewable
21 energy credits within that block, and the terms and
22 conditions for securing a spot on a waitlist once the
23 block is fully committed or reserved. Except as outlined
24 below, the waitlist of projects in a given year will carry
25 over to apply to the subsequent year when another block is
26 opened. Only projects energized on or after June 1, 2017

1 shall be eligible for the Adjustable Block program. For
2 each category for each delivery year the Agency shall
3 determine the amount of generation capacity in each block,
4 and the purchase price for each block, provided that the
5 purchase price provided and the total amount of generation
6 in all blocks for all categories shall be sufficient to
7 meet the goals in this subsection (c). The Agency shall
8 strive to issue a single block sized to provide for
9 stability and market growth. The Agency shall establish
10 program eligibility requirements that ensure that projects
11 that enter the program are sufficiently mature to indicate
12 a demonstrable path to completion. The Agency may
13 periodically review its prior decisions establishing the
14 amount of generation capacity in each block, and the
15 purchase price for each block, and may propose, on an
16 expedited basis, changes to these previously set values,
17 including but not limited to redistributing these amounts
18 and the available funds as necessary and appropriate,
19 subject to Commission approval as part of the periodic
20 plan revision process described in Section 16-111.5 of the
21 Public Utilities Act. The Agency may define different
22 block sizes, purchase prices, or other distinct terms and
23 conditions for projects located in different utility
24 service territories if the Agency deems it necessary to
25 meet the goals in this subsection (c).

26 The Adjustable Block program shall include the

1 following categories in at least the following amounts:

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

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

13 (iii) At least 30% from photovoltaic community
14 renewable generation projects. Capacity for this
15 category for the first 2 delivery years after the
16 effective date of this amendatory Act of the 102nd
17 General Assembly shall be allocated to waitlist
18 projects as provided in paragraph (3) of item (iv) of
19 subparagraph (G). Starting in the third delivery year
20 after the effective date of this amendatory Act of the
21 102nd General Assembly or earlier if the Agency
22 determines there is additional capacity needed ~~for~~ to
23 meet previous delivery year requirements, the
24 following shall apply:

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

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

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

11 (3) projects shall not be colocated with one
12 or more other community renewable generation
13 projects, as defined in the Agency's first revised
14 long-term renewable resources procurement plan
15 approved by the Commission on February 18, 2020,
16 such that the aggregate nameplate capacity exceeds
17 5,000 kilowatts; and

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

23 (iv) At least 15% from distributed renewable
24 generation devices or photovoltaic community renewable
25 generation projects installed on public school land.
26 The Agency may create subcategories within this

1 category to account for the differences between
2 project size or location. Projects located within
3 environmental justice communities or within
4 Organizational Units that fall within Tier 1 or Tier 2
5 shall be given priority. Each of the Agency's periodic
6 updates to its long-term renewable resources
7 procurement plan to incorporate the procurement
8 described in this subparagraph (iv) shall also include
9 the proposed quantities or blocks, pricing, and
10 contract terms applicable to the procurement as
11 indicated herein. In each such update and procurement,
12 the Agency shall set the renewable energy credit price
13 and establish payment terms for the renewable energy
14 credits procured pursuant to this subparagraph (iv)
15 that make it feasible and affordable for public
16 schools to install photovoltaic distributed renewable
17 energy devices on their premises, including, but not
18 limited to, those public schools subject to the
19 prioritization provisions of this subparagraph. For
20 the purposes of this item (iv):

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

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

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

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

19 (1) community ownership or community
20 wealth-building;

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

26 (3) meaningful involvement in project

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

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

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

11 Selection criteria may also prioritize projects
12 that:

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

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

24 (3) are located in Equity Investment Eligible
25 Communities;

26 (4) are not greenfield projects;

1 (5) serve only local subscribers;

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

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

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

12 For the purposes of this item (v):

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

20 "Community benefit" means a range of services and
21 activities that provide affirmative, economic,
22 environmental, social, cultural, or physical value to
23 a community; or a mechanism that enables economic
24 development, high-quality employment, and education
25 opportunities for local workers and residents, or
26 formal monitoring and oversight structures such that

1 community members may ensure that those services and
2 activities respond to local knowledge and needs.

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

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

22 (vi) At least 10% from distributed renewable
23 energy generation devices, which includes distributed
24 renewable energy devices with a nameplate capacity
25 under 5,000 kilowatts or photovoltaic community
26 renewable generation projects, from applicants that

1 are equity eligible contractors. The Agency may create
2 subcategories within this category to account for the
3 differences between project size and type. The Agency
4 shall propose to increase the percentage in this item
5 (vi) over time to 40% based on factors, including, but
6 not limited to, the number of equity eligible
7 contractors and capacity used in this item (vi) in
8 previous delivery years.

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

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

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

25 To the extent there is uncontracted capacity from any
26 block in any of categories (i) through (vi) at the end of a

1 delivery year, the Agency shall redistribute that capacity
2 to one or more other categories giving priority to
3 categories with projects on a waitlist. The redistributed
4 capacity shall be added to the annual capacity in the
5 subsequent delivery year, and the price for renewable
6 energy credits shall be the price for the new delivery
7 year. Redistributed capacity shall not be considered
8 redistributed when determining whether the goals in this
9 subsection (K) have been met.

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

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

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

26 (i) (Blank).

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

21 (iii) For those renewable energy credits that
22 qualify and are procured under item (ii) and (v) of
23 subparagraph (K) of this paragraph (1) and any like
24 projects of a similar category that qualify and are
25 procured under item (vi), the contract length shall be
26 15 years. 15% of the renewable energy credit delivery

1 contract value, based on the estimated generation
2 during the first 15 years of operation, shall be paid
3 by the contracting utilities at the time that the
4 facility producing the renewable energy credits is
5 interconnected at the distribution system level of the
6 utility and verified as energized and compliant by the
7 Program Administrator. The remaining portion shall be
8 paid ratably over the subsequent 6-year period. The
9 electric utility shall receive and retire all
10 renewable energy credits generated by the project for
11 the first 15 years of operation. Renewable energy
12 credits generated by the project thereafter shall not
13 be transferred under the renewable energy credit
14 delivery contract with the counterparty electric
15 utility.

16 (iv) For those renewable energy credits that
17 qualify and are procured under items (iii) and (iv) of
18 subparagraph (K) of this paragraph (1), and any like
19 projects that qualify and are procured under item
20 (vi), the renewable energy credit delivery contract
21 length shall be 20 years and shall be paid over the
22 delivery term, not to exceed during each delivery year
23 the contract price multiplied by the estimated annual
24 renewable energy credit generation amount. If
25 generation of renewable energy credits during a
26 delivery year exceeds the estimated annual generation

1 amount, the excess renewable energy credits shall be
2 carried forward to future delivery years and shall not
3 expire during the delivery term. If generation of
4 renewable energy credits during a delivery year,
5 including carried forward excess renewable energy
6 credits, if any, is less than the estimated annual
7 generation amount, payments during such delivery year
8 will not exceed the quantity generated plus the
9 quantity carried forward multiplied by the contract
10 price. The electric utility shall receive all
11 renewable energy credits generated by the project
12 during the first 20 years of operation and retire all
13 renewable energy credits paid for under this item (iv)
14 and return at the end of the delivery term all
15 renewable energy credits that were not paid for.
16 Renewable energy credits generated by the project
17 thereafter shall not be transferred under the
18 renewable energy credit delivery contract with the
19 counterparty electric utility. Notwithstanding the
20 preceding, for those projects participating under item
21 (iii) of subparagraph (K), the contract price for a
22 delivery year shall be based on subscription levels as
23 measured on the higher of the first business day of the
24 delivery year or the first business day 6 months after
25 the first business day of the delivery year.
26 Subscription of 90% of nameplate capacity or greater

1 shall be deemed to be fully subscribed for the
2 purposes of this item (iv). For projects receiving a
3 20-year delivery contract, REC prices shall be
4 adjusted downward for consistency with the incentive
5 levels previously determined to be necessary to
6 support projects under 15-year delivery contracts,
7 taking into consideration any additional new
8 requirements placed on the projects, including, but
9 not limited to, labor standards.

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

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

21 (vii) If, at any time, approved applications for
22 the Adjustable Block program exceed funds collected by
23 the electric utility or would cause the Agency to
24 exceed the limitation described in subparagraph (E) of
25 this paragraph (1) on the amount of renewable energy
26 resources that may be procured, then the Agency may

1 consider future uncommitted funds to be reserved for
2 these contracts on a first-come, first-served basis.

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

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

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

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

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

13 The Program Administrator may charge application fees
14 to participating firms to cover the cost of program
15 administration. Any application fee amounts shall
16 initially be determined through the long-term renewable
17 resources procurement plan, and modifications to any
18 application fee that deviate more than 25% from the
19 Commission's approved value must be approved by the
20 Commission as a long-term plan revision under Section
21 16-111.5 of the Public Utilities Act. The Agency shall
22 consider stakeholder feedback when making adjustments to
23 application fees and shall notify stakeholders in advance
24 of any planned changes.

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

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

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

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

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

19 (i) The Agency shall establish a registration
20 process for entities seeking to qualify for
21 program-administered incentive funding and establish
22 baseline qualifications for vendor approval. The
23 Agency must maintain a list of approved entities on
24 each program's website, and may revoke a vendor's
25 ability to receive program-administered incentive
26 funding status upon a determination that the vendor

1 failed to comply with contract terms, the law, or
2 other program requirements.

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

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

23 (iv) The Agency shall establish one or multiple
24 Consumer Complaints Centers to accept complaints
25 regarding businesses that participate in, or otherwise
26 benefit from, State-administered incentive funding

1 through Agency-administered programs. The Agency shall
2 maintain a public database of complaints with any
3 confidential or particularly sensitive information
4 redacted from public entries.

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

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

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

25 (N) The Agency shall establish the terms, conditions,
26 and program requirements for photovoltaic community

1 renewable generation projects with a goal to expand access
2 to a broader group of energy consumers, to ensure robust
3 participation opportunities for residential and small
4 commercial customers and those who cannot install
5 renewable energy on their own properties. Subject to
6 reasonable limitations, any plan approved by the
7 Commission shall allow subscriptions to community
8 renewable generation projects to be portable and
9 transferable. For purposes of this subparagraph (N),
10 "portable" means that subscriptions may be retained by the
11 subscriber even if the subscriber relocates or changes its
12 address within the same utility service territory; and
13 "transferable" means that a subscriber may assign or sell
14 subscriptions to another person within the same utility
15 service territory.

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

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

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

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

21 (O) For the delivery year beginning June 1, 2018, the
22 long-term renewable resources procurement plan required by
23 this subsection (c) shall provide for the Agency to
24 procure contracts to continue offering the Illinois Solar
25 for All Program described in subsection (b) of Section
26 1-56 of this Act, and the contracts approved by the

1 Commission shall be executed by the utilities that are
2 subject to this subsection (c). The long-term renewable
3 resources procurement plan shall allocate up to
4 \$50,000,000 per delivery year to fund the programs, and
5 the plan shall determine the amount of funding to be
6 apportioned to the programs identified in subsection (b)
7 of Section 1-56 of this Act; provided that for the
8 delivery years beginning June 1, 2021, June 1, 2022, and
9 June 1, 2023, the long-term renewable resources
10 procurement plan may average the annual budgets over a
11 3-year period to account for program ramp-up. For the
12 delivery years beginning June 1, 2021, June 1, 2024, June
13 1, 2027, and June 1, 2030 and additional \$10,000,000 shall
14 be provided to the Department of Commerce and Economic
15 Opportunity to implement the workforce development
16 programs and reporting as outlined in Section 16-108.12 of
17 the Public Utilities Act. In making the determinations
18 required under this subparagraph (O), the Commission shall
19 consider the experience and performance under the programs
20 and any evaluation reports. The Commission shall also
21 provide for an independent evaluation of those programs on
22 a periodic basis that are funded under this subparagraph
23 (O).

24 (P) All programs and procurements under this
25 subsection (c) shall be designed to encourage
26 participating projects to use a diverse and equitable

1 workforce and a diverse set of contractors, including
2 minority-owned businesses, disadvantaged businesses,
3 trade unions, graduates of any workforce training programs
4 administered under this Act, and small businesses.

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

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

1 (1) Each facility shall be subject to the
2 prevailing wage requirements included in the
3 Prevailing Wage Act. The Agency shall require
4 verification that all construction performed on the
5 facility by the renewable energy credit delivery
6 contract holder, its contractors, or its
7 subcontractors relating to construction of the
8 facility is performed by construction employees
9 receiving an amount for that work equal to or greater
10 than the general prevailing rate, as that term is
11 defined in Section 3 of the Prevailing Wage Act. For
12 purposes of this item (1), "house of worship" means
13 property that is both (1) used exclusively by a
14 religious society or body of persons as a place for
15 religious exercise or religious worship and (2)
16 recognized as exempt from taxation pursuant to Section
17 15-40 of the Property Tax Code. This item (1) shall
18 apply to any the following:

- 19 (i) all new utility-scale wind projects;
20 (ii) all new utility-scale photovoltaic
21 projects and repowered wind projects;
22 (iii) all new brownfield photovoltaic
23 projects;
24 (iv) all new photovoltaic community renewable
25 energy facilities that qualify for item (iii) of
26 subparagraph (K) of this paragraph (1);

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

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

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

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

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

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

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

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

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

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

- 22 (i) publicly accessible;
23 (ii) easy for people to find and use;
24 (iii) populated with information that
25 includes, but is not limited to, project names,
26 project size, and contact information of

1 subcontractors who employ workers performing
2 construction activities on the projects; and
3 (iv) updated regularly.

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

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

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

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

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

13 (R) In its long-term renewable resources procurement
14 plan, the Agency shall establish a self-direct renewable
15 portfolio standard compliance program for eligible
16 self-direct customers that purchase renewable energy
17 credits from utility-scale wind and solar projects through
18 long-term agreements for purchase of renewable energy
19 credits as described in this Section. Such long-term
20 agreements may include the purchase of energy or other
21 products on a physical or financial basis and may involve
22 an alternative retail electric supplier as defined in
23 Section 16-102 of the Public Utilities Act. This program
24 shall take effect in the delivery year commencing June 1,
25 2023.

26 (1) For the purposes of this subparagraph:

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

10 "Retail customer" has the meaning set forth in
11 Section 16-102 of the Public Utilities Act and
12 multiple retail customer accounts under the same
13 corporate parent may aggregate their account demands
14 to meet the 10,000 kilowatt threshold. The criteria
15 for determining whether this subparagraph is
16 applicable to a retail customer shall be based on the
17 12 consecutive billing periods prior to the start of
18 the year in which the application is filed.

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

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

24 (ii) be sourced from one or more renewable
25 energy generating facilities that comply with the
26 geographic requirements as set forth in

1 subparagraph (I) of paragraph (1) of subsection
2 (c) as interpreted through the Agency's long-term
3 renewable resources procurement plan, or, where
4 applicable, the geographic requirements that
5 governed utility-scale renewable energy credits at
6 the time the eligible self-direct customer entered
7 into the applicable renewable energy credit
8 purchase agreement;

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

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

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

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

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

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

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

19 (4) The Commission shall approve a reduction in
20 the volumetric charges collected pursuant to Section
21 16-108 of the Public Utilities Act for approved
22 eligible self-direct customers equivalent to the
23 anticipated cost of renewable energy credit deliveries
24 under contracts for new utility-scale wind and new
25 utility-scale solar entered for each delivery year
26 after the large energy customer begins retiring

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

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

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

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

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

1 10 years, including supporting documentation;

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

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

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

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

1 program.

2 (2) (Blank).

3 (3) (Blank).

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

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

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

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

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

23 In meeting the renewable energy requirements of this
24 subsection (c), to the extent feasible and consistent with
25 State and federal law, the renewable energy credit
26 procurements, Adjustable Block solar program, and

1 community renewable generation program shall provide
2 employment opportunities for all segments of the
3 population and workforce, including minority-owned and
4 female-owned business enterprises, and shall not,
5 consistent with State and federal law, discriminate based
6 on race or socioeconomic status.

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

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

1 pursuant to this subsection (c-5) may be included or
2 counted for purposes of compliance with the amounts of
3 renewable energy credits required to be procured pursuant
4 to subsection (c) of this Section to the extent that there
5 are otherwise shortfalls in compliance with such
6 requirements. The procurement of renewable energy credits
7 by electric utilities pursuant to this subsection (c-5)
8 shall be funded solely by revenues collected from the Coal
9 to Solar and Energy Storage Initiative Charge provided for
10 in this subsection (c-5) and subsection (i-5) of Section
11 16-108 of the Public Utilities Act, shall not be funded by
12 revenues collected through any of the other funding
13 mechanisms provided for in subsection (c) of this Section,
14 and shall not be subject to the limitation imposed by
15 subsection (c) on charges to retail customers for costs to
16 procure renewable energy resources pursuant to subsection
17 (c), and shall not be subject to any other requirements or
18 limitations of subsection (c).

19 (2) The Agency shall conduct 2 procurement events to
20 select owners of electric generating facilities meeting
21 the eligibility criteria specified in this subsection
22 (c-5) to enter into long-term contracts to sell renewable
23 energy credits to electric utilities serving more than
24 300,000 retail customers in this State as of January 1,
25 2019. The first procurement event shall be conducted no
26 later than March 31, 2022, unless the Agency elects to

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

19 (A) The applicant owns an electric generating
20 facility located in this State that: (i) as of January
21 1, 2016, burned coal as its primary fuel to generate
22 electricity; and (ii) has, or had prior to retirement,
23 an electric generating capacity of at least 150
24 megawatts. The electric generating facility can be
25 either: (i) retired as of the date of the procurement
26 event; or (ii) still operating as of the date of the

1 procurement event.

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

12 (C) If participating in the first procurement
13 event, the applicant proposes and commits to construct
14 and operate, at the site, and if necessary for
15 sufficient space on property adjacent to the existing
16 property, at which the electric generating facility
17 identified in paragraph (A) is located: (i) a new
18 renewable energy facility of at least 20 megawatts but
19 no more than 100 megawatts of electric generating
20 capacity, and (ii) an energy storage facility having a
21 storage capacity equal to at least 2 megawatts and at
22 most 10 megawatts. If participating in the second
23 procurement event, the applicant proposes and commits
24 to construct and operate, at the site, and if
25 necessary for sufficient space on property adjacent to
26 the existing property, at which the electric

1 generating facility identified in paragraph (A) is
2 located: (i) a new renewable energy facility of at
3 least 5 megawatts but no more than 20 megawatts of
4 electric generating capacity, and (ii) an energy
5 storage facility having a storage capacity equal to at
6 least 0.5 megawatts and at most one megawatt.

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

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

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

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

25 (H) The applicant commits to enter into a contract
26 or contracts for the applicable duration to provide

1 specified numbers of renewable energy credits each
2 year from the new renewable energy facility to
3 electric utilities that served more than 300,000
4 retail customers in this State as of January 1, 2019,
5 at a price of \$30 per renewable energy credit. The
6 price per renewable energy credit shall be fixed at
7 \$30 for the applicable duration and the renewable
8 energy credits shall not be indexed renewable energy
9 credits as provided for in item (v) of subparagraph
10 (G) of paragraph (1) of subsection (c) of Section 1-75
11 of this Act. The applicable duration of each contract
12 shall be 20 years, unless the applicant is physically
13 interconnected to the PJM Interconnection, LLC
14 transmission grid and had a generating capacity of at
15 least 1,200 megawatts as of January 1, 2021, in which
16 case the applicable duration of the contract shall be
17 15 years.

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

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

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

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

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

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

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

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

6 (7) The Agency shall submit its proposed selection of
7 applicants, new renewable energy facilities to be
8 constructed, and renewable energy credit amounts for each
9 procurement event to the Commission for approval. The
10 Commission shall, within 2 business days after receipt of
11 the Agency's proposed selections, approve the proposed
12 selections if it determines that the applicants and the
13 new renewable energy facilities to be constructed meet the
14 selection criteria set forth in this subsection (c-5) and
15 that the Agency seeks approval for contracts of applicable
16 durations aggregating to no more than the maximum amount
17 of renewable energy credits per year authorized by this
18 subsection (c-5) for the procurement event, at a price of
19 \$30 per renewable energy credit.

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

1 resulting from the first procurement event shall allow for
2 a commercial operation date for the new renewable energy
3 facility of either June 1, 2023 or June 1, 2024, with such
4 dates subject to adjustment as provided in this paragraph.
5 Each contract resulting from the second procurement event
6 shall provide for a commercial operation date on June 1
7 next occurring up to 48 months after execution of the
8 contract. Each contract shall provide that the owner shall
9 receive payments for renewable energy credits for the
10 applicable durations beginning with the commercial
11 operation date of the new renewable energy facility. The
12 form contract shall provide for adjustments to the
13 commercial operation and payment start dates as needed due
14 to any delays in completing the procurement and
15 contracting processes, in finalizing interconnection
16 agreements and installing interconnection facilities, and
17 in obtaining other necessary governmental permits and
18 approvals. The form contract shall be, to the maximum
19 extent possible, consistent with standard electric
20 industry contracts for sale, delivery, and purchase of
21 renewable energy credits while taking into account the
22 specific requirements of this subsection (c-5). The form
23 contract shall provide for over-delivery and
24 under-delivery of renewable energy credits within
25 reasonable ranges during each 12-month period and penalty,
26 default, and enforcement provisions for failure of the

1 selling party to deliver renewable energy credits as
2 specified in the contract and to comply with the
3 requirements of this subsection (c-5). The standard form
4 contract shall specify that all renewable energy credits
5 delivered to the electric utility pursuant to the contract
6 shall be retired. The Agency shall make the proposed
7 contracts available for a reasonable period for comment by
8 potential applicants, and shall publish the final form
9 contract at least 30 days before the date of the first
10 procurement event.

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

13 (A) By no later than July 1, 2022, each electric
14 utility that served more than 300,000 retail customers
15 in this State as of January 1, 2019 shall file a tariff
16 with the Commission for the billing and collection of
17 a Coal to Solar and Energy Storage Initiative Charge
18 in accordance with subsection (i-5) of Section 16-108
19 of the Public Utilities Act, with such tariff to be
20 effective, following review and approval or
21 modification by the Commission, beginning January 1,
22 2023. The tariff shall provide for the calculation and
23 setting of the electric utility's Coal to Solar and
24 Energy Storage Initiative Charge to collect revenues
25 estimated to be sufficient, in the aggregate, (i) to
26 enable the electric utility to pay for the renewable

1 energy credits it has contracted to purchase in the
2 delivery year beginning June 1, 2023 and each delivery
3 year thereafter from new renewable energy facilities
4 located at the sites of qualifying electric generating
5 facilities, and (ii) to fund the grant payments to be
6 made in each delivery year by the Department of
7 Commerce and Economic Opportunity, or any successor
8 department or agency, which shall be referred to in
9 this subsection (c-5) as the Department, pursuant to
10 paragraph (10) of this subsection (c-5). The electric
11 utility's tariff shall provide for the billing and
12 collection of the Coal to Solar and Energy Storage
13 Initiative Charge on each kilowatthour of electricity
14 delivered to its delivery services customers within
15 its service territory and shall provide for an annual
16 reconciliation of revenues collected with actual
17 costs, in accordance with subsection (i-5) of Section
18 16-108 of the Public Utilities Act.

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

1 paragraph (10) of this subsection (c-5).

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

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

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

1 this paragraph (10).

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

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

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

21 (3) if the electric generating facility is
22 retired, it was retired subsequent to January 1,
23 2016;

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

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

6 (5) the electric generating facility located
7 at the site was at one time owned, in whole or in
8 part, by a public utility as defined in Section
9 3-105 of the Public Utilities Act;

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

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

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

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

4 (9) the owner agrees that the new energy
5 storage facility will be constructed or installed
6 by a qualified entity or entities consistent with
7 the requirements of subsection (g) of Section
8 16-128A of the Public Utilities Act and any rules
9 adopted under that Section;

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

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

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

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

22 The Department shall accept applications for this
23 grant program until March 31, 2022 and shall announce
24 the award of grants no later than June 1, 2022. The
25 Department shall make the grant payments to a
26 recipient in equal annual amounts for 10 years

1 following the date the energy storage facility is
2 placed into commercial operation. The annual grant
3 payments to a qualifying energy storage facility shall
4 be \$110,000 per megawatt of energy storage capacity,
5 with total annual grant payments pursuant to this
6 subparagraph (C) for qualifying energy storage
7 facilities not to exceed \$28,050,000 in any year.

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

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

1 (11) Diversity, equity, and inclusion plans.

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

22 (B) For purposes of this paragraph (11), diversity
23 composition shall be based on the percentage, which
24 shall be a minimum of 25%, of eligible expenditures
25 for contract awards for materials and services (which
26 shall be defined in the plan) to business enterprises

1 owned by minority persons, women, or persons with
2 disabilities as defined in Section 2 of the Business
3 Enterprise for Minorities, Women, and Persons with
4 Disabilities Act, to LGBTQ business enterprises, to
5 veteran-owned business enterprises, and to business
6 enterprises located in environmental justice
7 communities. The diversity composition goals of the
8 plan may include eligible expenditures in areas for
9 vendor or supplier opportunities in addition to
10 development and construction of the project, and may
11 exclude from eligible expenditures materials and
12 services with limited market availability, limited
13 production and availability from suppliers in the
14 United States, such as solar panels and storage
15 batteries, and material and services that are subject
16 to critical energy infrastructure or cybersecurity
17 requirements or restrictions. The plan may provide
18 that the diversity composition goals may be met
19 through Tier 1 Direct or Tier 2 subcontracting
20 expenditures or a combination thereof for the project.

21 (C) The plan shall provide for, but not be limited
22 to: (i) internal initiatives, including multi-tier
23 initiatives, by the applicant or owner, or by its
24 engineering, procurement and construction contractor
25 if one is used for the project, which for purposes of
26 this paragraph (11) shall be referred to as the EPC

1 contractor, to enable diverse businesses to be
2 considered fairly for selection to provide materials
3 and services; (ii) requirements for the applicant or
4 owner or its EPC contractor to proactively solicit and
5 utilize diverse businesses to provide materials and
6 services; and (iii) requirements for the applicant or
7 owner or its EPC contractor to hire a diverse
8 workforce for the project. The plan shall include a
9 description of the applicant's or owner's diversity
10 recruiting efforts both for the project and for other
11 areas of the applicant's or owner's business
12 operations. The plan shall provide for the imposition
13 of financial penalties on the applicant's or owner's
14 EPC contractor for failure to exercise best efforts to
15 comply with and execute the EPC contractor's diversity
16 obligations under the plan. The plan may provide for
17 the applicant or owner to set aside a portion of the
18 work on the project to serve as an incubation program
19 for qualified businesses, as specified in the plan,
20 owned by minority persons, women, persons with
21 disabilities, LGBTQ persons, and veterans, and
22 businesses located in environmental justice
23 communities, seeking to enter the renewable energy
24 industry.

25 (D) The applicant or owner may submit a revised or
26 updated plan to the Commission from time to time as

1 circumstances warrant. The applicant or owner shall
2 file annual reports with the Commission detailing the
3 applicant's or owner's progress in implementing its
4 plan and achieving its goals and any modifications the
5 applicant or owner has made to its plan to better
6 achieve its diversity, equity and inclusion goals. The
7 applicant or owner shall file a final report on the
8 fifth June 1 following the commercial operation date
9 of the new renewable energy resource or new energy
10 storage facility, but the applicant or owner shall
11 thereafter continue to be subject to applicable
12 reporting requirements of Section 5-117 of the Public
13 Utilities Act.

14 (c-10) Equity accountability system. It is the purpose of
15 this subsection (c-10) to create an equity accountability
16 system, which includes the minimum equity standards for all
17 renewable energy procurements, the equity category of the
18 Adjustable Block Program, and the equity prioritization for
19 noncompetitive procurements, that is successful in advancing
20 priority access to the clean energy economy for businesses and
21 workers from communities that have been excluded from economic
22 opportunities in the energy sector, have been subject to
23 disproportionate levels of pollution, and have
24 disproportionately experienced negative public health
25 outcomes. Further, it is the purpose of this subsection to
26 ensure that this equity accountability system is successful in

1 advancing equity across Illinois by providing access to the
2 clean energy economy for businesses and workers from
3 communities that have been historically excluded from economic
4 opportunities in the energy sector, have been subject to
5 disproportionate levels of pollution, and have
6 disproportionately experienced negative public health
7 outcomes.

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

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

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

26 (B) Halfway through each delivery year, the Agency

1 shall require each entity participating in a
2 procurement program to confirm that it will achieve
3 compliance in that delivery year, when applicable. The
4 Agency may offer corrective action plans to entities
5 that are not on track to achieve compliance.

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

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

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

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

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

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

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

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

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

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

26 (D) A process for certifying equity eligible

1 contractors and equity eligible persons. The
2 certification process shall coordinate with the Energy
3 Workforce Equity Database set forth in subsection
4 (c-25).

5 (E) An application for waiver of the minimum
6 equity standards of this subsection, which the Agency
7 shall have the discretion to grant in rare
8 circumstances. The Agency may grant such a waiver
9 where the applicant provides evidence of significant
10 efforts toward meeting the minimum equity commitment,
11 including: use of the Energy Workforce Equity
12 Database; efforts to hire or contract with entities
13 that hire eligible persons; and efforts to establish
14 contracting relationships with eligible contractors.
15 The Agency shall support applicants in understanding
16 the Energy Workforce Equity Database and other
17 resources for pursuing compliance of the minimum
18 equity standards. Waivers shall be project-specific,
19 unless the Agency deems it necessary to grant a waiver
20 across a portfolio of projects, and in effect for no
21 longer than one year. Any waiver extension or
22 subsequent waiver request from an applicant shall be
23 subject to the requirements of this Section and shall
24 specify efforts made to reach compliance. When
25 considering whether to grant a waiver, and to what
26 extent, the Agency shall consider the degree to which

1 similarly situated applicants have been able to meet
2 these minimum equity commitments. For repeated waiver
3 requests for specific lack of eligible persons or
4 eligible contractors available, the Agency shall make
5 recommendations to target recruitment to add such
6 eligible persons or eligible contractors to the
7 database.

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

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

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

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

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

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

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

4 (2) Racial disparity and discrimination review
5 process.

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

17 (B) As soon as is practicable thereafter, the
18 Agency, in consultation with the Department of
19 Commerce and Economic Opportunity, Department of
20 Labor, and other agencies that may be relevant, shall
21 commission and publish a disparity and availability
22 study that measures the presence and impact of
23 discrimination on minority businesses and workers in
24 Illinois' clean energy economy. The Agency may hire
25 consultants and experts to conduct the disparity and
26 availability study, with the retention of those

1 consultants and experts exempt from the requirements
2 of Section 20-10 of the Illinois Procurement Code. The
3 Illinois Power Agency shall forward a copy of its
4 findings and recommendations to the Governor, the
5 General Assembly, and the Illinois Commerce
6 Commission. If the disparity and availability study
7 establishes a strong basis in evidence that there is
8 discrimination in Illinois' clean energy economy, the
9 Agency, Department of Commerce and Economic
10 Opportunity, Department of Labor, Department of
11 Corrections, and other appropriate agencies shall take
12 appropriate remedial actions, including race-conscious
13 remedial actions as consistent with State and federal
14 law, to effectively remedy this discrimination. Such
15 remedies may include modification of the equity
16 accountability system as described in subsection
17 (c-10).

18 (c-20) Program data collection.

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

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

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

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

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

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

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

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

1 demographics of program participants on an aggregate
2 basis.

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

7 (c-25) Energy Workforce Equity Database.

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

18 (A) publicly accessible;

19 (B) easy for people to find and use;

20 (C) organized by company specialty or field;

21 (D) region-specific; and

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

1 this Act.

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

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

7 (B) job postings and recruiting opportunities;

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

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

15 (E) renewable energy company diversity reporting;

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

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

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

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

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

25 (d) Clean coal portfolio standard.

26 (1) The procurement plans shall include electricity

1 generated using clean coal. Each utility shall enter into
2 one or more sourcing agreements with the initial clean
3 coal facility, as provided in paragraph (3) of this
4 subsection (d), covering electricity generated by the
5 initial clean coal facility representing at least 5% of
6 each utility's total supply to serve the load of eligible
7 retail customers in 2015 and each year thereafter, as
8 described in paragraph (3) of this subsection (d), subject
9 to the limits specified in paragraph (2) of this
10 subsection (d). It is the goal of the State that by January
11 1, 2025, 25% of the electricity used in the State shall be
12 generated by cost-effective clean coal facilities. For
13 purposes of this subsection (d), "cost-effective" means
14 that the expenditures pursuant to such sourcing agreements
15 do not cause the limit stated in paragraph (2) of this
16 subsection (d) to be exceeded and do not exceed cost-based
17 benchmarks, which shall be developed to assess all
18 expenditures pursuant to such sourcing agreements covering
19 electricity generated by clean coal facilities, other than
20 the initial clean coal facility, by the procurement
21 administrator, in consultation with the Commission staff,
22 Agency staff, and the procurement monitor and shall be
23 subject to Commission review and approval.

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

1 agreement.

2 Utilities shall maintain adequate records documenting
3 the purchases under the sourcing agreement to comply with
4 this subsection (d) and shall file an accounting with the
5 load forecast that must be filed with the Agency by July 15
6 of each year, in accordance with subsection (d) of Section
7 16-111.5 of the Public Utilities Act.

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

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

26 Notwithstanding the requirements of this subsection

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

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

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

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

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

26 (E) thereafter, the total amount paid under

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

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

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

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

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

20 (i) be determined using a cost of service
21 methodology employing either a level or deferred
22 capital recovery component, based on a capital
23 structure consisting of 45% equity and 55% debt,
24 and a return on equity as may be approved by the
25 Federal Energy Regulatory Commission, which in any
26 case may not exceed the lower of 11.5% or the rate

1 of return approved by the General Assembly
2 pursuant to paragraph (4) of this subsection (d);
3 and

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

20 (B) power purchase provisions, which shall:

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

25 (ii) require delivery of electricity to the
26 regional transmission organization market of the

1 utility that is party to such sourcing agreement;

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

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

26 (C) contract for differences provisions, which

1 shall:

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

24 (ii) provide that the utility's payment
25 obligation in respect of the quantity of
26 electricity determined pursuant to the preceding

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

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

19 (D) general provisions, which shall:

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

23 (ii) provide that utilities shall maintain
24 adequate records documenting purchases under the
25 sourcing agreements entered into to comply with
26 this subsection (d) and shall file an accounting

1 with the load forecast that must be filed with the
2 Agency by July 15 of each year, in accordance with
3 subsection (d) of Section 16-111.5 of the Public
4 Utilities Act;

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

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

18 (v) require the owner of the initial clean
19 coal facility to provide documentation to the
20 Commission each year, starting in the facility's
21 first year of commercial operation, accurately
22 reporting the quantity of carbon emissions from
23 the facility that have been captured and
24 sequestered and report any quantities of carbon
25 released from the site or sites at which carbon
26 emissions were sequestered in prior years, based

1 on continuous monitoring of such sites. If, in any
2 year after the first year of commercial operation,
3 the owner of the facility fails to demonstrate
4 that the initial clean coal facility captured and
5 sequestered at least 50% of the total carbon
6 emissions that the facility would otherwise emit
7 or that sequestration of emissions from prior
8 years has failed, resulting in the release of
9 carbon dioxide into the atmosphere, the owner of
10 the facility must offset excess emissions. Any
11 such carbon offsets must be permanent, additional,
12 verifiable, real, located within the State of
13 Illinois, and legally and practicably enforceable.
14 The cost of such offsets for the facility that are
15 not recoverable shall not exceed \$15 million in
16 any given year. No costs of any such purchases of
17 carbon offsets may be recovered from a utility or
18 its customers. All carbon offsets purchased for
19 this purpose and any carbon emission credits
20 associated with sequestration of carbon from the
21 facility must be permanently retired. The initial
22 clean coal facility shall not forfeit its
23 designation as a clean coal facility if the
24 facility fails to fully comply with the applicable
25 carbon sequestration requirements in any given
26 year, provided the requisite offsets are

1 purchased. However, the Attorney General, on
2 behalf of the People of the State of Illinois, may
3 specifically enforce the facility's sequestration
4 requirement and the other terms of this contract
5 provision. Compliance with the sequestration
6 requirements and offset purchase requirements
7 specified in paragraph (3) of this subsection (d)
8 shall be reviewed annually by an independent
9 expert retained by the owner of the initial clean
10 coal facility, with the advance written approval
11 of the Attorney General. The Commission may, in
12 the course of the review specified in item (vii),
13 reduce the allowable return on equity for the
14 facility if the facility willfully fails to comply
15 with the carbon capture and sequestration
16 requirements set forth in this item (v);

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

22 (vii) require Commission review: (1) to
23 determine the justness, reasonableness, and
24 prudence of the inputs to the formula referenced
25 in subparagraphs (A)(i) through (A)(iii) of
26 paragraph (3) of this subsection (d), prior to an

1 adjustment in those inputs including, without
2 limitation, the capital structure and return on
3 equity, fuel costs, and other operations and
4 maintenance costs and (2) to approve the costs to
5 be passed through to customers under the sourcing
6 agreement by which the utility satisfies its
7 statutory obligations. Commission review shall
8 occur no less than every 3 years, regardless of
9 whether any adjustments have been proposed, and
10 shall be completed within 9 months;

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

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

24 (x) provide that the owner or owners of the
25 initial clean coal facility, which is the
26 counterparty to such sourcing agreement, shall

1 have the right from time to time to elect whether
2 the obligations of the utility party thereto shall
3 be governed by the power purchase provisions or
4 the contract for differences provisions;

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

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

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

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

26 (i) Facility cost report. The owner of the initial

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

13 (ii) Commission report. Within 6 months following
14 receipt of the facility cost report, the Commission,
15 in consultation with the Agency, shall submit a report
16 to the General Assembly setting forth its analysis of
17 the facility cost report. Such report shall include,
18 but not be limited to, a comparison of the costs
19 associated with electricity generated by the initial
20 clean coal facility to the costs associated with
21 electricity generated by other types of generation
22 facilities, an analysis of the rate impacts on
23 residential and small business customers over the life
24 of the sourcing agreements, and an analysis of the
25 likelihood that the initial clean coal facility will
26 commence commercial operation by and be delivering

1 power to the facility's busbar by 2016. To assist in
2 the preparation of its report, the Commission, in
3 consultation with the Agency, may hire one or more
4 experts or consultants, the costs of which shall be
5 paid for by the owner of the initial clean coal
6 facility. The Commission and Agency may begin the
7 process of selecting such experts or consultants prior
8 to receipt of the facility cost report.

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

20 (iv) Commission review. If the General Assembly
21 enacts authorizing legislation pursuant to
22 subparagraph (iii) approving a sourcing agreement, the
23 Commission shall, within 90 days of such enactment,
24 complete a review of such sourcing agreement. During
25 such time period, the Commission shall implement any
26 directive of the General Assembly, resolve any

1 disputes between the parties to the sourcing agreement
2 concerning the terms of such agreement, approve the
3 form of such agreement, and issue an order finding
4 that the sourcing agreement is prudent and reasonable.
5 The facility cost report shall be prepared as follows:

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

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

21 (ii) an estimate of the capital cost of the
22 balance of the plant, including any capital costs
23 associated with sequestration of carbon dioxide
24 emissions and all interconnects and interfaces
25 required to operate the facility, such as
26 transmission of electricity, construction or

1 backfeed power supply, pipelines to transport
2 substitute natural gas or carbon dioxide, potable
3 water supply, natural gas supply, water supply,
4 water discharge, landfill, access roads, and coal
5 delivery.

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

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

20 (C) The facility cost report shall also include an
21 operating and maintenance cost quote that will provide
22 the estimated cost of delivered fuel, personnel,
23 maintenance contracts, chemicals, catalysts,
24 consumables, spares, and other fixed and variable
25 operations and maintenance costs. The delivered fuel
26 cost estimate will be provided by a recognized third

1 party expert or experts in the fuel and transportation
2 industries. The balance of the operating and
3 maintenance cost quote, excluding delivered fuel
4 costs, will be developed based on the inputs provided
5 by duly licensed engineering and construction firms
6 performing the construction cost quote, potential
7 vendors under long-term service agreements and plant
8 operating agreements, or recognized third party plant
9 operator or operators.

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

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

24 (E) Amounts paid to third parties unrelated to the
25 owner or owners of the initial clean coal facility to
26 prepare the core plant construction cost quote,

1 including the front end engineering and design study,
2 and the operating and maintenance cost quote will be
3 reimbursed through Coal Development Bonds.

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

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

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

13 (d-5) Zero emission standard.

14 (1) Beginning with the delivery year commencing on
15 June 1, 2017, the Agency shall, for electric utilities
16 that serve at least 100,000 retail customers in this
17 State, procure contracts with zero emission facilities
18 that are reasonably capable of generating cost-effective
19 zero emission credits in an amount approximately equal to
20 16% of the actual amount of electricity delivered by each
21 electric utility to retail customers in the State during
22 calendar year 2014. For an electric utility serving fewer
23 than 100,000 retail customers in this State that
24 requested, under Section 16-111.5 of the Public Utilities
25 Act, that the Agency procure power and energy for all or a
26 portion of the utility's Illinois load for the delivery

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

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

21 The procurement process shall be subject to the
22 following provisions:

23 (A) Those zero emission facilities that intend to
24 participate in the procurement shall submit to the
25 Agency the following eligibility information for each
26 zero emission facility on or before the date

1 established by the Agency:

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

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

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

26 (iv) a commitment to continue operating, for

1 the duration of the contract or contracts executed
2 under the procurement held under this subsection
3 (d-5), the zero emission facility that produces
4 the zero emission credits to be procured in the
5 procurement.

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

17 (B) The price for each zero emission credit
18 procured under this subsection (d-5) for each delivery
19 year shall be in an amount that equals the Social Cost
20 of Carbon, expressed on a price per megawatthour
21 basis. However, to ensure that the procurement remains
22 affordable to retail customers in this State if
23 electricity prices increase, the price in an
24 applicable delivery year shall be reduced below the
25 Social Cost of Carbon by the amount ("Price
26 Adjustment") by which the market price index for the

1 applicable delivery year exceeds the baseline market
2 price index for the consecutive 12-month period ending
3 May 31, 2016. If the Price Adjustment is greater than
4 or equal to the Social Cost of Carbon in an applicable
5 delivery year, then no payments shall be due in that
6 delivery year. The components of this calculation are
7 defined as follows:

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

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

1 50% multiplied by the Base Residual Auction, or
2 its successor, capacity price for the rest of the
3 RTO zone group determined by PJM Interconnection
4 LLC, divided by 24 hours per day, and (cc) 50%
5 multiplied by the Planning Resource Auction, or
6 its successor, capacity price for Zone 4
7 determined by the Midcontinent Independent System
8 Operator, Inc., divided by 24 hours per day.

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

13 (aa) Projected energy prices: the
14 projected energy prices for the applicable
15 delivery year shall be calculated once for the
16 year using the forward market price for the
17 PJM Interconnection, LLC Northern Illinois
18 Hub. The forward market price shall be
19 calculated as follows: the energy forward
20 prices for each month of the applicable
21 delivery year averaged for each trade date
22 during the calendar year immediately preceding
23 that delivery year to produce a single energy
24 forward price for the delivery year. The
25 forward market price calculation shall use
26 data published by the Intercontinental

1 Exchange, or its successor.

2 (bb) Projected capacity prices:

3 (I) For the delivery years commencing
4 June 1, 2017, June 1, 2018, and June 1,
5 2019, the projected capacity price shall
6 be equal to the sum of (1) 50% multiplied
7 by the Base Residual Auction, or its
8 successor, price for the rest of the RTO
9 zone group as determined by PJM
10 Interconnection LLC, divided by 24 hours
11 per day and, (2) 50% multiplied by the
12 resource auction price determined in the
13 resource auction administered by the
14 Midcontinent Independent System Operator,
15 Inc., in which the largest percentage of
16 load cleared for Local Resource Zone 4,
17 divided by 24 hours per day, and where
18 such price is determined by the
19 Midcontinent Independent System Operator,
20 Inc.

21 (II) For the delivery year commencing
22 June 1, 2020, and each year thereafter,
23 the projected capacity price shall be
24 equal to the sum of (1) 50% multiplied by
25 the Base Residual Auction, or its
26 successor, price for the ComEd zone as

1 determined by PJM Interconnection LLC,
2 divided by 24 hours per day, and (2) 50%
3 multiplied by the resource auction price
4 determined in the resource auction
5 administered by the Midcontinent
6 Independent System Operator, Inc., in
7 which the largest percentage of load
8 cleared for Local Resource Zone 4, divided
9 by 24 hours per day, and where such price
10 is determined by the Midcontinent
11 Independent System Operator, Inc.

12 For purposes of this subsection (d-5):

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

16 "RTO" means regional transmission
17 organization.

18 (C) No later than 45 days after June 1, 2017 (the
19 effective date of Public Act 99-906), the Agency shall
20 publish its proposed zero emission standard
21 procurement plan. The plan shall be consistent with
22 the provisions of this paragraph (1) and shall provide
23 that winning bids shall be selected based on public
24 interest criteria that include, but are not limited
25 to, minimizing carbon dioxide emissions that result
26 from electricity consumed in Illinois and minimizing

1 sulfur dioxide, nitrogen oxide, and particulate matter
2 emissions that adversely affect the citizens of this
3 State. In particular, the selection of winning bids
4 shall take into account the incremental environmental
5 benefits resulting from the procurement, such as any
6 existing environmental benefits that are preserved by
7 the procurements held under Public Act 99-906 and
8 would cease to exist if the procurements were not
9 held, including the preservation of zero emission
10 facilities. The plan shall also describe in detail how
11 each public interest factor shall be considered and
12 weighted in the bid selection process to ensure that
13 the public interest criteria are applied to the
14 procurement and given full effect.

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

23 Upon publishing of the zero emission standard
24 procurement plan, copies of the plan shall be posted
25 and made publicly available on the Agency's website.
26 All interested parties shall have 10 days following

1 the date of posting to provide comment to the Agency on
2 the plan. All comments shall be posted to the Agency's
3 website. Following the end of the comment period, but
4 no more than 60 days later than June 1, 2017 (the
5 effective date of Public Act 99-906), the Agency shall
6 revise the plan as necessary based on the comments
7 received and file its zero emission standard
8 procurement plan with the Commission.

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

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

23 (i) identify how the winning bids satisfy the
24 public interest criteria described in subparagraph
25 (C) of this paragraph (1) of minimizing carbon
26 dioxide emissions that result from electricity

1 consumed in Illinois and minimizing sulfur
2 dioxide, nitrogen oxide, and particulate matter
3 emissions that adversely affect the citizens of
4 this State;

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

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

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

1 delivery year; and

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

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

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

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

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

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

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

7 (i) A zero emission facility shall be excused
8 from its performance under the contract for any
9 cause beyond the control of the resource,
10 including, but not restricted to, acts of God,
11 flood, drought, earthquake, storm, fire,
12 lightning, epidemic, war, riot, civil disturbance
13 or disobedience, labor dispute, labor or material
14 shortage, sabotage, acts of public enemy,
15 explosions, orders, regulations or restrictions
16 imposed by governmental, military, or lawfully
17 established civilian authorities, which, in any of
18 the foregoing cases, by exercise of commercially
19 reasonable efforts the zero emission facility
20 could not reasonably have been expected to avoid,
21 and which, by the exercise of commercially
22 reasonable efforts, it has been unable to
23 overcome. In such event, the zero emission
24 facility shall be excused from performance for the
25 duration of the event, including, but not limited
26 to, delivery of zero emission credits, and no

1 payment shall be due to the zero emission facility
2 during the duration of the event.

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

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

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

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

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

17 Notwithstanding the requirements of this subsection
18 (d-5), the contracts executed under this subsection (d-5)
19 shall provide that the total of zero emission credits
20 procured under a procurement plan shall be subject to the
21 limitations of this paragraph (2). For each delivery year,
22 the contractual volume receiving payments in such year
23 shall be reduced for all retail customers based on the
24 amount necessary to limit the net increase that delivery
25 year to the costs of those credits included in the amounts
26 paid by eligible retail customers in connection with

1 electric service to no more than 1.65% of the amount paid
2 per kilowatthour by eligible retail customers during the
3 year ending May 31, 2009. The result of this computation
4 shall apply to and reduce the procurement for all retail
5 customers, and all those customers shall pay the same
6 single, uniform cents per kilowatthour charge under
7 subsection (k) of Section 16-108 of the Public Utilities
8 Act. To arrive at a maximum dollar amount of zero emission
9 credits to be paid for the particular delivery year, the
10 resulting per kilowatthour amount shall be applied to the
11 actual amount of kilowatthours of electricity delivered by
12 the electric utility in the delivery year immediately
13 prior to the procurement, to all retail customers in its
14 service territory. Unpaid contractual volume for any
15 delivery year shall be paid in any subsequent delivery
16 year in which such payments can be made without exceeding
17 the amount specified in this paragraph (2). The
18 calculations required by this paragraph (2) shall be made
19 only once for each procurement plan year. Once the
20 determination as to the amount of zero emission credits to
21 be paid is made based on the calculations set forth in this
22 paragraph (2), no subsequent rate impact determinations
23 shall be made and no adjustments to those contract amounts
24 shall be allowed. All costs incurred under those contracts
25 and in implementing this subsection (d-5) shall be
26 recovered by the electric utility as provided in this

1 Section.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (1) The General Assembly finds:

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

25 (B) Absent immediate action by the State to preserve
26 existing carbon-free energy resources, those resources may

1 retire, and the electric generation needs of Illinois'
2 retail customers may be met instead by facilities that
3 emit significant amounts of carbon pollution and other
4 harmful air pollutants at a high social and economic cost
5 until Illinois is able to develop other forms of clean
6 energy.

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

14 (D) The clean energy attributes of nuclear generation
15 facilities support the State in its efforts to achieve
16 100% clean energy.

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

21 (F) The Environmental Protection Agency commissioned
22 an independent audit which provided a detailed assessment
23 of the financial condition of the Illinois nuclear fleet
24 to evaluate its financial viability and whether the
25 environmental benefits of such resources were at risk. The
26 report identified the risk of losing the environmental

1 benefits of several specific nuclear units. The report
2 also identified that the LaSalle County Generating Station
3 will continue to operate through 2026 and therefore is not
4 eligible to participate in the carbon mitigation credit
5 program.

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

9 (H) The procurement of carbon mitigation credits
10 representing the environmental benefits of carbon-free
11 generation will further the State's efforts at achieving
12 100% clean energy and decarbonizing the electricity sector
13 in a safe, reliable, and affordable manner. Further, the
14 procurement of carbon emission credits will enhance the
15 health and welfare of Illinois residents through decreased
16 reliance on more highly polluting generation.

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

23 (2) As used in this subsection:

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

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

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

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

19 (3) Procurement.

20 (A) Beginning with the delivery year commencing on
21 June 1, 2022, the Agency shall, for electric utilities
22 serving at least 3,000,000 retail customers in the State,
23 seek to procure contracts for no more than approximately
24 54,500,000 cost-effective carbon mitigation credits from
25 carbon-free energy resources because such credits are
26 necessary to support current levels of carbon-free energy

1 generation and ensure the State meets its carbon dioxide
2 emissions reduction goals. The Agency shall not make a
3 partial award of a contract for carbon mitigation credits
4 covering a fractional amount of a carbon-free energy
5 resource's projected output.

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

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

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

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

25 (iv) financial need and the risk of loss of the
26 environmental benefits of such resource, which shall

1 include the following information:

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

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

24 The information described in this subparagraph (B) may
25 be submitted on a confidential basis and shall be treated
26 and maintained by the Agency, the procurement

1 administrator, and the Commission as confidential and
2 proprietary and exempt from disclosure under subparagraphs
3 (a) and (g) of paragraph (1) of Section 7 of the Freedom of
4 Information Act. The Office of the Attorney General shall
5 have access to, and maintain the confidentiality of, such
6 information pursuant to Section 6.5 of the Attorney
7 General Act.

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

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

23 (ii) Contracts for carbon mitigation credits shall
24 commence with the delivery year beginning on June 1,
25 2022 and shall be for a term of 5 delivery years
26 concluding on May 31, 2027.

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

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

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

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

18 (II) the Base Residual Auction Capacity Price
19 for the ComEd zone as determined by PJM
20 Interconnection, LLC, divided by 24 hours per day,
21 for the applicable delivery year for the first 3
22 delivery years, and then any subsequent delivery
23 years unless the PJM Interconnection, LLC applies
24 the Minimum Offer Price Rule to participating
25 carbon-free energy resources because they supply
26 carbon mitigation credits pursuant to this Section

1 at which time, upon notice by the carbon-free
2 energy resource to the Commission and subject to
3 the Commission's confirmation, the value under
4 this subitem shall be zero, as further described
5 in the carbon mitigation credit procurement plan;
6 and

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

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

19 To protect retail customers from retail rate
20 impacts that may arise upon the initiation of carbon
21 policy changes, if the price-per-megawatt-hour
22 calculation performed under item (iii) of this
23 subparagraph (C) for a given delivery year results in
24 a net negative value, then the supplier counterparty
25 to the contract shall multiply such net value by the
26 applicable contract quantity and remit such amount to

1 the electric utility counterparty. The electric
2 utility shall reflect such amounts remitted by
3 suppliers as a credit on its retail customer bills as
4 soon as practicable.

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

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

14 (I) For the delivery year beginning June 1,
15 2022, the baseline costs shall be an amount equal
16 to \$30.30 per megawatt-hour.

17 (II) For the delivery year beginning June 1,
18 2023, the baseline costs shall be an amount equal
19 to \$32.50 per megawatt-hour.

20 (III) For the delivery year beginning June 1,
21 2024, the baseline costs shall be an amount equal
22 to \$33.43 per megawatt-hour.

23 (IV) For the delivery year beginning June 1,
24 2025, the baseline costs shall be an amount equal
25 to \$33.50 per megawatt-hour.

26 (V) For the delivery year beginning June 1,

1 2026, the baseline costs shall be an amount equal
2 to \$34.50 per megawatt-hour.

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

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

26 (D) No later than 7 days after the effective date of

1 this amendatory Act of the 102nd General Assembly, the
2 Agency shall publish its proposed carbon mitigation credit
3 procurement plan. The Plan shall provide that winning bids
4 shall be selected by taking into consideration which
5 resources best match public interest criteria that
6 include, but are not limited to, minimizing carbon dioxide
7 emissions that result from electricity consumed in
8 Illinois and minimizing sulfur dioxide, nitrogen oxide,
9 and particulate matter emissions that adversely affect the
10 citizens of this State. The selection of winning bids
11 shall also take into account the incremental environmental
12 benefits resulting from the procurement or procurements,
13 such as any existing environmental benefits that are
14 preserved by a procurement held under this subsection
15 (d-10) and would cease to exist if the procurement were
16 not held, including the preservation of carbon-free energy
17 resources. For those bidders having the same public
18 interest criteria score, the relative ranking of such
19 bidders shall be determined by price. The Plan shall
20 describe in detail how each public interest factor shall
21 be considered and weighted in the bid selection process to
22 ensure that the public interest criteria are applied to
23 the procurement. The Plan shall, to the extent practical
24 and permissible by federal law, ensure that successful
25 bidders make commercially reasonable efforts to apply for
26 federal tax credits, direct payments, or similar subsidy

1 programs that support carbon-free generation and for which
2 the successful bidder is eligible. Upon publishing of the
3 carbon mitigation credit procurement plan, copies of the
4 plan shall be posted and made publicly available on the
5 Agency's website. All interested parties shall have 7 days
6 following the date of posting to provide comment to the
7 Agency on the plan. All comments shall be posted to the
8 Agency's website. Following the end of the comment period,
9 but no more than 19 days later than the effective date of
10 this amendatory Act of the 102nd General Assembly, the
11 Agency shall revise the plan as necessary based on the
12 comments received and file its carbon mitigation credit
13 procurement plan with the Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (h) The Agency shall assess fees to each bidder to recover

1 the costs incurred in connection with a competitive
2 procurement process.

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

16 (Source: P.A. 102-662, eff. 9-15-21; 103-380, eff. 1-1-24;
17 103-580, eff. 12-8-23; 103-1066, eff. 2-20-25.)

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

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

22 (a) The Planning and Procurement Bureau shall each year,
23 beginning in 2008, develop procurement plans and conduct
24 competitive procurement processes in accordance with the
25 requirements of Section 16-111.5 of the Public Utilities Act

1 for the eligible retail customers of electric utilities that
2 on December 31, 2005 provided electric service to at least
3 100,000 customers in Illinois. Beginning with the delivery
4 year commencing on June 1, 2017, the Planning and Procurement
5 Bureau shall develop plans and processes for the procurement
6 of zero emission credits from zero emission facilities in
7 accordance with the requirements of subsection (d-5) of this
8 Section. Beginning on the effective date of this amendatory
9 Act of the 102nd General Assembly, the Planning and
10 Procurement Bureau shall develop plans and processes for the
11 procurement of carbon mitigation credits from carbon-free
12 energy resources in accordance with the requirements of
13 subsection (d-10) of this Section. The Planning and
14 Procurement Bureau shall also develop procurement plans and
15 conduct competitive procurement processes in accordance with
16 the requirements of Section 16-111.5 of the Public Utilities
17 Act for the eligible retail customers of small
18 multi-jurisdictional electric utilities that (i) on December
19 31, 2005 served less than 100,000 customers in Illinois and
20 (ii) request a procurement plan for their Illinois
21 jurisdictional load. This Section shall not apply to a small
22 multi-jurisdictional utility until such time as a small
23 multi-jurisdictional utility requests the Agency to prepare a
24 procurement plan for their Illinois jurisdictional load. For
25 the purposes of this Section, the term "eligible retail
26 customers" has the same definition as found in Section

1 16-111.5(a) of the Public Utilities Act.

2 Beginning with the plan or plans to be implemented in the
3 2017 delivery year, the Agency shall no longer include the
4 procurement of renewable energy resources in the annual
5 procurement plans required by this subsection (a), except as
6 provided in subsection (q) of Section 16-111.5 of the Public
7 Utilities Act, and shall instead develop a long-term renewable
8 resources procurement plan in accordance with subsection (c)
9 of this Section and Section 16-111.5 of the Public Utilities
10 Act.

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

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

26 (A) direct previous experience assembling

1 large-scale power supply plans or portfolios for
2 end-use customers;

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

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

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

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

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

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

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

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

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

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

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

9 (E) expertise in credit and contract protocols;

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

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

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

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

4 (A) failure to satisfy qualification criteria;

5 (B) identification of a conflict of interest; or

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

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

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

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

26 (6) The Agency shall select an expert or expert

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

9 (b) The experts or expert consulting firms retained by the
10 Agency shall, as appropriate, prepare procurement plans, and
11 conduct a competitive procurement process as prescribed in
12 Section 16-111.5 of the Public Utilities Act, to ensure
13 adequate, reliable, affordable, efficient, and environmentally
14 sustainable electric service at the lowest total cost over
15 time, taking into account any benefits of price stability, for
16 eligible retail customers of electric utilities that on
17 December 31, 2005 provided electric service to at least
18 100,000 customers in the State of Illinois, and for eligible
19 Illinois retail customers of small multi-jurisdictional
20 electric utilities that (i) on December 31, 2005 served less
21 than 100,000 customers in Illinois and (ii) request a
22 procurement plan for their Illinois jurisdictional load.

23 (c) Renewable portfolio standard.

24 (1) (A) The Agency shall develop a long-term renewable
25 resources procurement plan that shall include procurement
26 programs and competitive procurement events necessary to

1 meet the goals set forth in this subsection (c). The
2 initial long-term renewable resources procurement plan
3 shall be released for comment no later than 160 days after
4 June 1, 2017 (the effective date of Public Act 99-906).
5 The Agency shall review, and may revise on an expedited
6 basis, the long-term renewable resources procurement plan
7 at least every 2 years, which shall be conducted in
8 conjunction with the procurement plan under Section
9 16-111.5 of the Public Utilities Act to the extent
10 practicable to minimize administrative expense. No later
11 than 120 days after the effective date of this amendatory
12 Act of the 103rd General Assembly, the Agency shall
13 release for comment a revision to the long-term renewable
14 resources procurement plan, updating elements of the most
15 recently approved plan as needed to comply with this
16 amendatory Act of the 103rd General Assembly, and any
17 long-term renewable resources procurement plan update
18 published by the Agency but not yet approved by the
19 Illinois Commerce Commission shall be withdrawn. The
20 long-term renewable resources procurement plans shall be
21 subject to review and approval by the Commission under
22 Section 16-111.5 of the Public Utilities Act.

23 (B) Subject to subparagraph (F) of this paragraph (1),
24 the long-term renewable resources procurement plan shall
25 attempt to meet the goals for procurement of renewable
26 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

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

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

20 For the delivery year beginning June 1, 2019, and for
21 each year thereafter, the procurement plans shall attempt
22 to include, subject to the prioritization outlined in this
23 subparagraph (B), cost-effective renewable energy
24 resources equal to a minimum percentage of each utility's
25 load for all retail customers as follows: 16% by June 1,
26 2019; increasing by 1.5% each year thereafter to 25% by

1 June 1, 2025; and 25% by June 1, 2026; increasing by at
2 least 3% each delivery year thereafter to at least 40% by
3 the 2030 delivery year, and continuing at no less than 40%
4 for each delivery year thereafter. The Agency shall
5 attempt to procure 50% by delivery year 2040. The Agency
6 shall determine the annual increase between delivery year
7 2030 and delivery year 2040, if any, taking into account
8 energy demand, other energy resources, and other public
9 policy goals.

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

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

21 (i) At least 10,000,000 renewable energy credits
22 delivered annually by the end of the 2021 delivery
23 year, and increasing ratably to reach 45,000,000
24 renewable energy credits delivered annually from new
25 wind and solar projects, from repowered wind projects,
26 or from retooled hydropower facilities by the end of

1 delivery year 2030 such that the goals in subparagraph
2 (B) of this paragraph (1) are met entirely by
3 procurements of renewable energy credits from new wind
4 and photovoltaic projects. Of that amount, to the
5 extent possible, the Agency shall endeavor to procure
6 45% from new and repowered wind and hydropower
7 projects and shall procure at least 55% from
8 photovoltaic projects. Of the amount to be procured
9 from photovoltaic projects, the Agency shall procure:
10 at least 50% from solar photovoltaic projects using
11 the program outlined in subparagraph (K) of this
12 paragraph (1) from distributed renewable energy
13 generation devices or community renewable generation
14 projects; at least 47% from utility-scale solar
15 projects; at least 3% from brownfield site
16 photovoltaic projects that are not community renewable
17 generation projects. The Agency may propose
18 adjustments to these percentages, including
19 establishing percentage-based goals for the
20 procurement of renewable energy credits from
21 modernized or retooled hydropower facilities and
22 repowered wind projects, through its long-term
23 renewable resources plan described in subparagraph (A)
24 of this paragraph (1) as necessary based on developer
25 interest, market conditions, budget considerations,
26 resource adequacy needs, or other factors.

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

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

1 approaches in addition to competitive procurements to
2 procure renewable energy credits from repowered wind
3 projects.

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

10 (iii) For purposes of this Section:

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

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

20 "Repowered wind projects" means utility-scale wind
21 projects featuring the removal, replacement, or
22 expansion of turbines at an existing project site, as
23 defined in the long-term renewable resources
24 procurement plan, after the effective date of this
25 amendatory Act of the 103rd General Assembly.
26 Renewable energy credit contract awards used to

1 support repowered wind projects shall only cover the
2 incremental increase in facility electricity
3 production resultant from repowering.

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

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

20 (II) the system meets or exceeds federal
21 Energy Star product specification standards for
22 Geothermal Heat Pumps established on January 1,
23 2012, as clarified by the Environmental Protection
24 Agency guidance document released on February 28,
25 2012 entitled "Clarification to the Geothermal
26 Heat Pump Verification Testing Requirements and

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

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

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

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

11 (VI) the system became operational on or after
12 the effective date of this amendatory Act of the
13 104th General Assembly.

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

26 (iv) The Agency may implement additional measures,

1 including eligibility requirements, to ensure that new
2 wind projects and new photovoltaic projects supported
3 through renewable energy credit contract awards are a
4 result of a contract award and are otherwise developed
5 pursuant to the financial certainty provided through a
6 contract award.

7 (D) Renewable energy credits shall be cost effective.
8 For purposes of this subsection (c), "cost effective"
9 means that the costs of procuring renewable energy
10 resources do not cause the limit stated in subparagraph
11 (E) of this paragraph (1) to be exceeded and, for
12 renewable energy credits procured through a competitive
13 procurement event, do not exceed benchmarks based on
14 market prices for like products in the region. For
15 purposes of this subsection (c), "like products" means
16 contracts for renewable energy credits from the same or
17 substantially similar technology, same or substantially
18 similar vintage (new or existing), the same or
19 substantially similar quantity, and the same or
20 substantially similar contract length and structure.
21 Benchmarks shall reflect development, financing, or
22 related costs resulting from requirements imposed through
23 other provisions of State law, including, but not limited
24 to, requirements in subparagraphs (P) and (Q) of this
25 paragraph (1) and the Renewable Energy Facilities
26 Agricultural Impact Mitigation Act. Confidential

1 benchmarks shall be developed by the procurement
2 administrator, in consultation with the Commission staff,
3 Agency staff, and the procurement monitor and shall be
4 subject to Commission review and approval. If price
5 benchmarks for like products in the region are not
6 available, the procurement administrator shall establish
7 price benchmarks based on publicly available data on
8 regional technology costs and expected current and future
9 regional energy prices. The benchmarks in this Section
10 shall not be used to curtail or otherwise reduce
11 contractual obligations entered into by or through the
12 Agency prior to June 1, 2017 (the effective date of Public
13 Act 99-906).

14 (E) For purposes of this subsection (c), the required
15 procurement of cost-effective renewable energy resources
16 for a particular year commencing prior to June 1, 2017
17 shall be measured as a percentage of the actual amount of
18 electricity (megawatt-hours) supplied by the electric
19 utility to eligible retail customers in the delivery year
20 ending immediately prior to the procurement, and, for
21 delivery years commencing on and after June 1, 2017, the
22 required procurement of cost-effective renewable energy
23 resources for a particular year shall be measured as a
24 percentage of the actual amount of electricity
25 (megawatt-hours) delivered by the electric utility in the
26 delivery year ending immediately prior to the procurement,

1 to all retail customers in its service territory. For
2 purposes of this subsection (c), the amount paid per
3 kilowatthour means the total amount paid for electric
4 service expressed on a per kilowatthour basis. For
5 purposes of this subsection (c), the total amount paid for
6 electric service includes without limitation amounts paid
7 for supply, transmission, capacity, distribution,
8 surcharges, and add-on taxes.

9 Notwithstanding the requirements of this subsection
10 (c), and except as provided in subparagraph (E-5) of
11 paragraph (1) of this subsection (c) or except as
12 otherwise authorized by the Commission in its approval of
13 the integrated resource plan under Section 16-202 of the
14 Public Utilities Act, the total of renewable energy
15 resources procured under the procurement plan for any
16 single year shall be subject to the limitations of this
17 subparagraph (E). Such procurement shall be reduced for
18 all retail customers based on the amount necessary to
19 limit the annual estimated average net increase due to the
20 costs of these resources included in the amounts paid by
21 eligible retail customers in connection with electric
22 service to no more than 4.25% of the amount paid per
23 kilowatthour by those customers during the year ending May
24 31, 2009, adjusted annually for inflation starting with
25 the first adjustment in the delivery year commencing June
26 1, 2026. For the purposes of this Section, the inflation

1 adjustment shall not be accrued or applied retroactively
2 prior to the effective date of this amendatory Act of the
3 104th General Assembly and shall apply prospectively
4 starting in 2025. The limitation shall be increased by an
5 additional 1.65 percentage points of the amount paid per
6 kilowatthour by eligible retail customers during the year
7 ending May 31, 2009 starting with the delivery year
8 commencing June 1, 2027. To arrive at a maximum dollar
9 amount of renewable energy resources to be procured for
10 the particular delivery year, the resulting per
11 kilowatthour amount shall be applied to the actual amount
12 of kilowatthours of electricity delivered, or applicable
13 portion of such amount as specified in paragraph (1) of
14 this subsection (c), as applicable, by the electric
15 utility in the delivery year immediately prior to the
16 procurement to all retail customers in its service
17 territory. The calculations required by this subparagraph
18 (E) shall be made only once for each delivery year at the
19 time that the renewable energy resources are procured.
20 Once the determination as to the amount of renewable
21 energy resources to procure is made based on the
22 calculations set forth in this subparagraph (E) and the
23 contracts procuring those amounts are executed between the
24 seller and applicable electric utility, no subsequent rate
25 impact determinations shall be made and no adjustments to
26 those contract amounts shall be allowed. As provided in

1 subparagraph (E-5) of paragraph (1) of this subsection
2 (c), the seller shall be entitled to full, prompt, and
3 uninterrupted payment under the applicable contract
4 notwithstanding the application of this subparagraph (E),
5 and all costs incurred under such contracts shall be fully
6 recoverable by the electric utility as provided in this
7 Section.

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

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

24 (ii) If the funds described in item (i) of this
25 subparagraph (E-5) are insufficient to satisfy all
26 existing contractual obligations, then the electric

1 utility shall, nonetheless, remit full payment to the
2 sellers to ensure prompt and uninterrupted payment of
3 existing contractual obligations, provided that the
4 full costs shall be recoverable by the utility in
5 accordance with part (ee) of item (iv) of this
6 subsection (E-5).

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

22 (iv) The Agency shall suspend or reduce new
23 contract awards for the procurement of renewable
24 energy credits until an Agency determination is made
25 under subparagraph (E) that additional procurements
26 would not cause the rate impact limitation of

1 subparagraph (E) to be exceeded. At least once
2 annually after the notice provided for in item (iii)
3 of this subparagraph (E-5) is made, the Agency shall
4 analyze existing contract obligations, projected
5 prices for indexed renewable energy credit contracts
6 executed under item (v) of subparagraph (G) of
7 paragraph (1) of subsection (c) of Section 1-75 of
8 this Act, and expected collections authorized under
9 subparagraph (E) to determine whether and to what
10 extent the limitations of subparagraph (E) would be
11 exceeded by additional renewable energy credit
12 procurement contract awards.

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

21 (bb) If the Agency determines that additional
22 renewable energy credit procurement contract
23 awards cannot be made without exceeding the
24 limitations of subparagraph (E), then the Agency
25 shall suspend any new contract awards for the
26 procurement of renewable energy credits until a

1 new rate impact determination is made under
2 subparagraph (E).

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

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

21 (ee) The contract shall provide that, so long
22 as at least one of: (i) the cost recovery
23 mechanisms referenced in subsection (k) of Section
24 16-108 and subsection (1) of Section 16-111.5 of
25 the Public Utilities Act remains in full force
26 without limitation or (ii) the utility is

1 otherwise authorized and or entitled to full,
2 prompt, and uninterrupted recovery of its costs
3 through any other mechanism, then such seller
4 shall be entitled to full, prompt, and
5 uninterrupted payment under the applicable
6 contract notwithstanding the application of this
7 subparagraph (E).

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

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

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

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

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

26 (G) The following provisions shall apply to the

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

3 (i) Notwithstanding whether a long-term renewable
4 resources procurement plan has been approved, the
5 Agency shall conduct an initial forward procurement
6 for renewable energy credits from new utility-scale
7 wind projects within 160 days after June 1, 2017 (the
8 effective date of Public Act 99-906). For the purposes
9 of this initial forward procurement, the Agency shall
10 solicit 15-year contracts for delivery of 1,000,000
11 renewable energy credits delivered annually from new
12 utility-scale wind projects to begin delivery on June
13 1, 2019, if available, but not later than June 1, 2021,
14 unless the project has delays in the establishment of
15 an operating interconnection with the applicable
16 transmission or distribution system as a result of the
17 actions or inactions of the transmission or
18 distribution provider, or other causes for force
19 majeure as outlined in the procurement contract, in
20 which case, not later than June 1, 2022. Payments to
21 suppliers of renewable energy credits shall commence
22 upon delivery. Renewable energy credits procured under
23 this initial procurement shall be included in the
24 Agency's long-term plan and shall apply to all
25 renewable energy goals in this subsection (c).

26 (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).

1 (iii) Notwithstanding whether the Commission has
2 approved the periodic long-term renewable resources
3 procurement plan revision described in Section
4 16-111.5 of the Public Utilities Act, the Agency shall
5 conduct at least one subsequent forward procurement
6 for renewable energy credits from new utility-scale
7 wind projects, new utility-scale solar projects, and
8 new brownfield site photovoltaic projects within 240
9 days after the effective date of this amendatory Act
10 of the 102nd General Assembly in quantities necessary
11 to meet the requirements of subparagraph (C) of this
12 paragraph (1) through the delivery year beginning June
13 1, 2021.

14 (iv) Notwithstanding whether the Commission has
15 approved the periodic long-term renewable resources
16 procurement plan revision described in Section
17 16-111.5 of the Public Utilities Act, the Agency shall
18 open capacity for each category in the Adjustable
19 Block program within 90 days after the effective date
20 of this amendatory Act of the 102nd General Assembly
21 manner:

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

1 capacity. The price of the renewable energy credit
2 for this block of capacity shall be 4% less than
3 the price of the last open block in this category.
4 Projects on a waitlist shall be awarded contracts
5 first in the order in which they appear on the
6 waitlist. Notwithstanding anything to the
7 contrary, for those renewable energy credits that
8 qualify and are procured under this subitem (1) of
9 this item (iv), the renewable energy credit
10 delivery contract value shall be paid in full,
11 based on the estimated generation during the first
12 15 years of operation, by the contracting
13 utilities at the time that the facility producing
14 the renewable energy credits is interconnected at
15 the distribution system level of the utility and
16 verified as energized and in compliance by the
17 Program Administrator. The electric utility shall
18 receive and retire all renewable energy credits
19 generated by the project for the first 15 years of
20 operation. Renewable energy credits generated by
21 the project thereafter shall not be transferred
22 under the renewable energy credit delivery
23 contract with the counterparty electric utility.

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

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

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

1 15 years of operation, shall be paid by the
2 contracting utilities at the time that the
3 facility producing the renewable energy
4 credits is interconnected at the distribution
5 system level of the utility and verified as
6 energized by the Program Administrator. The
7 remaining portion shall be paid ratably over
8 the subsequent 4-year period. The electric
9 utility shall receive and retire all renewable
10 energy credits generated by the project during
11 the first 15 years of operation. Renewable
12 energy credits generated by the project
13 thereafter shall not be transferred under the
14 renewable energy credit delivery contract with
15 the counterparty electric utility.

16 (B) The price of renewable energy credits
17 for any project not on the waitlist for this
18 category before the opening of the block shall
19 be determined and published by the Agency.
20 Projects not on a waitlist as of the opening
21 of this block shall be subject to the
22 requirements of subparagraph (Q) of this
23 paragraph (1), as applicable. Projects not on
24 a waitlist as of the opening of this block
25 shall be subject to the contract provisions
26 outlined in item (iii) of subparagraph (L) of

1 this paragraph (1). The Agency shall strive to
2 publish updated prices and an updated
3 renewable energy credit delivery contract as
4 quickly as possible.

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

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

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

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

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

9 (i) Each applicant firm having a
10 waitlisted project eligible for selection
11 shall receive no less than 500 kilowatts
12 in awarded capacity across all groups, and
13 no approved vendor may receive more than
14 20% of each Group's waitlist allocation.

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

21 (iii) Assuming all other program
22 requirements are met, applicant firms may
23 adjust the nameplate capacity of applicant
24 projects without losing waitlist
25 eligibility, so long as no project is
26 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

1 included in an applicant firm's portfolio may
2 reapply without prejudice upon the next block
3 reopening for project selection under item
4 (iii) of subparagraph (K) of this subsection
5 (c).

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

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

24 (ii) A requirement that a minimum of
25 50% of subscribers to the project's
26 nameplate capacity be residential or small

1 commercial customers with subscriptions of
2 below 25 kilowatts in size;

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

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

24 (F) To be eligible for an award, the
25 applicant firm shall certify that not less
26 than prevailing wage, as determined pursuant

1 to the Illinois Prevailing Wage Act, was or
2 will be paid to employees who are engaged in
3 construction activities associated with a
4 selected project.

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

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

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

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

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

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

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

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

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

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

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

26 (4) To ensure that indexed renewable energy

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

10 (vi) All procurements under this subparagraph (G),
11 including the procurement of renewable energy credits
12 from hydropower facilities, shall comply with the
13 geographic requirements in subparagraph (I) of this
14 paragraph (1) and shall follow the procurement
15 processes and procedures described in this Section and
16 Section 16-111.5 of the Public Utilities Act to the
17 extent practicable, and these processes and procedures
18 may be expedited to accommodate the schedule
19 established by this subparagraph (G). To ensure the
20 successful development of new renewable energy
21 projects supported through competitive procurements,
22 for any procurements conducted under items (i), (ii),
23 (iii), and (v) of this subparagraph (G) and any other
24 procurement of new utility-scale wind or utility-scale
25 solar projects that were entered into prior to January
26 1, 2025, the Agency shall allow, upon a demonstration

1 of need to ensure the commercial viability of a
2 project, for a one-time, post-award renegotiation of
3 select contract terms prior to the project's
4 commercial operation date through bilateral
5 negotiation between the Agency, the buyer, and a
6 winning bidder. Contract terms subject to
7 renegotiation may include the project map, as defined
8 under the applicable competitive solicitation, the
9 real estate footprint or any limitations thereof, the
10 location of the generators, or a potential reduction
11 in the quantity of renewable energy credits to be
12 delivered. Provisions related to a renewable energy
13 credit delivery shortfall and the event of default may
14 be replaced with similar provisions approved by the
15 Agency in subsequent years or subsequent to a
16 successful bid. Post-award renegotiation of
17 competitively bid renewable energy credit contracts
18 entered into prior to January 1, 2025 shall not be
19 permitted to the extent such renegotiation would
20 result in (1) the point of interconnection being
21 within the service area of a different state, a
22 different regional transmission organization zone, or
23 a different regional transmission organization, (2)
24 the generator no longer meeting the definition of the
25 resource category for which the winning bidder was
26 originally awarded a contract, (3) the generator no

1 longer meeting the Agency's public interest criteria
2 as established in the long-term renewable resources
3 plan in effect at the time of the contract award, or
4 (4) a change to material terms of the renewable energy
5 credit contract unrelated to project land or footprint
6 or the number of renewable energy credits to be
7 delivered, including the applicable bid price or
8 strike price. If the Agency, the buyer, and the
9 winning bidder reach an agreement on amended terms,
10 then, upon petition by the winning bidder or current
11 seller, the Commission shall issue an order directing
12 the utility counterparty to execute an amendment
13 drafted by the Agency with the revised terms to the
14 renewable energy credit contract, the product order,
15 or both. The Agency shall provide the amendment to the
16 utility within 15 business days after the Commission's
17 order, and the utility shall execute the amendment no
18 more than 7 calendar days after delivery by the
19 Agency.

20 (vii) On and after the effective date of this
21 amendatory Act of the 103rd General Assembly, for all
22 procurements of renewable energy credits from
23 hydropower facilities, the Agency shall establish
24 contract terms designed to optimize existing
25 hydropower facilities through modernization or
26 retooling and establish new hydropower facilities at

1 existing dams. Procurements made under this item (vii)
2 shall prioritize projects located in designated
3 environmental justice communities, as defined in
4 subsection (b) of Section 1-56 of this Act, or in
5 projects located in units of local government with
6 median incomes that do not exceed 82% of the median
7 income of the State.

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

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

25 The informational filing shall identify each
26 facility that was eligible to satisfy the alternative

1 retail electric supplier's obligations under Section
2 16-115D of the Public Utilities Act as described in
3 this item (i).

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

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

25 For the delivery year beginning June 1, 2018,
26 the maximum amount of renewable energy credits to

1 be supplied by an alternative retail electric
2 supplier under this subparagraph (H) shall be 68%
3 multiplied by 25% multiplied by 14.5% multiplied
4 by the amount of metered electricity
5 (megawatt-hours) delivered by the alternative
6 retail electric supplier to Illinois retail
7 customers during the delivery year ending May 31,
8 2016.

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

23 For each delivery year, the total amount of
24 renewable energy credits supplied by all alternative
25 retail electric suppliers under this subparagraph (H)
26 shall not exceed 9% of the Illinois target renewable

1 energy credit quantity. The Illinois target renewable
2 energy credit quantity for the delivery year beginning
3 June 1, 2018 is 14.5% multiplied by the total amount of
4 metered electricity (megawatt-hours) delivered in the
5 delivery year immediately preceding that delivery
6 year, provided that the 14.5% shall increase by 1.5%
7 each delivery year thereafter to 25% by the delivery
8 year beginning June 1, 2025, and thereafter the 25%
9 value shall apply to each delivery year.

10 If the requirements set forth in items (i) through
11 (iii) of this subparagraph (H) are met, the charges
12 that would otherwise be applicable to the retail
13 customers of the alternative retail electric supplier
14 under paragraph (6) of this subsection (c) for the
15 applicable delivery year shall be reduced by the ratio
16 of the quantity of renewable energy credits supplied
17 by the alternative retail electric supplier compared
18 to that supplier's target renewable energy credit
19 quantity. The supplier's target renewable energy
20 credit quantity for the delivery year beginning June
21 1, 2018 is 14.5% multiplied by the total amount of
22 metered electricity (megawatt-hours) delivered by the
23 alternative retail supplier in that delivery year,
24 provided that the 14.5% shall increase by 1.5% each
25 delivery year thereafter to 25% by the delivery year
26 beginning June 1, 2025, and thereafter the 25% value

1 shall apply to each delivery year.

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

7 (I) The Agency shall design its long-term renewable
8 energy procurement plan to maximize the State's interest
9 in the health, safety, and welfare of its residents,
10 including but not limited to minimizing sulfur dioxide,
11 nitrogen oxide, particulate matter and other pollution
12 that adversely affects public health in this State,
13 increasing fuel and resource diversity in this State,
14 enhancing the reliability and resiliency of the
15 electricity distribution system in this State, meeting
16 goals to limit carbon dioxide emissions under federal or
17 State law, and contributing to a cleaner and healthier
18 environment for the citizens of this State. In order to
19 further these legislative purposes, renewable energy
20 credits shall be eligible to be counted toward the
21 renewable energy requirements of this subsection (c) if
22 they are generated from facilities located in this State.
23 The Agency may qualify renewable energy credits from
24 facilities located in states adjacent to Illinois or
25 renewable energy credits associated with the electricity
26 generated by a utility-scale wind energy facility or

1 utility-scale photovoltaic facility and transmitted by a
2 qualifying direct current project described in subsection
3 (b-5) of Section 8-406 of the Public Utilities Act to a
4 delivery point on the electric transmission grid located
5 in this State or a state adjacent to Illinois, if the
6 generator demonstrates and the Agency determines that the
7 operation of such facility or facilities will help promote
8 the State's interest in the health, safety, and welfare of
9 its residents based on the public interest criteria
10 described above. For the purposes of this Section,
11 renewable resources that are delivered via a high voltage
12 direct current converter station located in Illinois shall
13 be deemed generated in Illinois at the time and location
14 the energy is converted to alternating current by the high
15 voltage direct current converter station if the high
16 voltage direct current transmission line: (i) after the
17 effective date of this amendatory Act of the 102nd General
18 Assembly, was constructed with a project labor agreement;
19 (ii) is capable of transmitting electricity at 525kv;
20 (iii) has an Illinois converter station located and
21 interconnected in the region of the PJM Interconnection,
22 LLC; (iv) does not operate as a public utility; and (v) if
23 the high voltage direct current transmission line was
24 energized after June 1, 2023. To ensure that the public
25 interest criteria are applied to the procurement and given
26 full effect, the Agency's long-term procurement plan shall

1 describe in detail how each public interest factor shall
2 be considered and weighted for facilities located in
3 states adjacent to Illinois.

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

1 next procurement event.

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

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

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

8 The Adjustable Block program shall include for each
9 category of eligible projects for each delivery year: a
10 single block of nameplate capacity, a price for renewable
11 energy credits within that block, and the terms and
12 conditions for securing a spot on a waitlist once the
13 block is fully committed or reserved. Except as outlined
14 below, the waitlist of projects in a given year will carry
15 over to apply to the subsequent year when another block is
16 opened. Only projects energized on or after June 1, 2017
17 shall be eligible for the Adjustable Block program. For
18 each category for each delivery year the Agency shall
19 determine the amount of generation capacity in each block,
20 and the purchase price for each block, provided that the
21 purchase price provided and the total amount of generation
22 in all blocks for all categories shall be sufficient to
23 meet the goals in this subsection (c). The Agency shall
24 strive to issue a single block sized to provide for
25 stability and market growth. The Agency shall establish
26 program eligibility requirements that ensure that projects

1 that enter the program are sufficiently mature to indicate
2 a demonstrable path to completion. The Agency may
3 periodically review its prior decisions establishing the
4 amount of generation capacity in each block, and the
5 purchase price for each block, and may propose, on an
6 expedited basis, changes to these previously set values,
7 including but not limited to redistributing these amounts
8 and the available funds as necessary and appropriate,
9 subject to Commission approval as part of the periodic
10 plan revision process described in Section 16-111.5 of the
11 Public Utilities Act. The Agency may define different
12 block sizes, purchase prices, or other distinct terms and
13 conditions for projects located in different utility
14 service territories if the Agency deems it necessary to
15 meet the goals in this subsection (c).

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

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

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

1 commercial customers, and public or non-profit
2 customers. A project shall not be colocated with one
3 or more other distributed renewable energy generation
4 projects if the aggregate nameplate capacity of the
5 projects exceeds 5,000 kilowatts AC. Notwithstanding
6 any other provision of this Section, if 2 or more
7 projects are developed, owned, or controlled by or
8 originate from the same developer or an affiliated
9 developer and the projects serve affiliated loads, the
10 projects shall be colocated if the projects are
11 located on adjacent parcels. If 2 or more projects are
12 developed, owned, or controlled by or originate from
13 the same developer and the projects serve unaffiliated
14 loads, the projects may be colocated if documentation
15 indicates affiliated management and ownership in the
16 pre-development, development, construction, and
17 management of the projects and the projects are
18 located on a single or adjacent parcels.
19 Notwithstanding any subsequent transfer, assignment,
20 or conveyance of ownership or development rights to
21 separate legal entities, the Agency shall consider, in
22 its determination of whether projects are affiliated,
23 evidence that the projects were pre-developed by the
24 same legal entity or an affiliated entity. If the
25 Agency determines the projects are affiliated, the
26 projects shall be treated as colocated for purposes of

1 aggregate nameplate capacity limitations and renewable
2 energy credit pricing adjustments. The Agency shall
3 make exceptions on a case-by-case basis if it is
4 demonstrated that projects on one parcel or projects
5 on adjacent parcels are unaffiliated. For purposes of
6 determining colocation, an approved vendor who submits
7 an application for a distributed renewable energy
8 generation project shall be required to submit an
9 affidavit attesting that the project is not affiliated
10 with any other distributed renewable energy generation
11 project such that, if the 2 projects were deemed
12 colocated, the projects would exceed the 5,000
13 kilowatts nameplate capacity limitation. The receipt
14 of an affidavit shall not restrict the Agency's
15 ability to investigate and determine whether the
16 project is, in fact, colocated.

17 For purposes of this item (ii):

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

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

26 "Control" has the meaning given to that term in

1 subitem (3) of item (iii) of this subparagraph (K).

2 (iii) At least 30% from photovoltaic community
3 renewable generation projects. Capacity for this
4 category for the first 2 delivery years after the
5 effective date of this amendatory Act of the 102nd
6 General Assembly shall be allocated to waitlist
7 projects as provided in paragraph (3) of item (iv) of
8 subparagraph (G). Starting in the third delivery year
9 after the effective date of this amendatory Act of the
10 102nd General Assembly or earlier if the Agency
11 determines there is additional capacity needed ~~for~~ to
12 meet previous delivery year requirements, the
13 following shall apply:

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

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

26 (3) projects shall not be colocated with one

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

21 The Agency shall determine affiliation based
22 on evidence that projects either (i) share a
23 common origin on a parcel that has been subdivided
24 in the 5 years before the date of application or
25 (ii) were pre-developed before the beginning of
26 construction by the same legal entity or an

1 affiliated legal entity. The determination shall
2 be made notwithstanding any subsequent transfer,
3 assignment, or conveyance of ownership or
4 development rights to separate legal entities. If
5 the Agency determines the projects are affiliated,
6 the projects shall be treated as colocated for the
7 purposes of aggregate nameplate capacity
8 limitations and renewable energy credit pricing
9 adjustments. The Agency shall make exceptions to
10 this subitem (3) on a case-by-case basis if it is
11 demonstrated that projects on one parcel or
12 projects on adjacent parcels are unaffiliated.

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

19 For purposes of determining colocation, an
20 approved vendor who submits an application for a
21 community renewable generation project shall be
22 required to submit an affidavit attesting that (i)
23 the parcel on which the project is sited has not
24 been subdivided within the 5 years preceding the
25 project application and (ii) the project is not
26 affiliated with any other community renewable

1 energy project in a manner that would cause the 2
2 projects, if deemed colocated, to exceed the
3 10,000 kilowatt nameplate capacity limitation. The
4 receipt of an affidavit shall not restrict the
5 Agency's ability to investigate and determine
6 whether the project is colocated.

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

24 For purposes of this subitem (3):

25 "Affiliate" means any other entity that,
26 directly or indirectly through one or more

1 intermediaries, is controlled by or is under
2 common control of the primary entity or a third
3 entity. "Affiliate" includes family members for
4 the purposes of colocation between projects.
5 "Affiliate" does not include entities that have
6 shared sales or revenue-sharing arrangements or
7 common debt and equity financing arrangements.

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

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

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

21 (iv) At least 15% from distributed renewable
22 generation devices or photovoltaic community renewable
23 generation projects installed on public school land.
24 The Agency may create subcategories within this
25 category to account for the differences between
26 project size or location. Projects located within

1 environmental justice communities or within
2 Organizational Units that fall within Tier 1 or Tier 2
3 shall be given priority. Each of the Agency's periodic
4 updates to its long-term renewable resources
5 procurement plan to incorporate the procurement
6 described in this subparagraph (iv) shall also include
7 the proposed quantities or blocks, pricing, and
8 contract terms applicable to the procurement as
9 indicated herein. In each such update and procurement,
10 the Agency shall set the renewable energy credit price
11 and establish payment terms for the renewable energy
12 credits procured pursuant to this subparagraph (iv)
13 that make it feasible and affordable for public
14 schools to install photovoltaic distributed renewable
15 energy devices on their premises, including, but not
16 limited to, those public schools subject to the
17 prioritization provisions of this subparagraph. For
18 the purposes of this item (iv):

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

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

25 "Public schools" shall have the meaning set forth
26 in Section 1-3 of the School Code and includes public

1 institutions of higher education, as defined in the
2 Board of Higher Education Act.

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

17 (1) community ownership or community
18 wealth-building;

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

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

1 located in or serving the community;

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

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

9 Selection criteria may also prioritize projects
10 that:

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

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

22 (3) are located in Equity Investment Eligible
23 Communities;

24 (4) are not greenfield projects;

25 (5) serve only local subscribers;

26 (6) have a nameplate capacity that does not

1 exceed 500 kW;

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

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

10 For the purposes of this item (v):

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

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

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

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

20 (vi) At least 10% from distributed renewable
21 energy generation devices, which includes distributed
22 renewable energy devices with a nameplate capacity
23 under 5,000 kilowatts or photovoltaic community
24 renewable generation projects, from applicants that
25 are equity eligible contractors. The Agency may create
26 subcategories within this category to account for the

1 differences between project size and type. The Agency
2 shall propose to increase the percentage in this item
3 (vi) over time to 40% based on factors, including, but
4 not limited to, the number of equity eligible
5 contractors and capacity used in this item (vi) in
6 previous delivery years.

7 The Agency shall propose a payment structure for
8 contracts executed pursuant to this paragraph under
9 which, upon a demonstration of qualification or need
10 under criteria established by the Agency that is
11 focused on supporting small and emerging businesses
12 and businesses that most acutely face barriers to the
13 access of capital, applicant firms are advanced
14 capital disbursed after contract execution but before
15 the contracted project's energization. The amount or
16 percentage of capital advanced prior to project
17 energization shall be sufficient to both cover any
18 increase in development costs resulting from
19 prevailing wage requirements or project-labor
20 agreements, and designed to overcome barriers in
21 access to capital faced by equity eligible
22 contractors. The amount or percentage of advanced
23 capital may vary by subcategory within this category
24 and by an applicant's demonstration of need, with such
25 levels to be established through the Long-Term
26 Renewable Resources Procurement Plan authorized under

1 subparagraph (A) of paragraph (1) of subsection (c) of
2 this Section and any application requirements or
3 evaluation criteria developed pursuant to the Plan.

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

24 For projects developed under this item (vi), the
25 Agency shall take steps to encourage higher portions
26 of contract value to be provided to equity eligible

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

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

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

1 year.

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

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

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

23 (L) Notwithstanding provisions for advancing capital
24 prior to project energization found in item (vi) of
25 subparagraph (K), the procurement of photovoltaic
26 renewable energy credits under items (i) through (vi) of

1 subparagraph (K) of this paragraph (1) shall otherwise be
2 subject to the following contract and payment terms:

3 (i) (Blank).

4 (ii) Unless otherwise provided for in the Agency's
5 approved long-term plan, for those renewable energy
6 credits that qualify and are procured under item (i)
7 of subparagraph (K) of this paragraph (1), and any
8 similar category projects that are procured under item
9 (vi) of subparagraph (K) of this paragraph (1) that
10 qualify and are procured under item (vi), the contract
11 length shall be 15 years. Beginning on the effective
12 date of this amendatory Act of the 104th General
13 Assembly, and including the remainder of program year
14 2026-2027, 50% of the renewable energy credit delivery
15 contract value, based on the estimated generation
16 during the first 15 years of operation, shall be paid
17 by the contracting utilities at the time that the
18 facility producing the renewable energy credits is
19 interconnected at the distribution system level of the
20 utility and verified as energized and compliant by the
21 Program Administrator. The remaining portion of the
22 renewable energy credit delivery contract value shall
23 be paid ratably over the subsequent 6-year period.
24 Relative to a contract structure under which the full
25 renewable energy credit delivery contract value shall
26 be paid in full at the time of interconnection and

1 verification of energization, the Agency shall
2 consider the impact of deferred payments across the
3 subsequent payment period when establishing renewable
4 energy credit prices. The electric utility shall
5 receive and retire all renewable energy credits
6 generated by the project for the first 15 years of
7 operation. Renewable energy credits generated by the
8 project thereafter shall not be transferred under the
9 renewable energy credit delivery contract with the
10 counterparty electric utility.

11 (iii) Unless otherwise provided for in the
12 Agency's approved long-term plan, for those renewable
13 energy credits that qualify and are procured under
14 item (ii) and (v) of subparagraph (K) of this
15 paragraph (1) and any like projects that qualify and
16 are procured under items (iv) and (vi), the contract
17 length shall be 15 years. 15% of the renewable energy
18 credit delivery contract value, based on the estimated
19 generation during the first 15 years of operation,
20 shall be paid by the contracting utilities at the time
21 that the facility producing the renewable energy
22 credits is interconnected at the distribution system
23 level of the utility and verified as energized and
24 compliant by the Program Administrator. The remaining
25 portion shall be paid ratably over the subsequent
26 6-year period. The electric utility shall receive and

1 retire all renewable energy credits generated by the
2 project for the first 15 years of operation. Renewable
3 energy credits generated by the project thereafter
4 shall not be transferred under the renewable energy
5 credit delivery contract with the counterparty
6 electric utility.

7 (iv) Unless otherwise provided for in the Agency's
8 approved long-term plan, for those renewable energy
9 credits that qualify and are procured under item (iii)
10 of subparagraph (K) of this paragraph (1), and any
11 like projects that qualify and are procured under
12 items (iv) and (vi), the renewable energy credit
13 delivery contract length shall be 20 years and shall
14 be paid over the delivery term, not to exceed during
15 each delivery year the contract price multiplied by
16 the estimated annual renewable energy credit
17 generation amount. If generation of renewable energy
18 credits during a delivery year exceeds the estimated
19 annual generation amount, the excess renewable energy
20 credits shall be carried forward to future delivery
21 years and shall not expire during the delivery term.
22 If generation of renewable energy credits during a
23 delivery year, including carried forward excess
24 renewable energy credits, if any, is less than the
25 estimated annual generation amount, payments during
26 such delivery year will not exceed the quantity

1 generated plus the quantity carried forward multiplied
2 by the contract price. The electric utility shall
3 receive all renewable energy credits generated by the
4 project during the first 20 years of operation and
5 retire all renewable energy credits paid for under
6 this item (iv) and return at the end of the delivery
7 term all renewable energy credits that were not paid
8 for. Renewable energy credits generated by the project
9 thereafter shall not be transferred under the
10 renewable energy credit delivery contract with the
11 counterparty electric utility. Notwithstanding the
12 preceding, for those projects participating under item
13 (iii) of subparagraph (K), the contract price for a
14 delivery year shall be based on subscription levels as
15 measured on the higher of the first business day of the
16 delivery year or the first business day 6 months after
17 the first business day of the delivery year.
18 Subscription of 90% of nameplate capacity or greater
19 shall be deemed to be fully subscribed for the
20 purposes of this item (iv). For projects receiving a
21 20-year delivery contract, REC prices shall be
22 adjusted downward for consistency with the incentive
23 levels previously determined to be necessary to
24 support projects under 15-year delivery contracts,
25 taking into consideration any additional new
26 requirements placed on the projects, including, but

1 not limited to, labor standards.

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

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

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

21 (viii) Nothing in this Section shall require the
22 utility to advance any payment or pay any amounts that
23 exceed the actual amount of revenues anticipated to be
24 collected by the utility under paragraph (6) of this
25 subsection (c) and subsection (k) of Section 16-108 of
26 the Public Utilities Act inclusive of eligible funds

1 collected in prior years and alternative compliance
2 payments for use by the utility.

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

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

16 (M) The Agency shall be authorized to retain one or
17 more experts or expert consulting firms to develop,
18 administer, implement, operate, and evaluate the
19 Adjustable Block program described in subparagraph (K) of
20 this paragraph (1), as well as the Geothermal Homes and
21 Businesses Program described in subparagraph (S) of this
22 paragraph (1), and the Agency shall retain the consultant
23 or consultants in the same manner, to the extent
24 practicable, as the Agency retains others to administer
25 provisions of this Act, including, but not limited to, the
26 procurement administrator. The selection of experts and

1 expert consulting firms and the procurement process
2 described in this subparagraph (M) are exempt from the
3 requirements of Section 20-10 of the Illinois Procurement
4 Code, under Section 20-10 of that Code. The Agency shall
5 strive to minimize administrative expenses in the
6 implementation of the Adjustable Block program.

7 The Program Administrator may charge application fees
8 to participating firms to cover the cost of program
9 administration. Any application fee amounts shall
10 initially be determined through the long-term renewable
11 resources procurement plan, and modifications to any
12 application fee that deviate more than 25% from the
13 Commission's approved value must be approved by the
14 Commission as a long-term plan revision under Section
15 16-111.5 of the Public Utilities Act. The Agency shall
16 consider stakeholder feedback when making adjustments to
17 application fees and shall notify stakeholders in advance
18 of any planned changes.

19 In addition to covering the costs of program
20 administration, the Agency, in conjunction with its
21 Program Administrator, may also use the proceeds of such
22 fees charged to participating firms to support public
23 education and ongoing regional and national coordination
24 with nonprofit organizations, public bodies, and others
25 engaged in the implementation of renewable energy
26 incentive programs or similar initiatives. This work may

1 include developing papers and reports, hosting regional
2 and national conferences, and other work deemed necessary
3 by the Agency to position the State of Illinois as a
4 national leader in renewable energy incentive program
5 development and administration.

6 The Agency and its consultant or consultants shall
7 monitor block activity, share program activity with
8 stakeholders and conduct quarterly meetings to discuss
9 program activity and market conditions. If necessary, the
10 Agency may make prospective administrative adjustments to
11 the Adjustable Block program and the Geothermal Homes and
12 Businesses Program design, such as making adjustments to
13 purchase prices as necessary to achieve the goals of this
14 subsection (c). Program modifications to any block price
15 that do not deviate from the Commission's approved value
16 by more than 10% shall take effect immediately and are not
17 subject to Commission review and approval. Program
18 modifications to any block price that deviate more than
19 10% from the Commission's approved value must be approved
20 by the Commission as a long-term plan amendment under
21 Section 16-111.5 of the Public Utilities Act. The Agency
22 shall consider stakeholder feedback when making
23 adjustments to the Adjustable Block and the Geothermal
24 Homes and Businesses Program design and shall notify
25 stakeholders in advance of any planned changes.

26 The Agency and its program administrators for the

1 Adjustable Block program, the Illinois Solar for All
2 Program, and the Geothermal Homes and Businesses Program
3 consistent with the requirements of this subsection (c)
4 and subsection (b) of Section 1-56 of this Act, shall
5 propose the Adjustable Block program terms, conditions,
6 and requirements, including the prices to be paid for
7 renewable energy credits, where applicable, and
8 requirements applicable to participating entities and
9 project applications, through the development, review, and
10 approval of the Agency's long-term renewable resources
11 procurement plan described in this subsection (c) and
12 paragraph (5) of subsection (b) of Section 16-111.5 of the
13 Public Utilities Act. Terms, conditions, and requirements
14 for program participation shall include the following:

15 (i) The Agency shall establish a registration
16 process for entities seeking to qualify for
17 program-administered incentive funding and establish
18 baseline qualifications for vendor approval. The
19 Agency shall also establish program requirements and
20 minimum contract terms for vendors and others involved
21 in the marketing, sale, installation, and financing of
22 distributed generation systems and community solar
23 subscriptions to prevent misleading marketing and
24 abusive practices and to otherwise protect customers.
25 The Agency must maintain a list of approved entities
26 on each program's website, and may revoke a vendor's

1 ability to receive program-administered incentive
2 funding status upon a determination that the vendor
3 failed to comply with contract terms, the law, or
4 other program requirements.

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

17 (iii) To discourage deceptive marketing or other
18 bad faith business practices, the Agency may require
19 direct program participants, including agents
20 operating on their behalf, to provide standardized
21 disclosures to a customer prior to that customer's
22 execution of a contract for the development of a
23 distributed generation system, a subscription to a
24 community solar project, or the development of a
25 geothermal heating and cooling system.

26 (iv) The Agency shall establish one or multiple

1 Consumer Complaints Centers to accept complaints
2 regarding businesses that participate in, or otherwise
3 benefit from, State-administered incentive funding
4 through Agency-administered programs. The Agency shall
5 maintain a public database of complaints with any
6 confidential or particularly sensitive information
7 redacted from public entries.

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

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

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

1 appropriate.

2 (viii) The Agency may, at its discretion,
3 establish a registration process for entities, or a
4 subset of entities, that provide financing for
5 consumers for the purchase of distributed renewable
6 generation devices. The Agency may establish baseline
7 qualifications for financing entity approval,
8 including defining the circumstances under which
9 financing entities may be subject to registration. The
10 Agency may also establish program requirements for
11 entities that provide financing for the purchase of
12 distributed renewable generation devices, which may
13 include marketing and disclosure requirements, other
14 requirements as further defined by the Agency through
15 its long-term plan, and any consumer protection
16 requirements developed or modified thereto. If the
17 Agency establishes a registration process for
18 financing entities, the Agency may revoke a financing
19 entity's approval in a program upon a determination
20 that the financing entity failed to comply with
21 contract terms, the law, or other program
22 requirements. The Agency may also establish program
23 requirements that prohibit distributed renewable
24 generation devices intending to apply for
25 program-administered incentive funding from receiving
26 program funding if the consumer's purchase of the

1 device was financed by an entity whose approval status
2 in the program has been revoked. These registration
3 requirements may apply to entities that finance
4 projects intended to apply for program-administered
5 incentive funding even if those entities do not
6 receive any portion of the program-administered
7 incentive funding.

8 (ix) The Agency, at its discretion, may require
9 that vendors, as part of the application and annual
10 recertification process, present the Agency or its
11 designee with a security bond equal to an amount
12 determined to be reasonable by the Agency. The bond
13 shall be for the benefit of customers harmed by the
14 vendor's violation of Agency requirements or other
15 applicable laws or regulations. The Agency may
16 determine that it is reasonable to have no bond
17 requirement for some categories of vendors or enhanced
18 bond requirements for vendors that the Agency has
19 deemed to pose more acute risks.

20 (x) For distributed renewable generation devices,
21 the Agency may, in its discretion, establish
22 provisions that restrict, prohibit, or create
23 additional requirements for distributed renewable
24 generation device sales or financing offers through
25 which the customer is promised the pass-through of a
26 portion or all of the payments received by the

1 approved vendor for the delivery of renewable energy
2 credits only after the receipt of such payment by the
3 approved vendor. The requirements may include the use
4 of an escrow process developed by the Agency through
5 which renewable energy credit payments are made to an
6 escrow agent who then disburses the promised amount to
7 the customer and the remainder to the vendor. The
8 requirements in this item (x) shall in no way prohibit
9 the upfront discounting of the purchase price, lease
10 payment, or power purchase agreement rate based on the
11 anticipated receipt of renewable energy credit
12 contract payments by the approved vendor.

13 (xi) To the extent that distributed renewable
14 generation device sales or financing offers through
15 which the customer is promised the pass-through of a
16 portion or all of the payments received by the vendor
17 for the delivery of renewable energy credits after the
18 receipt of such payment by the vendor are permitted,
19 the following requirements may be implemented, at the
20 Agency's discretion, in a time and manner determined
21 by the Agency:

22 (I) the vendor shall submit proof of customer
23 payments to the Agency as the Agency deems
24 necessary; and

25 (II) the vendor shall represent and warrant on
26 a form developed by the Agency that the vendor is

1 not insolvent, has not voluntarily filed for
2 bankruptcy, and has not been subject to or
3 threatened with involuntary insolvency.

4 (xii) To ensure that customers receive full and
5 uninterrupted benefits and services promised by
6 vendors, the Agency may propose additional solutions
7 through its long-term renewable resources procurement
8 plan described in this subsection (c) and paragraph
9 (5) of subsection (b) of Section 16-111.5 of the
10 Public Utilities Act. The solutions may allow for
11 collections made pursuant to subsection (k) of Section
12 16-108 of the Public Utilities Act to support the
13 programs and procurements outlined in paragraph (1) of
14 subsection (c) of this Section to be leveraged to (1)
15 ensure that a vendor's promised payments are received
16 by customers, (2) incentivize vendors to establish
17 service agreements with customers whose original
18 vendor has become nonresponsive, (3) ensure that
19 customers receive restitution for financial harm
20 proven to be caused by a program vendor or its
21 designee, or (4) otherwise ensure that customers do
22 not suffer loss or harm through activities supported
23 by the Adjustable Block program and the Illinois Solar
24 for All Program.

25 (N) The Agency shall establish the terms, conditions,
26 and program requirements for photovoltaic community

1 renewable generation projects with a goal to expand access
2 to a broader group of energy consumers, to ensure robust
3 participation opportunities for residential and small
4 commercial customers and those who cannot install
5 renewable energy on their own properties. Subject to
6 reasonable limitations, any plan approved by the
7 Commission shall allow subscriptions to community
8 renewable generation projects to be portable and
9 transferable. For purposes of this subparagraph (N),
10 "portable" means that subscriptions may be retained by the
11 subscriber even if the subscriber relocates or changes its
12 address within the same utility service territory; and
13 "transferable" means that a subscriber may assign or sell
14 subscriptions to another person within the same utility
15 service territory.

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

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

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

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

21 (O) For the delivery year beginning June 1, 2018, the
22 long-term renewable resources procurement plan required by
23 this subsection (c) shall provide for the Agency to
24 procure contracts to continue offering the Illinois Solar
25 for All Program described in subsection (b) of Section
26 1-56 of this Act, and the contracts approved by the

1 Commission shall be executed by the utilities that are
2 subject to this subsection (c). The long-term renewable
3 resources procurement plan shall allocate up to
4 \$50,000,000 per delivery year to fund the programs, and
5 the plan shall determine the amount of funding to be
6 apportioned to the programs identified in subsection (b)
7 of Section 1-56 of this Act; provided that for the
8 delivery years beginning June 1, 2021, June 1, 2022, and
9 June 1, 2023, the long-term renewable resources
10 procurement plan may average the annual budgets over a
11 3-year period to account for program ramp-up. For the
12 delivery years beginning June 1, 2021, June 1, 2024, June
13 1, 2027, and June 1, 2030 and additional \$10,000,000 shall
14 be provided to the Department of Commerce and Economic
15 Opportunity to implement the workforce development
16 programs and reporting as outlined in Section 16-108.12 of
17 the Public Utilities Act. In making the determinations
18 required under this subparagraph (O), the Commission shall
19 consider the experience and performance under the programs
20 and any evaluation reports. The Commission shall also
21 provide for an independent evaluation of those programs on
22 a periodic basis that are funded under this subparagraph
23 (O).

24 (P) All programs and procurements under this
25 subsection (c) shall be designed to encourage
26 participating projects to use a diverse and equitable

1 workforce and a diverse set of contractors, including
2 minority-owned businesses, disadvantaged businesses,
3 trade unions, graduates of any workforce training programs
4 administered under this Act, and small businesses.

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

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

1 (1) Each facility shall be subject to the
2 prevailing wage requirements included in the
3 Prevailing Wage Act. The Agency shall require
4 verification that all construction performed on the
5 facility by the renewable energy credit delivery
6 contract holder, its contractors, or its
7 subcontractors relating to construction of the
8 facility is performed by construction employees
9 receiving an amount for that work equal to or greater
10 than the general prevailing rate, as that term is
11 defined in Section 2 of the Prevailing Wage Act. For
12 purposes of this item (1), "house of worship" means
13 property that is both (1) used exclusively by a
14 religious society or body of persons as a place for
15 religious exercise or religious worship and (2)
16 recognized as exempt from taxation pursuant to Section
17 15-40 of the Property Tax Code. This item (1) shall
18 apply to any of the following:

- 19 (i) all new utility-scale wind projects;
20 (ii) all new utility-scale photovoltaic
21 projects and repowered wind projects;
22 (iii) all new brownfield photovoltaic
23 projects;
24 (iv) all new photovoltaic community renewable
25 energy facilities that qualify for item (iii) of
26 subparagraph (K) of this paragraph (1);

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

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

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

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

23 (ix) all new, modernized, or retooled
24 hydropower facilities;

25 (x) all new geothermal heating and cooling
26 systems awarded through the Geothermal Homes and

1 Businesses Program under subparagraph (S) of this
2 paragraph (1) that do not serve (1) single-family
3 residential buildings, (2) multi-family
4 residential buildings with aggregate geothermal
5 system tonnage, including colocated projects, of
6 no more than 29 tons, or (3) houses of worship with
7 aggregate geothermal system tonnage, including
8 colocated projects, of no more than 29 tons.

9 (2) Renewable energy credits procured from new
10 utility-scale wind projects, new utility-scale solar
11 projects, new brownfield solar projects, repowered
12 wind projects, and retooled hydropower facilities
13 pursuant to Agency procurement events occurring after
14 the effective date of this amendatory Act of the 102nd
15 General Assembly and photovoltaic community renewable
16 generation projects where the aggregate capacity,
17 including colocated projects, exceeds 3,000 kilowatts
18 pursuant to a renewable energy credit delivery
19 contract approved by the Illinois Commerce Commission
20 under the Adjustable Block Program after the effective
21 date of this amendatory Act of the 104th General
22 Assembly must be from facilities built by general
23 contractors that must enter into a project labor
24 agreement, as defined by this Act, prior to
25 construction. Photovoltaic community renewable
26 generation projects on a program waitlist as of the

1 effective date of this amendatory Act of the 104th
2 General Assembly awarded capacity for the program year
3 commencing June 1, 2026 or any program year thereafter
4 shall not be exempt from the project labor agreement
5 requirements of this item (2). The project labor
6 agreement shall be filed with the Director in
7 accordance with procedures established by the Agency
8 through its long-term renewable resources procurement
9 plan. Any information submitted to the Agency in this
10 item (2) shall be considered commercially sensitive
11 information. At a minimum, the project labor agreement
12 must provide the names, addresses, and occupations of
13 the owner of the plant and the individuals
14 representing the labor organization employees
15 participating in the project labor agreement
16 consistent with the Project Labor Agreements Act. The
17 agreement must also specify the terms and conditions
18 as defined by this Act.

19 (2.5) Energy storage credits procured from battery
20 storage projects pursuant to Agency procurement events
21 and additional energy storage resources procured in
22 accordance with subparagraph (B) of paragraph (3) of
23 subsection (d-20) of this Section pursuant to Agency
24 procurement events occurring after the effective date
25 of this amendatory Act of the 104th General Assembly
26 must be from facilities built by general contractors

1 that must enter into a project labor agreement prior
2 to construction. The project labor agreement shall be
3 filed with the Director in accordance with procedures
4 established by the Agency through its long-term
5 renewable resources procurement plan. Any information
6 submitted to the Agency pursuant to this item (2.5)
7 shall be considered commercially sensitive
8 information. At a minimum, the project labor agreement
9 must provide the names, addresses, and occupations of
10 the owner of the plant and the individuals
11 representing the labor organization employees
12 participating in the project labor agreement
13 consistent with the Project Labor Agreements Act. The
14 agreement must also specify the terms and conditions,
15 as defined by this Act.

16 (3) It is the intent of this Section to ensure that
17 economic development occurs across Illinois
18 communities, that emerging businesses may grow, and
19 that there is improved access to the clean energy
20 economy by persons who have greater economic burdens
21 to success. The Agency shall take into consideration
22 the unique cost of compliance of this subparagraph (Q)
23 that might be borne by equity eligible contractors,
24 shall include such costs when determining the price of
25 renewable energy credits in the Adjustable Block
26 program and the Geothermal Homes and Businesses

1 Program, and shall take such costs into consideration
2 in a nondiscriminatory manner when comparing bids for
3 competitive procurements. The Agency shall consider
4 costs associated with compliance whether in the
5 development, financing, or construction of projects.
6 The Agency shall periodically review the assumptions
7 in these costs and may adjust prices, in compliance
8 with subparagraph (M) of this paragraph (1).

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

18 (i) publicly accessible;

19 (ii) easy for people to find and use;

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

25 (iv) updated regularly.

26 Approved vendors shall notify the Agency if

1 subcontractors are removed or added to the project
2 workforce and the changes shall be reflected in the
3 public resource.

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

19 (5) Through its long-term renewable resource
20 procurement plan, the Agency shall develop bid
21 application requirements or a bid evaluation
22 methodology that facilitates the use of registered
23 apprentices on facilities listed in subitems (i),
24 (ii), (iii), and (ix) of item (1).

25 (6) Through its long-term renewable resource
26 procurement plan, the Agency shall develop selection

1 criteria for projects listed in subitems (iv) and (v)
2 of item (1) that prioritize facilities that commit to
3 and demonstrate employment of registered apprentices
4 for a meaningful percentage of labor hours. For new
5 photovoltaic community renewable energy facilities
6 that qualify under item (iii) of subparagraph (K), the
7 criteria shall apply when selecting projects submitted
8 at the same time.

9 (R) In its long-term renewable resources procurement
10 plan, the Agency shall establish a self-direct renewable
11 portfolio standard compliance program for eligible
12 self-direct customers that purchase renewable energy
13 credits from utility-scale wind and solar projects through
14 long-term agreements for purchase of renewable energy
15 credits as described in this Section. Such long-term
16 agreements may include the purchase of energy or other
17 products on a physical or financial basis and may involve
18 an alternative retail electric supplier as defined in
19 Section 16-102 of the Public Utilities Act. This program
20 shall take effect in the delivery year commencing June 1,
21 2023.

22 (1) For the purposes of this subparagraph:

23 "Eligible self-direct customer" means any retail
24 customers of an electric utility that serves 3,000,000
25 or more retail customers in the State and whose total
26 highest 30-minute demand was more than 10,000

1 kilowatts, or any retail customers of an electric
2 utility that serves less than 3,000,000 retail
3 customers but more than 500,000 retail customers in
4 the State and whose total highest 15-minute demand was
5 more than 10,000 kilowatts.

6 "Retail customer" has the meaning set forth in
7 Section 16-102 of the Public Utilities Act and
8 multiple retail customer accounts under the same
9 corporate parent may aggregate their account demands
10 to meet the 10,000 kilowatt threshold. The criteria
11 for determining whether this subparagraph is
12 applicable to a retail customer shall be based on the
13 12 consecutive billing periods prior to the start of
14 the year in which the application is filed.

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

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

20 (ii) be sourced from one or more renewable
21 energy generating facilities that comply with the
22 geographic requirements as set forth in
23 subparagraph (I) of paragraph (1) of subsection
24 (c) as interpreted through the Agency's long-term
25 renewable resources procurement plan, or, where
26 applicable, the geographic requirements that

1 governed utility-scale renewable energy credits at
2 the time the eligible self-direct customer entered
3 into the applicable renewable energy credit
4 purchase agreement;

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

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

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

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

23 (vii) if the contracts for renewable energy
24 credits are entered into after the effective date
25 of this amendatory Act of the 102nd General
26 Assembly, the new utility-scale wind projects or

1 new utility-scale solar projects must comply with
2 the requirements established in subparagraphs (P)
3 and (Q) of paragraph (1) of this subsection (c)
4 and subsection (c-10).

5 (3) The self-direct renewable portfolio standard
6 compliance program shall be designed to allow eligible
7 self-direct customers to procure new renewable energy
8 credits from new utility-scale wind projects or new
9 utility-scale photovoltaic projects. The Agency shall
10 annually determine the amount of utility-scale
11 renewable energy credits it will include each year
12 from the self-direct renewable portfolio standard
13 compliance program, subject to receiving qualifying
14 applications. In making this determination, the Agency
15 shall evaluate publicly available analyses and studies
16 of the potential market size for utility-scale
17 renewable energy long-term purchase agreements by
18 commercial and industrial energy customers and make
19 that report publicly available. If demand for
20 participation in the self-direct renewable portfolio
21 standard compliance program exceeds availability, the
22 Agency shall ensure participation is evenly split
23 between commercial and industrial users to the extent
24 there is sufficient demand from both customer classes.
25 Each renewable energy credit procured pursuant to this
26 subparagraph (R) by a self-direct customer shall

1 reduce the total volume of renewable energy credits
2 the Agency is otherwise required to procure from new
3 utility-scale projects pursuant to subparagraph (C) of
4 paragraph (1) of this subsection (c) on behalf of
5 contracting utilities where the eligible self-direct
6 customer is located. The self-direct customer shall
7 file an annual compliance report with the Agency
8 pursuant to terms established by the Agency through
9 its long-term renewable resources procurement plan to
10 be eligible for participation in this program.
11 Customers must provide the Agency with their most
12 recent electricity billing statements or other
13 information deemed necessary by the Agency to
14 demonstrate they are an eligible self-direct customer.

15 (4) The Commission shall approve a reduction in
16 the volumetric charges collected pursuant to Section
17 16-108 of the Public Utilities Act for approved
18 eligible self-direct customers equivalent to the
19 anticipated cost of renewable energy credit deliveries
20 under contracts for new utility-scale wind and new
21 utility-scale solar entered for each delivery year
22 after the large energy customer begins retiring
23 eligible new utility-scale renewable energy credits
24 for self-compliance. The self-direct credit amount
25 shall be determined annually and is equal to the
26 estimated portion of the cost authorized by

1 subparagraph (E) of paragraph (1) of this subsection
2 (c) that supported the annual procurement of
3 utility-scale renewable energy credits in the prior
4 delivery year using a methodology described in the
5 long-term renewable resources procurement plan,
6 expressed on a per kilowatthour basis, and does not
7 include (i) costs associated with any contracts
8 entered into before the delivery year in which the
9 customer files the initial compliance report to be
10 eligible for participation in the self-direct program,
11 and (ii) costs associated with procuring renewable
12 energy credits through existing and future contracts
13 through the Adjustable Block Program, subsection (c-5)
14 of this Section 1-75, and the Solar for All Program.
15 The Agency shall assist the Commission in determining
16 the current and future costs. The Agency must
17 determine the self-direct credit amount for new and
18 existing eligible self-direct customers and submit
19 this to the Commission in an annual compliance filing.
20 The Commission must approve the self-direct credit
21 amount by June 1, 2023 and June 1 of each delivery year
22 thereafter.

23 (5) Customers described in this subparagraph (R)
24 shall apply, on a form developed by the Agency, to the
25 Agency to be designated as a self-direct eligible
26 customer. Once the Agency determines that a

1 self-direct customer is eligible for participation in
2 the program, the self-direct customer will remain
3 eligible until the end of the term of the contract.
4 Thereafter, application may be made not less than 12
5 months before the filing date of the long-term
6 renewable resources procurement plan described in this
7 Act. At a minimum, such application shall contain the
8 following:

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

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

20 (iii) certification that the contract or
21 contracts for new renewable energy resources are
22 long-term contracts with term lengths of at least
23 10 years, including supporting documentation;

24 (iv) certification of the quantities of
25 renewable energy credits that the customer will
26 purchase each year under such contract or

1 contracts, including supporting documentation;

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

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

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

24 (S) Beginning with the long-term renewable resources
25 procurement plan covering program and procurement activity
26 for the delivery year beginning on June 1, 2028, any

1 long-term renewable resources procurement plan developed
2 by the Agency in accordance with subparagraph (A) of this
3 paragraph (1) shall include a Geothermal Homes and
4 Businesses Program for the procurement of geothermal
5 renewable energy credits from new geothermal heating and
6 cooling systems. The long-term renewable resources
7 procurement plan shall allocate up to \$10,000,000 per
8 delivery year to fund the Program as described in this
9 subparagraph (S). The Program shall be designed to
10 stimulate the steady, predictable, and sustainable growth
11 of new geothermal heating and cooling system deployment in
12 this State and meet gaps in the marketplace. To this end,
13 the Geothermal Homes and Businesses Program shall provide
14 a transparent annual schedule of prices and quantities to
15 enable the geothermal heating and cooling market to scale
16 up and renewable energy credit prices to adjust at a
17 predictable rate over time. The prices set by the
18 Geothermal Homes and Businesses Program may be reflected
19 as a set value or as the product of a formula.

20 (i) The Geothermal Homes and Businesses Program
21 shall allocate blocks of renewable energy credits as
22 follows:

23 (1) The Agency may create categories for the
24 Program based on structure features and use cases,
25 including categories based on the nature and size
26 of the Program's projects, customers, communities

1 in which a project is located, and other
2 attributes, defined at the discretion of the
3 Agency through its long-term plan.

4 (2) The Agency shall propose an initial single
5 annual block for each Program delivery year for
6 each category it creates through the delivery year
7 beginning on June 1, 2035. The Program shall
8 include the following for eligible projects for
9 each delivery year: (I) a block of geothermal
10 renewable energy credit volumes; (II) a price for
11 renewable energy credits from geothermal heating
12 and cooling systems within the identified block;
13 and (III) the terms and conditions for securing a
14 spot on a waitlist once the block is fully
15 committed or reserved. The Agency may periodically
16 review its prior decisions establishing the amount
17 of geothermal renewable energy credit volumes in
18 each annual block and the purchase price for each
19 block and may propose, on an expedited basis,
20 changes to the previously set values, including,
21 but not limited to, redistributing the amounts and
22 the available funds as necessary and appropriate,
23 subject to Commission approval. The Agency may
24 define different block sizes, purchase prices, or
25 other distinct terms and conditions for projects
26 located in different utility service territories

1 if the Agency deems it necessary.

2 (3) The Agency may develop an intra-year and
3 year-to-year waitlist and block reservation policy
4 that balances market certainty, program
5 availability, and expedient project deployment.

6 (4) For the program year beginning on June 1,
7 2028, at least 33% of each annual block shall be
8 available to be reserved for systems that are
9 residential, as defined by the Agency. The Agency
10 shall endeavor to ensure at least 40% of each
11 annual block is available to be reserved by
12 systems located in Equity Investment Eligible
13 Communities. At least 10% of all annual blocks
14 shall be available to be reserved by systems from
15 applicants that are equity eligible contractors,
16 and the Agency shall propose to increase the
17 percentage of systems from applicants that are
18 equity eligible contractors over time to 40% based
19 on factors that include, but are not limited to,
20 the number of equity eligible contractors and the
21 volume used under this clause (4) in previous
22 delivery years. For long-term renewable resources
23 procurement plans developed thereafter, the Agency
24 may propose adjustments to the minimum percentages
25 based on developer interest, market interest and
26 availability, and other factors.

1 (5) The Agency shall establish Program
2 eligibility requirements that ensure that systems
3 that enter the Program are sufficiently mature
4 enough to indicate a demonstrable path to
5 completion and other terms, conditions, and
6 requirements for the program, including vendor
7 registration and approval, sales and marketing
8 requirements, and other consumer protection
9 requirements as the Agency deems necessary.

10 (6) The Program shall be designed to ensure
11 that geothermal renewable energy credits are
12 procured from projects in diverse locations and
13 are not procured from projects that are
14 concentrated in a few regional areas.

15 (7) The Agency, through its long-term
16 renewable resources procurement plan, may
17 implement solutions to maintain stable and
18 consistent REC offerings to avoid gaps in
19 availability during a delivery year, including,
20 but not limited to, creating a floating block of
21 REC capacity in a given delivery year.

22 (ii) Energy derived from a geothermal heating and
23 cooling system shall be eligible for inclusion in
24 meeting the requirements of the Program. Geothermal
25 renewable energy credits shall be expressed in
26 megawatt-hour units. To make this calculation, the

1 Agency (1) shall identify an appropriate formula
2 supported by a geothermal industry trade organization,
3 a national laboratory, or another data-backed and
4 verifiable methodology, (2) may propose adjustments to
5 any formulas for its proposed renewable energy credit
6 calculation methodology, and (3) may reflect
7 calculation methodologies already in use for other
8 State renewable portfolio standards, if applicable and
9 appropriate. The Agency shall determine the form and
10 manner in which the renewable energy credits are
11 verified and retired, in accordance with national best
12 practices.

13 Geothermal renewable energy credits retired by
14 obligated utilities for compliance with the Program
15 are only valid for compliance if those geothermal
16 renewable energy credits have not been previously
17 retired by another entity that is not the obligated
18 utility on any tracking system, carbon registry, or
19 other accounting mechanism at any time. Additionally,
20 geothermal renewable energy credits retired by
21 obligated utilities for compliance with the Program
22 shall only be valid for compliance if those geothermal
23 renewable energy credits have not been used to
24 substantiate a public emissions or energy usage claim
25 by any other another entity that is not the obligated
26 utility, of any type and at any time, whether or not

1 the geothermal renewable energy credits were actually
2 retired on a tracking system, registry, or other
3 accounting mechanism at the time of the public
4 emissions-based claim. Geothermal renewable energy
5 credits generated for compliance with the Program
6 shall be valid only if retired once, and claimed once,
7 by the obligated utility.

8 In order to promote the competitive development of
9 geothermal heating and cooling systems in furtherance
10 of this State's interest in the health, safety, and
11 welfare of its residents, renewable energy credits
12 from geothermal heating and cooling systems shall not
13 be eligible for purchase and retirement under this Act
14 if the credits are sourced from a geothermal heating
15 and cooling system for which costs are being recovered
16 on or after the effective date of this amendatory Act
17 of the 104th General Assembly through rates regulated
18 by this State or any other state.

19 (iii) The Agency shall establish Program
20 requirements and minimum contract terms to ensure that
21 projects are properly installed and that projects
22 operate to the level of expected benefits. The
23 contract terms shall include, but are not limited to,
24 the following:

25 (1) The capital that is not advanced shall be
26 disbursed upon a schedule determined by the

1 Agency, based on the total contracted fulfillment
2 over the delivery term, not to exceed, during each
3 delivery year, the contract price multiplied by
4 the estimated annual renewable energy credit
5 generation amount. Payment structures shall
6 include provisions that provide portions of the
7 renewable energy credit delivery contract value
8 upon energization, including no less than 40% of
9 the contract value for residential projects, based
10 on the estimated renewable energy credit
11 production during the contract term.

12 (2) For renewable energy credits that qualify
13 and are procured under the Program, the delivery
14 contract length shall be 15 years.

15 (3) For contracts that are paid upon the
16 delivery of renewable energy credits, if
17 generation of renewable energy credits from
18 geothermal heating and cooling systems during a
19 delivery year exceeds the estimated annual
20 generation amount, the excess of such renewable
21 energy credits shall be carried forward to future
22 delivery years and shall not expire during the
23 delivery term. If the renewable energy credit
24 generation during a delivery year, including any
25 carried forward excess renewable energy credits,
26 is less than the estimated annual generation

1 amount, payments during the delivery year shall
2 not exceed the quantity generated plus the
3 quantity carried forward multiplied by the
4 contract price. The electric utility shall receive
5 all renewable energy credits generated by the
6 project during the first 15 years of operation,
7 and retire all renewable energy credits paid for
8 under this clause (3) and return at the end of the
9 delivery term all geothermal renewable energy
10 credits that were not paid for. Renewable energy
11 credits generated by the project thereafter shall
12 not be transferred under the renewable energy
13 credit delivery contract with the counterparty
14 electric utility.

15 (4) For renewable energy contracts for any
16 type of community, shared, or similar geothermal
17 heating and cooling system that operates using a
18 subscription model and for which subscriptions are
19 a basis for contractual payments, subscription of
20 90% of total renewable energy credit volumes or
21 greater shall be deemed to be fully subscribed.

22 (5) Beginning with the long-term renewable
23 resources procurement plan covering the delivery
24 year beginning on June 1, 2030, the Agency may
25 propose a payment structure for Program contracts
26 upon a demonstration of qualification or need

1 under criteria established by the Agency that is
2 focused on supporting the small and emerging
3 businesses and the businesses that most acutely
4 face barriers to capital access. Successful
5 applicant firms shall have advanced capital
6 disbursed before renewable energy credits are
7 first generated. The maximum amount or percentage
8 of capital advanced shall be included in the
9 long-term renewable resources procurement plan,
10 and any amount actually advanced shall be designed
11 to overcome the barriers in access to capital that
12 are faced by an applicant through that applicant's
13 demonstration of need. The amount or percentage of
14 advanced capital may vary by year, or inter-year,
15 by structure category, block, and other factors as
16 deemed applicable by the Agency and by an
17 applicant's demonstration of need. Contracts
18 featuring capital advanced prior to system
19 operation shall feature provisions to ensure both
20 the successful development of applicant projects
21 and the delivery of renewable energy credits for
22 the full term of the contract, including ongoing
23 collateral requirements and other provisions
24 deemed necessary by the Agency. The percentage or
25 amount of capital advanced prior to system
26 operation shall not increase the overall contract

1 value.

2 (6) Each contract shall include provisions to
3 ensure the delivery of the estimated quantity of
4 geothermal renewable energy credits, including a
5 requirement of performance assurance in an amount
6 deemed appropriate by the Agency.

7 (7) An obligated utility shall be the
8 counterparty to the contracts executed under this
9 subparagraph (S) that are approved by the
10 Commission. No contract shall be executed for an
11 amount that is less than one geothermal renewable
12 energy credit per year.

13 (8) Nothing in this subparagraph (S) shall
14 require the utility to advance any payment or pay
15 any amounts that exceed the actual amount of
16 revenues anticipated to be collected by the
17 utility inclusive of eligible funds collected in
18 prior years and alternative compliance payments
19 for use by the utility.

20 (9) Contracts may be assignable, but only to
21 entities first deemed by the Agency to have met
22 Program terms and requirements applicable to
23 direct Program participation. In developing
24 contracts for the delivery of renewable energy
25 credits from geothermal heating and cooling
26 systems, the Agency may establish fees applicable

1 to each contract assignment.

2 (10) If, at any time, approved applications
3 for the Program exceed funds collected by the
4 electric utility or would cause the Agency to
5 exceed the limitation on the amount of renewable
6 energy resources that may be procured, then the
7 Agency may consider future uncommitted funds to be
8 reserved for these contracts on a first-come,
9 first-served basis.

10 (iv) In order to advance priority access to the
11 clean energy economy for businesses and workers from
12 communities that have been excluded from economic
13 opportunities in the energy sector, been subject to
14 disproportionate levels of pollution, and
15 disproportionately experienced negative public health
16 outcomes, the Agency shall apply its equity
17 accountability system and minimum equity standards
18 established under subsections (c-10), (c-15), (c-20),
19 (c-25), and (c-30) to geothermal heating and cooling
20 system renewable energy credit procurement and
21 programs and may include any proposed modifications to
22 the equity accountability system and minimum equity
23 standards that may be warranted with respect to
24 geothermal heating and cooling systems in its plan
25 submission to the Commission under Section 16-111.5 of
26 the Public Utilities Act.

1 (v) Projects shall be developed in compliance with
2 the prevailing wage and project labor agreement
3 requirements, as applicable, for renewable energy
4 projects in subparagraph (Q) of paragraph (1) of
5 subsection (c). Projects approved under this Program
6 are subject to the prevailing wage requirements
7 outlined in subitem (x) of item (1) of subparagraph
8 (Q) of paragraph (1) of this subsection (c). Renewable
9 energy credits for any single geothermal heating and
10 cooling project that is 142 tons or larger and is
11 procured under this Program after the effective date
12 of this amendatory Act of the 104th General Assembly
13 shall only be eligible if the associated project was
14 built by general contractors who entered into a
15 project labor agreement prior to construction. The
16 project labor agreement shall be filed with the
17 Director in accordance with procedures established by
18 the Agency through its long-term renewable resources
19 procurement plan. The project labor agreement shall
20 provide the names, addresses, and occupations of the
21 owner of the plant and the individuals representing
22 the labor organization employees that participate in
23 the project labor agreement. The project labor
24 agreement shall also specify terms and conditions as
25 provided in this Act.

26 (vi) The Agency shall strive to minimize

1 administrative expenses in the implementation of the
2 Program. The Agency may use any existing program
3 administrator and any applicable subcontractors to
4 develop, administer, implement, operate, and evaluate
5 the Program.

6 (T) Renewable energy credits procured under Agency
7 procurements or programs for community solar projects with
8 more than 3 megawatts in nameplate capacity must be
9 procured from facilities built by general contractors
10 that, prior to construction, enter into a project labor
11 agreement, as defined by this Act, subject to the
12 following requirements and limitations:

13 (i) The project labor agreement shall be filed
14 with the Director in accordance with procedures
15 established by the Agency through its long-term
16 renewable resources procurement plan. Any information
17 submitted to the Agency under this item (i) shall be
18 considered commercially sensitive information.

19 (ii) At a minimum, the project labor agreement
20 must provide the names, addresses, and occupations of
21 the owner of the project and any individuals
22 representing the labor organization of the employees
23 participating in the project labor agreement
24 consistent with the Project Labor Agreements Act. The
25 project labor agreement must also meet the terms and
26 conditions, as set forth in this Act.

1 (iii) It is the intent of this Section to ensure
2 that economic development occurs across communities in
3 this State, that emerging businesses may grow, and
4 that there is improved access to the clean energy
5 economy by persons who have greater economic burdens
6 to success. The Agency shall take into consideration
7 the unique cost of compliance of this subparagraph (T)
8 that may be borne by equity eligible contractors and
9 shall include those costs when determining the price
10 of renewable energy credits in the Adjustable Block
11 program. The Agency shall consider costs associated
12 with compliance, including in the development,
13 financing, or construction of projects. The Agency
14 shall periodically review the assumptions in these
15 costs and may adjust prices in compliance with
16 subparagraph (M) of this paragraph (1).

17 (2) (Blank).

18 (3) (Blank).

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

21 (5) Beginning with the 2010 delivery year and ending
22 June 1, 2017, an electric utility subject to this
23 subsection (c) shall apply the lesser of the maximum
24 alternative compliance payment rate or the most recent
25 estimated alternative compliance payment rate for its
26 service territory for the corresponding compliance period,

1 established pursuant to subsection (d) of Section 16-115D
2 of the Public Utilities Act to its retail customers that
3 take service pursuant to the electric utility's hourly
4 pricing tariff or tariffs. The electric utility shall
5 retain all amounts collected as a result of the
6 application of the alternative compliance payment rate or
7 rates to such customers, and, beginning in 2011, the
8 utility shall include in the information provided under
9 item (1) of subsection (d) of Section 16-111.5 of the
10 Public Utilities Act the amounts collected under the
11 alternative compliance payment rate or rates for the prior
12 year ending May 31. Notwithstanding any limitation on the
13 procurement of renewable energy resources imposed by item
14 (2) of this subsection (c), the Agency shall increase its
15 spending on the purchase of renewable energy resources to
16 be procured by the electric utility for the next plan year
17 by an amount equal to the amounts collected by the utility
18 under the alternative compliance payment rate or rates in
19 the prior year ending May 31.

20 (6) The electric utility shall be entitled to recover
21 all of its costs associated with the procurement of
22 renewable energy credits under plans approved under this
23 Section and Section 16-111.5 of the Public Utilities Act.
24 These costs shall include associated reasonable expenses
25 for implementing the procurement programs, including, but
26 not limited to, the costs of administering and evaluating

1 the Adjustable Block program and the Geothermal Homes and
2 Businesses Program, through an automatic adjustment clause
3 tariff in accordance with subsection (k) of Section 16-108
4 of the Public Utilities Act.

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

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

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

1 (1) In addition to the procurement of renewable energy
2 credits pursuant to long-term renewable resources
3 procurement plans in accordance with subsection (c) of
4 this Section and Section 16-111.5 of the Public Utilities
5 Act, the Agency shall conduct procurement events in
6 accordance with this subsection (c-5) for the procurement
7 by electric utilities that served more than 300,000 retail
8 customers in this State as of January 1, 2019 of renewable
9 energy credits from new renewable energy facilities to be
10 installed at or adjacent to the sites of electric
11 generating facilities that, as of January 1, 2016, burned
12 coal as their primary fuel source and meet the other
13 criteria specified in this subsection (c-5). For purposes
14 of this subsection (c-5), "new renewable energy facility"
15 means a new utility-scale solar project as defined in this
16 Section 1-75. The renewable energy credits procured
17 pursuant to this subsection (c-5) may be included or
18 counted for purposes of compliance with the amounts of
19 renewable energy credits required to be procured pursuant
20 to subsection (c) of this Section to the extent that there
21 are otherwise shortfalls in compliance with such
22 requirements. The procurement of renewable energy credits
23 by electric utilities pursuant to this subsection (c-5)
24 shall be funded solely by revenues collected from the Coal
25 to Solar and Energy Storage Initiative Charge provided for
26 in this subsection (c-5) and subsection (i-5) of Section

1 16-108 of the Public Utilities Act, shall not be funded by
2 revenues collected through any of the other funding
3 mechanisms provided for in subsection (c) of this Section,
4 and shall not be subject to the limitation imposed by
5 subsection (c) on charges to retail customers for costs to
6 procure renewable energy resources pursuant to subsection
7 (c), and shall not be subject to any other requirements or
8 limitations of subsection (c).

9 (2) The Agency shall conduct 2 procurement events to
10 select owners of electric generating facilities meeting
11 the eligibility criteria specified in this subsection
12 (c-5) to enter into long-term contracts to sell renewable
13 energy credits to electric utilities serving more than
14 300,000 retail customers in this State as of January 1,
15 2019. The first procurement event shall be conducted no
16 later than March 31, 2022, unless the Agency elects to
17 delay it, until no later than May 1, 2022, due to its
18 overall volume of work, and shall be to select owners of
19 electric generating facilities located in this State and
20 south of federal Interstate Highway 80 that meet the
21 eligibility criteria specified in this subsection (c-5).
22 The second procurement event shall be conducted no sooner
23 than September 30, 2022 and no later than October 31, 2022
24 and shall be to select owners of electric generating
25 facilities located anywhere in this State that meet the
26 eligibility criteria specified in this subsection (c-5).

1 The Agency shall establish and announce a time period,
2 which shall begin no later than 30 days prior to the
3 scheduled date for the procurement event, during which
4 applicants may submit applications to be selected as
5 suppliers of renewable energy credits pursuant to this
6 subsection (c-5). The eligibility criteria for selection
7 as a supplier of renewable energy credits pursuant to this
8 subsection (c-5) shall be as follows:

9 (A) The applicant owns an electric generating
10 facility located in this State that: (i) as of January
11 1, 2016, burned coal as its primary fuel to generate
12 electricity; and (ii) has, or had prior to retirement,
13 an electric generating capacity of at least 150
14 megawatts. The electric generating facility can be
15 either: (i) retired as of the date of the procurement
16 event; or (ii) still operating as of the date of the
17 procurement event.

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

1 Utilities Act.

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

23 (D) The applicant agrees that the new renewable
24 energy facility and the energy storage facility will
25 be constructed or installed by a qualified entity or
26 entities in compliance with the requirements of

1 subsection (g) of Section 16-128A of the Public
2 Utilities Act and any rules adopted thereunder.

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

17 (F) The applicant commits that not less than the
18 prevailing wage, as determined pursuant to the
19 Prevailing Wage Act, will be paid to the applicant's
20 employees engaged in construction activities
21 associated with the new renewable energy facility and
22 the new energy storage facility and to the employees
23 of applicant's contractors engaged in construction
24 activities associated with the new renewable energy
25 facility and the new energy storage facility, and
26 that, on or before the commercial operation date of

1 the new renewable energy facility, the applicant shall
2 file a report with the Agency certifying that the
3 requirements of this subparagraph (F) have been met.

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

15 (H) The applicant commits to enter into a contract
16 or contracts for the applicable duration to provide
17 specified numbers of renewable energy credits each
18 year from the new renewable energy facility to
19 electric utilities that served more than 300,000
20 retail customers in this State as of January 1, 2019,
21 at a price of \$30 per renewable energy credit. The
22 price per renewable energy credit shall be fixed at
23 \$30 for the applicable duration and the renewable
24 energy credits shall not be indexed renewable energy
25 credits as provided for in item (v) of subparagraph
26 (G) of paragraph (1) of subsection (c) of Section 1-75

1 of this Act. The applicable duration of each contract
2 shall be 20 years, unless the applicant is physically
3 interconnected to the PJM Interconnection, LLC
4 transmission grid and had a generating capacity of at
5 least 1,200 megawatts as of January 1, 2021, in which
6 case the applicable duration of the contract shall be
7 15 years.

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

11 (3) An applicant may submit applications to contract
12 to supply renewable energy credits from more than one new
13 renewable energy facility to be constructed at or adjacent
14 to one or more qualifying electric generating facilities
15 owned by the applicant. The Agency may select new
16 renewable energy facilities to be located at or adjacent
17 to the sites of more than one qualifying electric
18 generation facility owned by an applicant to contract with
19 electric utilities to supply renewable energy credits from
20 such facilities.

21 (4) The Agency shall assess fees to each applicant to
22 recover the Agency's costs incurred in receiving and
23 evaluating applications, conducting the procurement event,
24 developing contracts for sale, delivery and purchase of
25 renewable energy credits, and monitoring the
26 administration of such contracts, as provided for in this

1 subsection (c-5), including fees paid to a procurement
2 administrator retained by the Agency for one or more of
3 these purposes.

4 (5) The Agency shall select the applicants and the new
5 renewable energy facilities to contract with electric
6 utilities to supply renewable energy credits in accordance
7 with this subsection (c-5). In the first procurement
8 event, the Agency shall select applicants and new
9 renewable energy facilities to supply renewable energy
10 credits, at a price of \$30 per renewable energy credit,
11 aggregating to no less than 400,000 renewable energy
12 credits per year for the applicable duration, assuming
13 sufficient qualifying applications to supply, in the
14 aggregate, at least that amount of renewable energy
15 credits per year; and not more than 580,000 renewable
16 energy credits per year for the applicable duration. In
17 the second procurement event, the Agency shall select
18 applicants and new renewable energy facilities to supply
19 renewable energy credits, at a price of \$30 per renewable
20 energy credit, aggregating to no more than 625,000
21 renewable energy credits per year less the amount of
22 renewable energy credits each year contracted for as a
23 result of the first procurement event, for the applicable
24 durations. The number of renewable energy credits to be
25 procured as specified in this paragraph (5) shall not be
26 reduced based on renewable energy credits procured in the

1 self-direct renewable energy credit compliance program
2 established pursuant to subparagraph (R) of paragraph (1)
3 of subsection (c) of Section 1-75.

4 (6) The obligation to purchase renewable energy
5 credits from the applicants and their new renewable energy
6 facilities selected by the Agency shall be allocated to
7 the electric utilities based on their respective
8 percentages of kilowatthours delivered to delivery
9 services customers to the aggregate kilowatthour
10 deliveries by the electric utilities to delivery services
11 customers for the year ended December 31, 2021. In order
12 to achieve these allocation percentages between or among
13 the electric utilities, the Agency shall require each
14 applicant that is selected in the procurement event to
15 enter into a contract with each electric utility for the
16 sale and purchase of renewable energy credits from each
17 new renewable energy facility to be constructed and
18 operated by the applicant, with the sale and purchase
19 obligations under the contracts to aggregate to the total
20 number of renewable energy credits per year to be supplied
21 by the applicant from the new renewable energy facility.

22 (7) The Agency shall submit its proposed selection of
23 applicants, new renewable energy facilities to be
24 constructed, and renewable energy credit amounts for each
25 procurement event to the Commission for approval. The
26 Commission shall, within 2 business days after receipt of

1 the Agency's proposed selections, approve the proposed
2 selections if it determines that the applicants and the
3 new renewable energy facilities to be constructed meet the
4 selection criteria set forth in this subsection (c-5) and
5 that the Agency seeks approval for contracts of applicable
6 durations aggregating to no more than the maximum amount
7 of renewable energy credits per year authorized by this
8 subsection (c-5) for the procurement event, at a price of
9 \$30 per renewable energy credit.

10 (8) The Agency, in conjunction with its procurement
11 administrator if one is retained, the electric utilities,
12 and potential applicants for contracts to produce and
13 supply renewable energy credits pursuant to this
14 subsection (c-5), shall develop a standard form contract
15 for the sale, delivery and purchase of renewable energy
16 credits pursuant to this subsection (c-5). Each contract
17 resulting from the first procurement event shall allow for
18 a commercial operation date for the new renewable energy
19 facility of either June 1, 2023 or June 1, 2024, with such
20 dates subject to adjustment as provided in this paragraph.
21 Each contract resulting from the second procurement event
22 shall provide for a commercial operation date on June 1
23 next occurring up to 48 months after execution of the
24 contract. Each contract shall provide that the owner shall
25 receive payments for renewable energy credits for the
26 applicable durations beginning with the commercial

1 operation date of the new renewable energy facility. The
2 form contract shall provide for adjustments to the
3 commercial operation and payment start dates as needed due
4 to any delays in completing the procurement and
5 contracting processes, in finalizing interconnection
6 agreements and installing interconnection facilities, and
7 in obtaining other necessary governmental permits and
8 approvals. The form contract shall be, to the maximum
9 extent possible, consistent with standard electric
10 industry contracts for sale, delivery, and purchase of
11 renewable energy credits while taking into account the
12 specific requirements of this subsection (c-5). The form
13 contract shall provide for over-delivery and
14 under-delivery of renewable energy credits within
15 reasonable ranges during each 12-month period and penalty,
16 default, and enforcement provisions for failure of the
17 selling party to deliver renewable energy credits as
18 specified in the contract and to comply with the
19 requirements of this subsection (c-5). The standard form
20 contract shall specify that all renewable energy credits
21 delivered to the electric utility pursuant to the contract
22 shall be retired. The Agency shall make the proposed
23 contracts available for a reasonable period for comment by
24 potential applicants, and shall publish the final form
25 contract at least 30 days before the date of the first
26 procurement event.

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

3 (A) By no later than July 1, 2022, each electric
4 utility that served more than 300,000 retail customers
5 in this State as of January 1, 2019 shall file a tariff
6 with the Commission for the billing and collection of
7 a Coal to Solar and Energy Storage Initiative Charge
8 in accordance with subsection (i-5) of Section 16-108
9 of the Public Utilities Act, with such tariff to be
10 effective, following review and approval or
11 modification by the Commission, beginning January 1,
12 2023. The tariff shall provide for the calculation and
13 setting of the electric utility's Coal to Solar and
14 Energy Storage Initiative Charge to collect revenues
15 estimated to be sufficient, in the aggregate, (i) to
16 enable the electric utility to pay for the renewable
17 energy credits it has contracted to purchase in the
18 delivery year beginning June 1, 2023 and each delivery
19 year thereafter from new renewable energy facilities
20 located at the sites of qualifying electric generating
21 facilities, and (ii) to fund the grant payments to be
22 made in each delivery year by the Department of
23 Commerce and Economic Opportunity, or any successor
24 department or agency, which shall be referred to in
25 this subsection (c-5) as the Department, pursuant to
26 paragraph (10) of this subsection (c-5). The electric

1 utility's tariff shall provide for the billing and
2 collection of the Coal to Solar and Energy Storage
3 Initiative Charge on each kilowatthour of electricity
4 delivered to its delivery services customers within
5 its service territory and shall provide for an annual
6 reconciliation of revenues collected with actual
7 costs, in accordance with subsection (i-5) of Section
8 16-108 of the Public Utilities Act.

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

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

19 (A) The Coal to Solar and Energy Storage
20 Initiative Fund is established as a special fund in
21 the State treasury. The Coal to Solar and Energy
22 Storage Initiative Fund is authorized to receive, by
23 statutory deposit, that portion specified in item (B)
24 of paragraph (9) of this subsection (c-5) of moneys
25 collected by electric utilities through imposition of
26 the Coal to Solar and Energy Storage Initiative Charge

1 required by this subsection (c-5). The Coal to Solar
2 and Energy Storage Initiative Fund shall be
3 administered by the Department to provide grants to
4 support the installation and operation of energy
5 storage facilities at the sites of qualifying electric
6 generating facilities meeting the criteria specified
7 in this paragraph (10).

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

18 (C) The Department shall utilize up to
19 \$280,500,000 in the Coal to Solar and Energy Storage
20 Initiative Fund for grants, assuming sufficient
21 qualifying applicants, to support installation of
22 energy storage facilities at the sites of up to 3
23 qualifying electric generating facilities located in
24 the Midcontinent Independent System Operator, Inc.,
25 region in Illinois and the sites of up to 2 qualifying
26 electric generating facilities located in the PJM

1 Interconnection, LLC region in Illinois that meet the
2 criteria set forth in this subparagraph (C). The
3 criteria for receipt of a grant pursuant to this
4 subparagraph (C) are as follows:

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

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

11 (3) if the electric generating facility is
12 retired, it was retired subsequent to January 1,
13 2016;

14 (4) the owner of the electric generating
15 facility has not been selected by the Agency
16 pursuant to this subsection (c-5) of this Section
17 to enter into a contract to sell renewable energy
18 credits to one or more electric utilities from a
19 new renewable energy facility located or to be
20 located at or adjacent to the site at which the
21 electric generating facility is located;

22 (5) the electric generating facility located
23 at the site was at one time owned, in whole or in
24 part, by a public utility as defined in Section
25 3-105 of the Public Utilities Act;

26 (6) the electric generating facility at the

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

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

11 (8) the owner commits to place the energy
12 storage facility into commercial operation on
13 either June 1, 2023, June 1, 2024, or June 1, 2025,
14 with such date subject to adjustment as needed due
15 to any delays in completing the grant contracting
16 process, in finalizing interconnection agreements
17 and in installing interconnection facilities, and
18 in obtaining necessary governmental permits and
19 approvals;

20 (9) the owner agrees that the new energy
21 storage facility will be constructed or installed
22 by a qualified entity or entities consistent with
23 the requirements of subsection (g) of Section
24 16-128A of the Public Utilities Act and any rules
25 adopted under that Section;

26 (10) the owner agrees that personnel operating

1 the energy storage facility will have the
2 requisite skills, knowledge, training, experience,
3 and competence, which may be demonstrated by
4 completion or current participation and ultimate
5 completion by employees of an accredited or
6 otherwise recognized apprenticeship program for
7 the employee's particular craft, trade, or skill,
8 including through training and education courses
9 and opportunities offered by the owner to
10 employees of the coal-fueled electric generating
11 facility or by previous employment experience
12 performing the employee's particular work skill or
13 function;

14 (11) the owner commits that not less than the
15 prevailing wage, as determined pursuant to the
16 Prevailing Wage Act, will be paid to the owner's
17 employees engaged in construction activities
18 associated with the new energy storage facility
19 and to the employees of the owner's contractors
20 engaged in construction activities associated with
21 the new energy storage facility, and that, on or
22 before the commercial operation date of the new
23 energy storage facility, the owner shall file a
24 report with the Department certifying that the
25 requirements of this subparagraph (11) have been
26 met; and

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

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

24 (D) Grants of funding for energy storage
25 facilities pursuant to subparagraph (C) of this
26 paragraph (10), from the Coal to Solar and Energy

1 Storage Initiative Fund, shall be memorialized in
2 grant contracts between the Department and the
3 recipient. The grant contracts shall specify the date
4 or dates in each year on which the annual grant
5 payments shall be paid.

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

17 (11) Diversity, equity, and inclusion plans.

18 (A) Each applicant selected in a procurement event
19 to contract to supply renewable energy credits in
20 accordance with this subsection (c-5) and each owner
21 selected by the Department to receive a grant or
22 grants to support the construction and operation of a
23 new energy storage facility or facilities in
24 accordance with this subsection (c-5) shall, within 60
25 days following the Commission's approval of the
26 applicant to contract to supply renewable energy

1 credits or within 60 days following execution of a
2 grant contract with the Department, as applicable,
3 submit to the Commission a diversity, equity, and
4 inclusion plan setting forth the applicant's or
5 owner's numeric goals for the diversity composition of
6 its supplier entities for the new renewable energy
7 facility or new energy storage facility, as
8 applicable, which shall be referred to for purposes of
9 this paragraph (11) as the project, and the
10 applicant's or owner's action plan and schedule for
11 achieving those goals.

12 (B) For purposes of this paragraph (11), diversity
13 composition shall be based on the percentage, which
14 shall be a minimum of 25%, of eligible expenditures
15 for contract awards for materials and services (which
16 shall be defined in the plan) to business enterprises
17 owned by minority persons, women, or persons with
18 disabilities as defined in Section 2 of the Business
19 Enterprise for Minorities, Women, and Persons with
20 Disabilities Act, to LGBTQ business enterprises, to
21 veteran-owned business enterprises, and to business
22 enterprises located in environmental justice
23 communities. The diversity composition goals of the
24 plan may include eligible expenditures in areas for
25 vendor or supplier opportunities in addition to
26 development and construction of the project, and may

1 exclude from eligible expenditures materials and
2 services with limited market availability, limited
3 production and availability from suppliers in the
4 United States, such as solar panels and storage
5 batteries, and material and services that are subject
6 to critical energy infrastructure or cybersecurity
7 requirements or restrictions. The plan may provide
8 that the diversity composition goals may be met
9 through Tier 1 Direct or Tier 2 subcontracting
10 expenditures or a combination thereof for the project.

11 (C) The plan shall provide for, but not be limited
12 to: (i) internal initiatives, including multi-tier
13 initiatives, by the applicant or owner, or by its
14 engineering, procurement and construction contractor
15 if one is used for the project, which for purposes of
16 this paragraph (11) shall be referred to as the EPC
17 contractor, to enable diverse businesses to be
18 considered fairly for selection to provide materials
19 and services; (ii) requirements for the applicant or
20 owner or its EPC contractor to proactively solicit and
21 utilize diverse businesses to provide materials and
22 services; and (iii) requirements for the applicant or
23 owner or its EPC contractor to hire a diverse
24 workforce for the project. The plan shall include a
25 description of the applicant's or owner's diversity
26 recruiting efforts both for the project and for other

1 areas of the applicant's or owner's business
2 operations. The plan shall provide for the imposition
3 of financial penalties on the applicant's or owner's
4 EPC contractor for failure to exercise best efforts to
5 comply with and execute the EPC contractor's diversity
6 obligations under the plan. The plan may provide for
7 the applicant or owner to set aside a portion of the
8 work on the project to serve as an incubation program
9 for qualified businesses, as specified in the plan,
10 owned by minority persons, women, persons with
11 disabilities, LGBTQ persons, and veterans, and
12 businesses located in environmental justice
13 communities, seeking to enter the renewable energy
14 industry.

15 (D) The applicant or owner may submit a revised or
16 updated plan to the Commission from time to time as
17 circumstances warrant. The applicant or owner shall
18 file annual reports with the Commission detailing the
19 applicant's or owner's progress in implementing its
20 plan and achieving its goals and any modifications the
21 applicant or owner has made to its plan to better
22 achieve its diversity, equity and inclusion goals. The
23 applicant or owner shall file a final report on the
24 fifth June 1 following the commercial operation date
25 of the new renewable energy resource or new energy
26 storage facility, but the applicant or owner shall

1 thereafter continue to be subject to applicable
2 reporting requirements of Section 5-117 of the Public
3 Utilities Act.

4 (c-10) Equity accountability system. It is the purpose of
5 this subsection (c-10) to create an equity accountability
6 system, which includes the minimum equity standards for all
7 renewable energy procurements, the equity category of the
8 Adjustable Block Program, and the equity prioritization for
9 noncompetitive procurements, that is successful in advancing
10 priority access to the clean energy economy for businesses and
11 workers from communities that have been excluded from economic
12 opportunities in the energy sector, have been subject to
13 disproportionate levels of pollution, and have
14 disproportionately experienced negative public health
15 outcomes. Further, it is the purpose of this subsection to
16 ensure that this equity accountability system is successful in
17 advancing equity across Illinois by providing access to the
18 clean energy economy for businesses and workers from
19 communities that have been historically excluded from economic
20 opportunities in the energy sector, have been subject to
21 disproportionate levels of pollution, and have
22 disproportionately experienced negative public health
23 outcomes.

24 (1) Minimum equity standards. The Agency shall create
25 programs with the purpose of increasing access to and
26 development of equity eligible contractors, who are prime

1 contractors and subcontractors, across all of the programs
2 it manages. All applications for renewable energy credit
3 procurements shall comply with specific minimum equity
4 commitments. Starting in the delivery year immediately
5 following the next long-term renewable resources
6 procurement plan, at least 10% of the project workforce
7 for each entity participating in a procurement program
8 outlined in this subsection (c-10) must be done by equity
9 eligible persons or equity eligible contractors. The
10 Agency shall increase the minimum percentage each delivery
11 year thereafter by increments that ensure a statewide
12 average of 30% of the project workforce for each entity
13 participating in a procurement program is done by equity
14 eligible persons or equity eligible contractors by 2030.
15 The Agency shall propose a schedule of percentage
16 increases to the minimum equity standards in its draft
17 revised renewable energy resources procurement plan
18 submitted to the Commission for approval pursuant to
19 paragraph (5) of subsection (b) of Section 16-111.5 of the
20 Public Utilities Act. In determining these annual
21 increases, the Agency shall have the discretion to
22 establish different minimum equity standards for different
23 types of procurements and different regions of the State
24 if the Agency finds that doing so will further the
25 purposes of this subsection (c-10). The proposed schedule
26 of annual increases shall be revisited and updated on an

1 annual basis. Revisions shall be developed with
2 stakeholder input, including from equity eligible persons,
3 equity eligible contractors, clean energy industry
4 representatives, and community-based organizations that
5 work with such persons and contractors.

6 (A) At the start of each delivery year, the Agency
7 shall require a compliance plan from each entity
8 participating in a procurement program of subsection
9 (c) of this Section, and entities opting to comply
10 with the minimum equity standard through the Illinois
11 Solar for All Program under Section 1-56 of this Act,
12 that demonstrates how they will achieve compliance
13 with the minimum equity standard percentage for work
14 completed in that delivery year. If an entity applies
15 for its approved vendor or designee status between
16 delivery years, the Agency shall require a compliance
17 plan at the time of application.

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

24 (C) At the end of each delivery year, each entity
25 participating and completing work in that delivery
26 year in a procurement program of subsection (c) shall

1 submit a report to the Agency that demonstrates how it
2 achieved compliance with the minimum equity standards
3 percentage for that delivery year.

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

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

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

26 (3) Equity accountability system within competitive

1 procurements. Through its long-term renewable resources
2 procurement plan, the Agency shall develop requirements
3 for ensuring that competitive procurement processes,
4 including utility-scale solar, utility-scale wind, and
5 brownfield site photovoltaic projects, advance the equity
6 goals of this subsection (c-10). Subject to Commission
7 approval, the Agency shall develop bid application
8 requirements and a bid evaluation methodology for ensuring
9 that utilization of equity eligible contractors, whether
10 as bidders or as participants on project development, is
11 optimized, including requiring that winning or successful
12 applicants for utility-scale projects are or will partner
13 with equity eligible contractors and giving preference to
14 bids through which a higher portion of contract value
15 flows to equity eligible contractors. To the extent
16 practicable, entities participating in competitive
17 procurements shall also be required to meet all the equity
18 accountability requirements for approved vendors and their
19 designees under this subsection (c-10). In developing
20 these requirements, the Agency shall also consider whether
21 equity goals can be further advanced through additional
22 measures.

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

26 (A) The current status and number of equity

1 eligible contractors listed in the Energy Workforce
2 Equity Database designed in subsection (c-25),
3 including the number of equity eligible contractors
4 with current certifications as issued by the Agency.

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

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

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

23 (E) An application for waiver of the minimum
24 equity standards of this subsection, which the Agency
25 shall have the discretion to grant in rare
26 circumstances. The Agency may grant such a waiver

1 where the applicant provides evidence of significant
2 efforts toward meeting the minimum equity commitment,
3 including: use of the Energy Workforce Equity
4 Database; efforts to hire or contract with entities
5 that hire eligible persons; and efforts to establish
6 contracting relationships with eligible contractors.
7 The Agency shall support applicants in understanding
8 the Energy Workforce Equity Database and other
9 resources for pursuing compliance of the minimum
10 equity standards. Waivers shall be project-specific,
11 unless the Agency deems it necessary to grant a waiver
12 across a portfolio of projects, and in effect for no
13 longer than one year. Any waiver extension or
14 subsequent waiver request from an applicant shall be
15 subject to the requirements of this Section and shall
16 specify efforts made to reach compliance. When
17 considering whether to grant a waiver, and to what
18 extent, the Agency shall consider the degree to which
19 similarly situated applicants have been able to meet
20 these minimum equity commitments. For repeated waiver
21 requests for specific lack of eligible persons or
22 eligible contractors available, the Agency shall make
23 recommendations to target recruitment to add such
24 eligible persons or eligible contractors to the
25 database.

26 (5) The Agency shall collect information about work on

1 projects or portfolios of projects subject to these
2 minimum equity standards to ensure compliance with this
3 subsection (c-10). Reporting in furtherance of this
4 requirement may be combined with other annual reporting
5 requirements. Such reporting shall include proof of
6 certification of each equity eligible contractor or equity
7 eligible person during the applicable time period.

8 As part of the reporting requirement under this
9 subparagraph (5), the Agency shall collect and report
10 information about the use of equity eligible contractors
11 and equity eligible persons, as well as Minimum Equity
12 Standard compliance and waiver usage on the Adjustable
13 Block program and utility-scale projects subject to
14 project labor agreements. The Agency shall note any
15 instances of the projects being unable to meet or
16 requiring a waiver to meet Minimum Equity Standard
17 requirements and the location of those projects.

18 On an annual basis, the Agency shall submit a written
19 summary of its findings on an annual basis to the General
20 Assembly and the Governor and shall make the report and
21 summary available on the Agency's website.

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

25 (7) Modifications to the equity accountability system.
26 As part of the update of the long-term renewable resources

1 procurement plan to be initiated in 2023, or sooner if the
2 Agency deems necessary, the Agency shall determine the
3 extent to which the equity accountability system described
4 in this subsection (c-10) has advanced the goals of this
5 amendatory Act of the 102nd General Assembly, including
6 through the inclusion of equity eligible persons and
7 equity eligible contractors in renewable energy credit
8 projects. If the Agency finds that the equity
9 accountability system has failed to meet those goals to
10 its fullest potential, the Agency may revise the following
11 criteria for future Agency procurements: (A) the
12 percentage of project workforce, or other appropriate
13 workforce measure, certified as equity eligible persons or
14 equity eligible contractors; (B) definitions for equity
15 investment eligible persons and equity investment eligible
16 community; and (C) such other modifications necessary to
17 advance the goals of this amendatory Act of the 102nd
18 General Assembly effectively. Such revised criteria may
19 also establish distinct equity accountability systems for
20 different types of procurements or different regions of
21 the State if the Agency finds that doing so will further
22 the purposes of such programs. Revisions shall be
23 developed with stakeholder input, including from equity
24 eligible persons, equity eligible contractors, and
25 community-based organizations that work with such persons
26 and contractors.

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

3 (1) Purpose. It is the purpose of this subsection to
4 empower the Agency and other State actors to remedy racial
5 discrimination in Illinois' clean energy economy as
6 effectively and expediently as possible, including through
7 the use of race-conscious remedies, such as race-conscious
8 contracting and hiring goals, as consistent with State and
9 federal law.

10 (2) Racial disparity and discrimination review
11 process.

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

23 (B) As soon as is practicable thereafter, the
24 Agency, in consultation with the Department of
25 Commerce and Economic Opportunity, Department of
26 Labor, and other agencies that may be relevant, shall

1 commission and publish a disparity and availability
2 study that measures the presence and impact of
3 discrimination on minority businesses and workers in
4 Illinois' clean energy economy. The Agency may hire
5 consultants and experts to conduct the disparity and
6 availability study, with the retention of those
7 consultants and experts exempt from the requirements
8 of Section 20-10 of the Illinois Procurement Code. The
9 Illinois Power Agency shall forward a copy of its
10 findings and recommendations to the Governor, the
11 General Assembly, and the Illinois Commerce
12 Commission. If the disparity and availability study
13 establishes a strong basis in evidence that there is
14 discrimination in Illinois' clean energy economy, the
15 Agency, Department of Commerce and Economic
16 Opportunity, Department of Labor, Department of
17 Corrections, and other appropriate agencies shall take
18 appropriate remedial actions, including race-conscious
19 remedial actions as consistent with State and federal
20 law, to effectively remedy this discrimination. Such
21 remedies may include modification of the equity
22 accountability system as described in subsection
23 (c-10).

24 (c-20) Program data collection.

25 (1) Purpose. Data collection, data analysis, and
26 reporting are critical to ensure that the benefits of the

1 clean energy economy provided to Illinois residents and
2 businesses are equitably distributed across the State. The
3 Agency shall collect data from program applicants in order
4 to track and improve equitable distribution of benefits
5 across Illinois communities for all procurements the
6 Agency conducts. The Agency shall use this data to, among
7 other things, measure any potential impact of racial
8 discrimination on the distribution of benefits and provide
9 information necessary to correct any discrimination
10 through methods consistent with State and federal law.

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

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

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

23 (B) geographic location of the residency of real
24 persons employed, contracted, or subcontracted through
25 the program and geographic location of the
26 headquarters of the business or entity that applies to

1 receive renewable energy credits from the Agency; and

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

5 (4) Publication of collected information. The Agency
6 shall publish, at least annually, information on the
7 demographics of program participants on an aggregate
8 basis.

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

13 (c-25) Energy Workforce Equity Database.

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

24 (A) publicly accessible;

25 (B) easy for people to find and use;

26 (C) organized by company specialty or field;

1 (D) region-specific; and

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

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

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

13 (B) job postings and recruiting opportunities;

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

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

21 (E) renewable energy company diversity reporting;

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

25 (G) reporting on outcomes of the programs
26 described in the workforce programs of the Energy

1 Transition Act, including information such as, but not
2 limited to, retention rate, graduation rate, and
3 placement rates of trainees; and

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

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

16 (c-30) Enforcement of minimum equity standards. All
17 entities seeking renewable energy credits must submit an
18 annual report to demonstrate compliance with each of the
19 equity commitments required under subsection (c-10). If the
20 Agency concludes the entity has not met or maintained its
21 minimum equity standards required under the applicable
22 subparagraphs under subsection (c-10), the Agency shall deny
23 the entity's ability to participate in procurement programs in
24 subsection (c), including by withholding approved vendor or
25 designee status. The Agency may require the entity to enter
26 into a corrective action plan. An entity that is not

1 recertified for failing to meet required equity actions in
2 subparagraph (c-10) may reapply once they have a corrective
3 action plan and achieve compliance with the minimum equity
4 standards.

5 (d) Clean coal portfolio standard.

6 (1) The procurement plans shall include electricity
7 generated using clean coal. Each utility shall enter into
8 one or more sourcing agreements with the initial clean
9 coal facility, as provided in paragraph (3) of this
10 subsection (d), covering electricity generated by the
11 initial clean coal facility representing at least 5% of
12 each utility's total supply to serve the load of eligible
13 retail customers in 2015 and each year thereafter, as
14 described in paragraph (3) of this subsection (d), subject
15 to the limits specified in paragraph (2) of this
16 subsection (d). It is the goal of the State that by January
17 1, 2025, 25% of the electricity used in the State shall be
18 generated by cost-effective clean coal facilities. For
19 purposes of this subsection (d), "cost-effective" means
20 that the expenditures pursuant to such sourcing agreements
21 do not cause the limit stated in paragraph (2) of this
22 subsection (d) to be exceeded and do not exceed cost-based
23 benchmarks, which shall be developed to assess all
24 expenditures pursuant to such sourcing agreements covering
25 electricity generated by clean coal facilities, other than
26 the initial clean coal facility, by the procurement

1 administrator, in consultation with the Commission staff,
2 Agency staff, and the procurement monitor and shall be
3 subject to Commission review and approval.

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

8 Utilities shall maintain adequate records documenting
9 the purchases under the sourcing agreement to comply with
10 this subsection (d) and shall file an accounting with the
11 load forecast that must be filed with the Agency by July 15
12 of each year, in accordance with subsection (d) of Section
13 16-111.5 of the Public Utilities Act.

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

18 (2) For purposes of this subsection (d), the required
19 execution of sourcing agreements with the initial clean
20 coal facility for a particular year shall be measured as a
21 percentage of the actual amount of electricity
22 (megawatt-hours) supplied by the electric utility to
23 eligible retail customers in the planning year ending
24 immediately prior to the agreement's execution. For
25 purposes of this subsection (d), the amount paid per
26 kilowatthour means the total amount paid for electric

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

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

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

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

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

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

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

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

1 (3) Initial clean coal facility. In order to promote
2 development of clean coal facilities in Illinois, each
3 electric utility subject to this Section shall execute a
4 sourcing agreement to source electricity from a proposed
5 clean coal facility in Illinois (the "initial clean coal
6 facility") that will have a nameplate capacity of at least
7 500 MW when commercial operation commences, that has a
8 final Clean Air Act permit on June 1, 2009 (the effective
9 date of Public Act 95-1027), and that will meet the
10 definition of clean coal facility in Section 1-10 of this
11 Act when commercial operation commences. The sourcing
12 agreements with this initial clean coal facility shall be
13 subject to both approval of the initial clean coal
14 facility by the General Assembly and satisfaction of the
15 requirements of paragraph (4) of this subsection (d) and
16 shall be executed within 90 days after any such approval
17 by the General Assembly. The Agency and the Commission
18 shall have authority to inspect all books and records
19 associated with the initial clean coal facility during the
20 term of such a sourcing agreement. A utility's sourcing
21 agreement for electricity produced by the initial clean
22 coal facility shall include:

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

26 (i) be determined using a cost of service

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

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

26 (B) power purchase provisions, which shall:

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

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

8 (iii) require the utility party to such
9 sourcing agreement to buy from the initial clean
10 coal facility in each hour an amount of energy
11 equal to all clean coal energy made available from
12 the initial clean coal facility during such hour
13 times a fraction, the numerator of which is such
14 utility's retail market sales of electricity
15 (expressed in kilowatthours sold) in the State
16 during the prior calendar month and the
17 denominator of which is the total retail market
18 sales of electricity (expressed in kilowatthours
19 sold) in the State by utilities during such prior
20 month and the sales of electricity (expressed in
21 kilowatthours sold) in the State by alternative
22 retail electric suppliers during such prior month
23 that are subject to the requirements of this
24 subsection (d) and paragraph (5) of subsection (d)
25 of Section 16-115 of the Public Utilities Act,
26 provided that the amount purchased by the utility

1 in any year will be limited by paragraph (2) of
2 this subsection (d); and

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

6 (C) contract for differences provisions, which
7 shall:

8 (i) require the utility party to such sourcing
9 agreement to contract with the initial clean coal
10 facility in each hour with respect to an amount of
11 energy equal to all clean coal energy made
12 available from the initial clean coal facility
13 during such hour times a fraction, the numerator
14 of which is such utility's retail market sales of
15 electricity (expressed in kilowatthours sold) in
16 the utility's service territory in the State
17 during the prior calendar month and the
18 denominator of which is the total retail market
19 sales of electricity (expressed in kilowatthours
20 sold) in the State by utilities during such prior
21 month and the sales of electricity (expressed in
22 kilowatthours sold) in the State by alternative
23 retail electric suppliers during such prior month
24 that are subject to the requirements of this
25 subsection (d) and paragraph (5) of subsection (d)
26 of Section 16-115 of the Public Utilities Act,

1 provided that the amount paid by the utility in
2 any year will be limited by paragraph (2) of this
3 subsection (d);

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

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

25 (D) general provisions, which shall:

26 (i) specify a term of no more than 30 years,

1 commencing on the commercial operation date of the
2 facility;

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

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

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

24 (v) require the owner of the initial clean
25 coal facility to provide documentation to the
26 Commission each year, starting in the facility's

1 first year of commercial operation, accurately
2 reporting the quantity of carbon emissions from
3 the facility that have been captured and
4 sequestered and report any quantities of carbon
5 released from the site or sites at which carbon
6 emissions were sequestered in prior years, based
7 on continuous monitoring of such sites. If, in any
8 year after the first year of commercial operation,
9 the owner of the facility fails to demonstrate
10 that the initial clean coal facility captured and
11 sequestered at least 50% of the total carbon
12 emissions that the facility would otherwise emit
13 or that sequestration of emissions from prior
14 years has failed, resulting in the release of
15 carbon dioxide into the atmosphere, the owner of
16 the facility must offset excess emissions. Any
17 such carbon offsets must be permanent, additional,
18 verifiable, real, located within the State of
19 Illinois, and legally and practicably enforceable.
20 The cost of such offsets for the facility that are
21 not recoverable shall not exceed \$15 million in
22 any given year. No costs of any such purchases of
23 carbon offsets may be recovered from a utility or
24 its customers. All carbon offsets purchased for
25 this purpose and any carbon emission credits
26 associated with sequestration of carbon from the

1 facility must be permanently retired. The initial
2 clean coal facility shall not forfeit its
3 designation as a clean coal facility if the
4 facility fails to fully comply with the applicable
5 carbon sequestration requirements in any given
6 year, provided the requisite offsets are
7 purchased. However, the Attorney General, on
8 behalf of the People of the State of Illinois, may
9 specifically enforce the facility's sequestration
10 requirement and the other terms of this contract
11 provision. Compliance with the sequestration
12 requirements and offset purchase requirements
13 specified in paragraph (3) of this subsection (d)
14 shall be reviewed annually by an independent
15 expert retained by the owner of the initial clean
16 coal facility, with the advance written approval
17 of the Attorney General. The Commission may, in
18 the course of the review specified in item (vii),
19 reduce the allowable return on equity for the
20 facility if the facility willfully fails to comply
21 with the carbon capture and sequestration
22 requirements set forth in this item (v);

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

1 subsection (d);

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

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

24 (ix) limit the utility's or alternative retail
25 electric supplier's obligation to incur any
26 liability until such time as the facility is in

1 commercial operation and generating power and
2 energy and such power and energy is being
3 delivered to the facility busbar;

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

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

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

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

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

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

19 (ii) Commission report. Within 6 months following
20 receipt of the facility cost report, the Commission,
21 in consultation with the Agency, shall submit a report
22 to the General Assembly setting forth its analysis of
23 the facility cost report. Such report shall include,
24 but not be limited to, a comparison of the costs
25 associated with electricity generated by the initial
26 clean coal facility to the costs associated with

1 electricity generated by other types of generation
2 facilities, an analysis of the rate impacts on
3 residential and small business customers over the life
4 of the sourcing agreements, and an analysis of the
5 likelihood that the initial clean coal facility will
6 commence commercial operation by and be delivering
7 power to the facility's busbar by 2016. To assist in
8 the preparation of its report, the Commission, in
9 consultation with the Agency, may hire one or more
10 experts or consultants, the costs of which shall be
11 paid for by the owner of the initial clean coal
12 facility. The Commission and Agency may begin the
13 process of selecting such experts or consultants prior
14 to receipt of the facility cost report.

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

26 (iv) Commission review. If the General Assembly

1 enacts authorizing legislation pursuant to
2 subparagraph (iii) approving a sourcing agreement, the
3 Commission shall, within 90 days of such enactment,
4 complete a review of such sourcing agreement. During
5 such time period, the Commission shall implement any
6 directive of the General Assembly, resolve any
7 disputes between the parties to the sourcing agreement
8 concerning the terms of such agreement, approve the
9 form of such agreement, and issue an order finding
10 that the sourcing agreement is prudent and reasonable.
11 The facility cost report shall be prepared as follows:

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

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

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

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

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

26 (C) The facility cost report shall also include an

1 operating and maintenance cost quote that will provide
2 the estimated cost of delivered fuel, personnel,
3 maintenance contracts, chemicals, catalysts,
4 consumables, spares, and other fixed and variable
5 operations and maintenance costs. The delivered fuel
6 cost estimate will be provided by a recognized third
7 party expert or experts in the fuel and transportation
8 industries. The balance of the operating and
9 maintenance cost quote, excluding delivered fuel
10 costs, will be developed based on the inputs provided
11 by duly licensed engineering and construction firms
12 performing the construction cost quote, potential
13 vendors under long-term service agreements and plant
14 operating agreements, or recognized third party plant
15 operator or operators.

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

24 (D) The facility cost report shall also include an
25 analysis of the initial clean coal facility's ability
26 to deliver power and energy into the applicable

1 regional transmission organization markets and an
2 analysis of the expected capacity factor for the
3 initial clean coal facility.

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

10 (5) Re-powering and retrofitting coal-fired power
11 plants previously owned by Illinois utilities to qualify
12 as clean coal facilities. During the 2009 procurement
13 planning process and thereafter, the Agency and the
14 Commission shall consider sourcing agreements covering
15 electricity generated by power plants that were previously
16 owned by Illinois utilities and that have been or will be
17 converted into clean coal facilities, as defined by
18 Section 1-10 of this Act. Pursuant to such procurement
19 planning process, the owners of such facilities may
20 propose to the Agency sourcing agreements with utilities
21 and alternative retail electric suppliers required to
22 comply with subsection (d) of this Section and item (5) of
23 subsection (d) of Section 16-115 of the Public Utilities
24 Act, covering electricity generated by such facilities. In
25 the case of sourcing agreements that are power purchase
26 agreements, the contract price for electricity sales shall

1 be established on a cost of service basis. In the case of
2 sourcing agreements that are contracts for differences,
3 the contract price from which the reference price is
4 subtracted shall be established on a cost of service
5 basis. The Agency and the Commission may approve any such
6 utility sourcing agreements that do not exceed cost-based
7 benchmarks developed by the procurement administrator, in
8 consultation with the Commission staff, Agency staff and
9 the procurement monitor, subject to Commission review and
10 approval. The Commission shall have authority to inspect
11 all books and records associated with these clean coal
12 facilities during the term of any such contract.

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

19 (d-5) Zero emission standard.

20 (1) Beginning with the delivery year commencing on
21 June 1, 2017, the Agency shall, for electric utilities
22 that serve at least 100,000 retail customers in this
23 State, procure contracts with zero emission facilities
24 that are reasonably capable of generating cost-effective
25 zero emission credits in an amount approximately equal to
26 16% of the actual amount of electricity delivered by each

1 electric utility to retail customers in the State during
2 calendar year 2014. For an electric utility serving fewer
3 than 100,000 retail customers in this State that
4 requested, under Section 16-111.5 of the Public Utilities
5 Act, that the Agency procure power and energy for all or a
6 portion of the utility's Illinois load for the delivery
7 year commencing June 1, 2016, the Agency shall procure
8 contracts with zero emission facilities that are
9 reasonably capable of generating cost-effective zero
10 emission credits in an amount approximately equal to 16%
11 of the portion of power and energy to be procured by the
12 Agency for the utility. The duration of the contracts
13 procured under this subsection (d-5) shall be for a term
14 of 10 years ending May 31, 2027. The quantity of zero
15 emission credits to be procured under the contracts shall
16 be all of the zero emission credits generated by the zero
17 emission facility in each delivery year; however, if the
18 zero emission facility is owned by more than one entity,
19 then the quantity of zero emission credits to be procured
20 under the contracts shall be the amount of zero emission
21 credits that are generated from the portion of the zero
22 emission facility that is owned by the winning supplier.

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

1 The procurement process shall be subject to the
2 following provisions:

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

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

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

16 (iii) the annual zero emission facility cost
17 projections, expressed on a per megawatthour
18 basis, over the next 6 delivery years, which shall
19 include the following: operation and maintenance
20 expenses; fully allocated overhead costs, which
21 shall be allocated using the methodology developed
22 by the Institute for Nuclear Power Operations;
23 fuel expenditures; non-fuel capital expenditures;
24 spent fuel expenditures; a return on working
25 capital; the cost of operational and market risks
26 that could be avoided by ceasing operation; and

1 any other costs necessary for continued
2 operations, provided that "necessary" means, for
3 purposes of this item (iii), that the costs could
4 reasonably be avoided only by ceasing operations
5 of the zero emission facility; and

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

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

23 (B) The price for each zero emission credit
24 procured under this subsection (d-5) for each delivery
25 year shall be in an amount that equals the Social Cost
26 of Carbon, expressed on a price per megawatthour

1 basis. However, to ensure that the procurement remains
2 affordable to retail customers in this State if
3 electricity prices increase, the price in an
4 applicable delivery year shall be reduced below the
5 Social Cost of Carbon by the amount ("Price
6 Adjustment") by which the market price index for the
7 applicable delivery year exceeds the baseline market
8 price index for the consecutive 12-month period ending
9 May 31, 2016. If the Price Adjustment is greater than
10 or equal to the Social Cost of Carbon in an applicable
11 delivery year, then no payments shall be due in that
12 delivery year. The components of this calculation are
13 defined as follows:

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

26 (ii) Baseline market price index: The baseline

1 market price index for the consecutive 12-month
2 period ending May 31, 2016 is \$31.40 per
3 megawatthour, which is based on the sum of (aa)
4 the average day-ahead energy price across all
5 hours of such 12-month period at the PJM
6 Interconnection LLC Northern Illinois Hub, (bb)
7 50% multiplied by the Base Residual Auction, or
8 its successor, capacity price for the rest of the
9 RTO zone group determined by PJM Interconnection
10 LLC, divided by 24 hours per day, and (cc) 50%
11 multiplied by the Planning Resource Auction, or
12 its successor, capacity price for Zone 4
13 determined by the Midcontinent Independent System
14 Operator, Inc., divided by 24 hours per day.

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

19 (aa) Projected energy prices: the
20 projected energy prices for the applicable
21 delivery year shall be calculated once for the
22 year using the forward market price for the
23 PJM Interconnection, LLC Northern Illinois
24 Hub. The forward market price shall be
25 calculated as follows: the energy forward
26 prices for each month of the applicable

1 delivery year averaged for each trade date
2 during the calendar year immediately preceding
3 that delivery year to produce a single energy
4 forward price for the delivery year. The
5 forward market price calculation shall use
6 data published by the Intercontinental
7 Exchange, or its successor.

8 (bb) Projected capacity prices:

9 (I) For the delivery years commencing
10 June 1, 2017, June 1, 2018, and June 1,
11 2019, the projected capacity price shall
12 be equal to the sum of (1) 50% multiplied
13 by the Base Residual Auction, or its
14 successor, price for the rest of the RTO
15 zone group as determined by PJM
16 Interconnection LLC, divided by 24 hours
17 per day and, (2) 50% multiplied by the
18 resource auction price determined in the
19 resource auction administered by the
20 Midcontinent Independent System Operator,
21 Inc., in which the largest percentage of
22 load cleared for Local Resource Zone 4,
23 divided by 24 hours per day, and where
24 such price is determined by the
25 Midcontinent Independent System Operator,
26 Inc.

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

18 For purposes of this subsection (d-5):

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

22 "RTO" means regional transmission
23 organization.

24 (C) No later than 45 days after June 1, 2017 (the
25 effective date of Public Act 99-906), the Agency shall
26 publish its proposed zero emission standard

1 procurement plan. The plan shall be consistent with
2 the provisions of this paragraph (1) and shall provide
3 that winning bids shall be selected based on public
4 interest criteria that include, but are not limited
5 to, minimizing carbon dioxide emissions that result
6 from electricity consumed in Illinois and minimizing
7 sulfur dioxide, nitrogen oxide, and particulate matter
8 emissions that adversely affect the citizens of this
9 State. In particular, the selection of winning bids
10 shall take into account the incremental environmental
11 benefits resulting from the procurement, such as any
12 existing environmental benefits that are preserved by
13 the procurements held under Public Act 99-906 and
14 would cease to exist if the procurements were not
15 held, including the preservation of zero emission
16 facilities. The plan shall also describe in detail how
17 each public interest factor shall be considered and
18 weighted in the bid selection process to ensure that
19 the public interest criteria are applied to the
20 procurement and given full effect.

21 For purposes of developing the plan, the Agency
22 shall consider any reports issued by a State agency,
23 board, or commission under House Resolution 1146 of
24 the 98th General Assembly and paragraph (4) of
25 subsection (d) of this Section, as well as publicly
26 available analyses and studies performed by or for

1 regional transmission organizations that serve the
2 State and their independent market monitors.

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

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

25 (C-5) As part of the Commission's review and
26 acceptance or rejection of the procurement results,

1 the Commission shall, in its public notice of
2 successful bidders:

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

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

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

24 (aa) the value of avoided greenhouse gas
25 emissions measured as the product of the zero
26 emission facilities' output over the contract

1 term multiplied by the U.S. Environmental
2 Protection Agency eGrid subregion carbon
3 dioxide emission rate and the U.S. Interagency
4 Working Group on Social Cost of Carbon's price
5 in the August 2016 Technical Update using a 3%
6 discount rate, adjusted for inflation for each
7 delivery year; and

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

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

19 (II) the price, or if there is more
20 than one price, the average of the prices,
21 paid for renewable energy credits from new
22 utility-scale solar projects and
23 brownfield site photovoltaic projects in
24 the procurement events specified in item
25 (ii) of subparagraph (G) of paragraph (1)
26 of subsection (c) of this Section and,

1 after January 1, 2015, renewable energy
2 credits from photovoltaic distributed
3 generation projects in procurement events
4 held under subsection (c) of this Section.

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

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

25 (D) Following the procurement event described in
26 this paragraph (1) and consistent with subparagraph

1 (B) of this paragraph (1), the Agency shall calculate
2 the payments to be made under each contract for the
3 next delivery year based on the market price index for
4 that delivery year. The Agency shall publish the
5 payment calculations no later than May 25, 2017 and
6 every May 25 thereafter.

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

13 (i) A zero emission facility shall be excused
14 from its performance under the contract for any
15 cause beyond the control of the resource,
16 including, but not restricted to, acts of God,
17 flood, drought, earthquake, storm, fire,
18 lightning, epidemic, war, riot, civil disturbance
19 or disobedience, labor dispute, labor or material
20 shortage, sabotage, acts of public enemy,
21 explosions, orders, regulations or restrictions
22 imposed by governmental, military, or lawfully
23 established civilian authorities, which, in any of
24 the foregoing cases, by exercise of commercially
25 reasonable efforts the zero emission facility
26 could not reasonably have been expected to avoid,

1 and which, by the exercise of commercially
2 reasonable efforts, it has been unable to
3 overcome. In such event, the zero emission
4 facility shall be excused from performance for the
5 duration of the event, including, but not limited
6 to, delivery of zero emission credits, and no
7 payment shall be due to the zero emission facility
8 during the duration of the event.

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

22 (iii) A zero emission facility shall be
23 permitted to terminate the contract in the event
24 that the resource requires capital expenditures in
25 excess of \$40,000,000 that were neither known nor
26 reasonably foreseeable at the time it executed the

1 contract and that a prudent owner or operator of
2 such resource would not undertake.

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

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

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

23 Notwithstanding the requirements of this subsection
24 (d-5), the contracts executed under this subsection (d-5)
25 shall provide that the total of zero emission credits
26 procured under a procurement plan shall be subject to the

1 limitations of this paragraph (2). For each delivery year,
2 the contractual volume receiving payments in such year
3 shall be reduced for all retail customers based on the
4 amount necessary to limit the net increase that delivery
5 year to the costs of those credits included in the amounts
6 paid by eligible retail customers in connection with
7 electric service to no more than 1.65% of the amount paid
8 per kilowatthour by eligible retail customers during the
9 year ending May 31, 2009. The result of this computation
10 shall apply to and reduce the procurement for all retail
11 customers, and all those customers shall pay the same
12 single, uniform cents per kilowatthour charge under
13 subsection (k) of Section 16-108 of the Public Utilities
14 Act. To arrive at a maximum dollar amount of zero emission
15 credits to be paid for the particular delivery year, the
16 resulting per kilowatthour amount shall be applied to the
17 actual amount of kilowatthours of electricity delivered by
18 the electric utility in the delivery year immediately
19 prior to the procurement, to all retail customers in its
20 service territory. Unpaid contractual volume for any
21 delivery year shall be paid in any subsequent delivery
22 year in which such payments can be made without exceeding
23 the amount specified in this paragraph (2). The
24 calculations required by this paragraph (2) shall be made
25 only once for each procurement plan year. Once the
26 determination as to the amount of zero emission credits to

1 be paid is made based on the calculations set forth in this
2 paragraph (2), no subsequent rate impact determinations
3 shall be made and no adjustments to those contract amounts
4 shall be allowed. All costs incurred under those contracts
5 and in implementing this subsection (d-5) shall be
6 recovered by the electric utility as provided in this
7 Section.

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

14 (3) Six years after the execution of a contract under
15 this subsection (d-5), the Agency shall determine whether
16 the actual zero emission credit payments received by the
17 supplier over the 6-year period exceed the Average ZEC
18 Payment. In addition, at the end of the term of a contract
19 executed under this subsection (d-5), or at the time, if
20 any, a zero emission facility's contract is terminated
21 under subparagraph (E) of paragraph (1) of this subsection
22 (d-5), then the Agency shall determine whether the actual
23 zero emission credit payments received by the supplier
24 over the term of the contract exceed the Average ZEC
25 Payment, after taking into account any amounts previously
26 credited back to the utility under this paragraph (3). If

1 the Agency determines that the actual zero emission credit
2 payments received by the supplier over the relevant period
3 exceed the Average ZEC Payment, then the supplier shall
4 credit the difference back to the utility. The amount of
5 the credit shall be remitted to the applicable electric
6 utility no later than 120 days after the Agency's
7 determination, which the utility shall reflect as a credit
8 on its retail customer bills as soon as practicable;
9 however, the credit remitted to the utility shall not
10 exceed the total amount of payments received by the
11 facility under its contract.

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

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

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

1 subparagraph (B) of paragraph (1) of this subsection
2 (d-5).

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

5 (4) Cost-effective zero emission credits procured from
6 zero emission facilities shall satisfy the applicable
7 definitions set forth in Section 1-10 of this Act.

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

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

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

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

25 (1) The General Assembly finds:

26 (A) The health, welfare, and prosperity of all

1 Illinois citizens require that the State of Illinois act
2 to avoid and not increase carbon emissions from electric
3 generation sources while continuing to ensure affordable,
4 stable, and reliable electricity to all citizens.

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

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

20 (D) The clean energy attributes of nuclear generation
21 facilities support the State in its efforts to achieve
22 100% clean energy.

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

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

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

15 (H) The procurement of carbon mitigation credits
16 representing the environmental benefits of carbon-free
17 generation will further the State's efforts at achieving
18 100% clean energy and decarbonizing the electricity sector
19 in a safe, reliable, and affordable manner. Further, the
20 procurement of carbon emission credits will enhance the
21 health and welfare of Illinois residents through decreased
22 reliance on more highly polluting generation.

23 (I) The General Assembly therefore finds it necessary
24 to establish carbon mitigation credits to ensure decreased
25 reliance on more carbon-intensive energy resources, for
26 transitioning to a fully decarbonized electricity sector,

1 and to help ensure health and welfare of the State's
2 residents.

3 (2) As used in this subsection:

4 "Baseline costs" means costs used to establish a customer
5 protection cap that have been evaluated through an independent
6 audit of a carbon-free energy resource conducted by the
7 Environmental Protection Agency that evaluated projected
8 annual costs for operation and maintenance expenses; fully
9 allocated overhead costs, which shall be allocated using the
10 methodology developed by the Institute for Nuclear Power
11 Operations; fuel expenditures; nonfuel capital expenditures;
12 spent fuel expenditures; a return on working capital; the cost
13 of operational and market risks that could be avoided by
14 ceasing operation; and any other costs necessary for continued
15 operations, provided that "necessary" means, for purposes of
16 this definition, that the costs could reasonably be avoided
17 only by ceasing operations of the carbon-free energy resource.

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

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

25 (3) Procurement.

26 (A) Beginning with the delivery year commencing on

1 June 1, 2022, the Agency shall, for electric utilities
2 serving at least 3,000,000 retail customers in the State,
3 seek to procure contracts for no more than approximately
4 54,500,000 cost-effective carbon mitigation credits from
5 carbon-free energy resources because such credits are
6 necessary to support current levels of carbon-free energy
7 generation and ensure the State meets its carbon dioxide
8 emissions reduction goals. The Agency shall not make a
9 partial award of a contract for carbon mitigation credits
10 covering a fractional amount of a carbon-free energy
11 resource's projected output.

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

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

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

21 (iii) a commitment to be reflected in any contract
22 entered into pursuant to this subsection (d-10) to
23 continue operating the carbon-free energy resource at
24 a capacity factor of at least 88% annually on average
25 for the duration of the contract or contracts executed
26 under the procurement held under this subsection

1 (d-10), except in an instance described in
2 subparagraph (E) of paragraph (1) of subsection (d-5)
3 of this Section or made impracticable as a result of
4 compliance with law or regulation;

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

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

24 (II) the carbon-free energy resource's revenue
25 projections, including energy, capacity, ancillary
26 services, any other direct State support, known or

1 anticipated federal attribute credits, known or
2 anticipated tax credits, and any other direct
3 federal support.

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

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

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

1 energy standard, and other federal credits if
2 applicable.

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

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

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

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

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

24 (II) the Base Residual Auction Capacity Price
25 for the ComEd zone as determined by PJM
26 Interconnection, LLC, divided by 24 hours per day,

1 for the applicable delivery year for the first 3
2 delivery years, and then any subsequent delivery
3 years unless the PJM Interconnection, LLC applies
4 the Minimum Offer Price Rule to participating
5 carbon-free energy resources because they supply
6 carbon mitigation credits pursuant to this Section
7 at which time, upon notice by the carbon-free
8 energy resource to the Commission and subject to
9 the Commission's confirmation, the value under
10 this subitem shall be zero, as further described
11 in the carbon mitigation credit procurement plan;
12 and

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

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

25 To protect retail customers from retail rate
26 impacts that may arise upon the initiation of carbon

1 policy changes, if the price-per-megawatt-hour
2 calculation performed under item (iii) of this
3 subparagraph (C) for a given delivery year results in
4 a net negative value, then the supplier counterparty
5 to the contract shall multiply such net value by the
6 applicable contract quantity and remit such amount to
7 the electric utility counterparty. The electric
8 utility shall reflect such amounts remitted by
9 suppliers as a credit on its retail customer bills as
10 soon as practicable.

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

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

20 (I) For the delivery year beginning June 1,
21 2022, the baseline costs shall be an amount equal
22 to \$30.30 per megawatt-hour.

23 (II) For the delivery year beginning June 1,
24 2023, the baseline costs shall be an amount equal
25 to \$32.50 per megawatt-hour.

26 (III) For the delivery year beginning June 1,

1 2024, the baseline costs shall be an amount equal
2 to \$33.43 per megawatt-hour.

3 (IV) For the delivery year beginning June 1,
4 2025, the baseline costs shall be an amount equal
5 to \$33.50 per megawatt-hour.

6 (V) For the delivery year beginning June 1,
7 2026, the baseline costs shall be an amount equal
8 to \$34.50 per megawatt-hour.

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

19 Although actual energy and capacity prices may
20 vary from year-to-year, the General Assembly finds
21 that this customer protection cap will help ensure
22 that the cost of carbon mitigation credits will be
23 less than its value, based upon the social cost of
24 carbon identified in the Technical Support Document
25 issued in February 2021 by the U.S. Interagency
26 Working Group on Social Cost of Greenhouse Gases and

1 the PJM Interconnection, LLC carbon dioxide marginal
2 emission rate for 2020, and that a carbon-free energy
3 resource receiving payment for carbon mitigation
4 credits receives no more than necessary to keep those
5 units in operation.

6 (D) No later than 7 days after the effective date of
7 this amendatory Act of the 102nd General Assembly, the
8 Agency shall publish its proposed carbon mitigation credit
9 procurement plan. The Plan shall provide that winning bids
10 shall be selected by taking into consideration which
11 resources best match public interest criteria that
12 include, but are not limited to, minimizing carbon dioxide
13 emissions that result from electricity consumed in
14 Illinois and minimizing sulfur dioxide, nitrogen oxide,
15 and particulate matter emissions that adversely affect the
16 citizens of this State. The selection of winning bids
17 shall also take into account the incremental environmental
18 benefits resulting from the procurement or procurements,
19 such as any existing environmental benefits that are
20 preserved by a procurement held under this subsection
21 (d-10) and would cease to exist if the procurement were
22 not held, including the preservation of carbon-free energy
23 resources. For those bidders having the same public
24 interest criteria score, the relative ranking of such
25 bidders shall be determined by price. The Plan shall
26 describe in detail how each public interest factor shall

1 be considered and weighted in the bid selection process to
2 ensure that the public interest criteria are applied to
3 the procurement. The Plan shall, to the extent practical
4 and permissible by federal law, ensure that successful
5 bidders make commercially reasonable efforts to apply for
6 federal tax credits, direct payments, or similar subsidy
7 programs that support carbon-free generation and for which
8 the successful bidder is eligible. Upon publishing of the
9 carbon mitigation credit procurement plan, copies of the
10 plan shall be posted and made publicly available on the
11 Agency's website. All interested parties shall have 7 days
12 following the date of posting to provide comment to the
13 Agency on the plan. All comments shall be posted to the
14 Agency's website. Following the end of the comment period,
15 but no more than 19 days later than the effective date of
16 this amendatory Act of the 102nd General Assembly, the
17 Agency shall revise the plan as necessary based on the
18 comments received and file its carbon mitigation credit
19 procurement plan with the Commission.

20 (E) If the Commission determines that the plan is
21 likely to result in the procurement of cost-effective
22 carbon mitigation credits, then the Commission shall,
23 after notice and hearing and opportunity for comment, but
24 no later than 42 days after the Agency filed the plan,
25 approve the plan or approve it with modification. For
26 purposes of this subsection (d-10), "cost-effective" means

1 carbon mitigation credits that are procured from
2 carbon-free energy resources at prices that are within the
3 limits specified in this paragraph (3). As part of the
4 Commission's review and acceptance or rejection of the
5 procurement results, the Commission shall, in its public
6 notice of successful bidders:

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

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

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

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

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

17 (F) The procurements described in this paragraph (3),
18 including, but not limited to, the execution of all
19 contracts procured, shall be completed no later than
20 December 3, 2021. The procurement and plan approval
21 processes required by this paragraph (3) shall be
22 conducted in conjunction with the procurement and plan
23 approval processes required by Section 16-111.5 of the
24 Public Utilities Act, to the extent practicable. However,
25 the Agency and Commission may, as appropriate, modify the
26 various dates and timelines under this subparagraph and

1 subparagraphs (D) and (E) of this paragraph (3) to meet
2 the December 3, 2021 contract execution deadline.
3 Following the completion of such procurements, and
4 consistent with this paragraph (3), the Agency shall
5 calculate the payments to be made under each contract in a
6 timely fashion.

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

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

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

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

22 (d-20) Energy storage system portfolio standard.

23 (1) The General Assembly finds that the deployment of
24 energy storage systems is necessary to successfully
25 integrate high levels of renewable energy, to avoid the
26 creation and increase of carbon emissions from electric

1 generation sources, and to ensure affordable, stable,
2 clean, reliable, and resilient electricity.

3 (2) The Agency shall develop an energy storage system
4 resources procurement plan that includes the competitive
5 procurement events, procurement programs, or both, as
6 necessary (i) to meet the goals set forth in this
7 subsection (d-20), (ii) to meet the planning requirements
8 established under Sections 16-201 and 16-202 of the Public
9 Utilities Act, (iii) to meet the clean energy policy
10 established by Public Act 102-662, and (iv) to cause
11 electric utilities serving more than 300,000 customers in
12 the State as of January 1, 2019 to contract for energy
13 storage resources. The energy storage system resources
14 procurement plan approval processes shall be conducted
15 consistent with the processes outlined in paragraph (6) of
16 subsection (b) of Section 16-111.5 of the Public Utilities
17 Act, with the initial energy storage system resources
18 procurement plan released for comment in calendar year
19 2027. The Agency shall review and may revise the energy
20 storage system resources procurement plan at least every 2
21 years. The Agency shall establish, and the Commission
22 shall approve or approve as modified, an energy storage
23 system resources procurement plan that includes:

24 (A) storage targets in addition to the initial
25 procurements specified in paragraph (3) of this
26 subsection (d-20) at levels identified through the

1 integrated resource planning process outlined in
2 Section 16-202 of the Public Utilities Act;

3 (B) a bid selection process that is based on the
4 bid price, when compared with an equal energy storage
5 duration and interconnected to the same independent
6 system operator (ISO) or regional transmission
7 organization (RTO), and that may provide for
8 consideration of the following:

9 (i) the project's viability and ability to
10 meet or exceed operational date targets;

11 (ii) the developer's experience;

12 (iii) requirements for demonstration of
13 binding site control that are sufficient for
14 proposed energy storage facilities;

15 (iv) the availability or dependence on any
16 transmission expansion or upgrades needed; and

17 (v) other resource adequacy and reliability
18 considerations;

19 (C) consideration of the need to ensure adequate,
20 reliable, affordable, efficient, and environmentally
21 sustainable electric service at the lowest total cost
22 over time;

23 (D) proposals for the financial support of energy
24 storage systems using contract models, which may
25 include, but are not limited to, the following:

26 (i) an indexed storage credit procurement,

1 including payments to energy storage system owners
2 or operators with any offsets and refunds for
3 potential energy and capacity revenues;

4 (ii) support for energy storage system
5 resources through contract structures that do not
6 create contractual obligations on utilities that
7 are not contingent on full and timely cost
8 recovery, that avoid negative financial impacts on
9 the utilities, and that are agreed upon by the
10 utilities; and

11 (iii) other approaches as deemed suitable by
12 the Agency and the Commission; and

13 (E) consideration that the Agency may include a
14 methodology that could prioritize procurement of
15 energy storage resources that are located in
16 communities eligible to receive Energy Transition
17 Community Grants pursuant to Section 10-20 of the
18 Energy Community Reinvestment Act.

19 In developing its procurement plan and conducting the
20 storage procurements outlined in this paragraph (2) and in
21 paragraph (3), the Agency may use the services of expert
22 consulting firms identified in paragraphs (1) and (2) of
23 subsection (a) of this Section.

24 (3) Notwithstanding whether an energy storage system
25 resources procurement plan has been approved, the
26 following provisions shall apply to the Agency's initial

1 procurement of energy storage system resources under this
2 subsection (d-20):

3 (A) The Agency shall conduct an initial energy
4 storage procurement on or before August 26, 2026 or 90
5 days after the effective date of this amendatory Act
6 of the 104th General Assembly, whichever is earlier.
7 For the purposes of this initial energy storage
8 procurement, the Agency shall conduct a procurement
9 that results in electric utilities that served more
10 than 300,000 customers in the State as of January 1,
11 2019 contracting for at least 1,038 megawatts of
12 cost-effective stand-alone energy storage systems that
13 can achieve commercial operation on or before December
14 31, 2029 or an alternative date proposed by the Agency
15 that is no later than December 31, 2030. The
16 procurement target shall be separated for projects
17 interconnected within Midcontinent Independent System
18 Operator Local Resource Zone 4 (MISO Zone 4) and for
19 projects interconnected within the PJM
20 Interconnection, LLC ComEd Locational Deliverability
21 Area (PJM ComEd Area) as follows:

22 (i) 450 megawatts in MISO Zone 4; and

23 (ii) 588 megawatts in the PJM ComEd Area.

24 For purposes of this subsection (d-20),
25 "stand-alone" means systems that are (i) separately
26 metered by a revenue-quality meter that satisfies the

1 requirements of the RTO; (ii) operate independently
2 without constraints or hindrances from other
3 generation units; and (iii) demonstrate the ability to
4 charge and discharge independent of any generation
5 unit output.

6 (B) The Agency shall conduct a series of
7 additional energy storage procurements that result in
8 electric utilities contracting for energy storage
9 resources in an amount of 3,000 megawatts of
10 cumulative energy storage capacity for projects
11 committed to reaching commercial operation on or
12 before December 31, 2030, or an alternative date
13 proposed by the Agency, subject to extension for a
14 delay due to interconnection of the energy storage
15 system, a delay in obtaining permits necessary to
16 build or operate the energy storage system, or other
17 circumstances at the discretion of the Agency.

18 The additional energy storage resources
19 procurements shall be conducted in calendar years 2027
20 and 2028 in a manner that ensures the quantities
21 listed in this subparagraph (B), and as updated in the
22 integrated resource plan approved by the Commission
23 pursuant to Section 16-201 of the Public Utilities
24 Act, are met in the specified timeframe. To the extent
25 the integrated resource planning process outlined in
26 Section 16-202 of the Public Utilities Act authorizes

1 energy storage system procurement amounts above the
2 amount identified in this subparagraph (B), the Agency
3 shall conduct additional energy storage procurements
4 in 2028, 2029, 2030, and thereafter that result in
5 electric utilities contracting for energy storage
6 resources at those additional identified levels. The
7 procurements shall be conducted in a manner that
8 maximizes projects available in the MISO and PJM
9 queues, ensures the likelihood of project development
10 through the development of project maturity
11 requirements, enables sufficient competition for price
12 competitiveness, and aligns to the extent practicable
13 with regional transmission organization study phases.
14 The procurements shall select projects interconnected
15 to MISO Zone 4 and the PJM ComEd Area and shall follow
16 either (i) a similar geographic split to the ratio of
17 quantities established in subparagraph (A) of this
18 paragraph (3), (ii) an alternative geographic split
19 proposed by the Agency based on project availability
20 in advanced stages of the MISO and PJM queues, or (iii)
21 that is informed by MISO and PJM planning activities,
22 auctions, or reports that indicate capacity resource
23 shortages or impending shortages and that reflect the
24 assessments made through the processes outlined in
25 subparagraph (A) of paragraph (2). The additional
26 energy storage capacity procurements may be adjusted

1 upward if determined necessary through the planning
2 process outlined in Section 16-201 of the Public
3 Utilities Act at times determined by the Commission.

4 (C) The initial energy storage resources
5 procurement under subparagraph (A) of this paragraph
6 (3) shall adopt a standard indexed storage credit
7 contract modeled after the contract and follow a
8 process modeled after the process included in the
9 staff report submitted to the Governor, General
10 Assembly, and Commission pursuant to subsection (g) of
11 Section 16-135 of the Public Utilities Act on May 1,
12 2025. In developing the procurement rules and
13 procurement process for the initial procurement, the
14 Agency shall provide an opportunity for comment on the
15 indexed storage credit contract included in the May 1,
16 2025 staff report and shall adopt modifications to the
17 contract consistent with the process outlined in
18 paragraph (2) of subsection (e) of Section 16-111.5 of
19 the Public Utilities Act.

20 (D) For the additional energy storage resources
21 procurements conducted in accordance with subparagraph
22 (B) of this paragraph (3), the Agency may, among other
23 considerations, consider other contract structures if
24 such contract structures and agreements do not create
25 contractual obligations on utilities that are not
26 contingent on full and timely cost recovery, avoid

1 negative financial impacts on the utilities, and are
2 agreed upon by the participating utility.

3 (E) The initial and additional energy storage
4 resources procurements under this paragraph (3) shall
5 solicit 20-year contracts.

6 (F) The Agency shall submit its proposed selection
7 of successful bids for each procurement event pursuant
8 to paragraphs (2) and (3) to the Commission for
9 approval consistent with the processes outlined in
10 Section 16-111.5 of the Public Utilities Act to the
11 extent practicable.

12 (4) The energy storage system resources procurement
13 plans developed by the Agency may consider alternatives to
14 the initial and additional procurement terms described in
15 paragraph (3) of this subsection (d-20), including, but
16 not limited to:

17 (A) alternatives to the standard indexed storage
18 credit contract used in the initial terms described in
19 subparagraph (C) of paragraph (3) of this subsection
20 (d-20);

21 (B) energy storage systems that are not
22 stand-alone;

23 (C) proportionate allocations between MISO Zone 4
24 and the PJM ComEd Area that are not based upon load
25 share, including allocations reflecting the
26 assessments made through the processes outlined in

1 subparagraph (A) of paragraph (2);

2 (D) contract lengths other than 20 years;

3 (E) energy storage system durations other than 4
4 hours; and

5 (F) energy storage systems connected to the
6 distribution systems of the electric utilities.

7 The Agency may propose specific timelines for energy
8 storage system resources procurements, which may differ
9 across RTO zones, that are based in part upon a
10 consideration of (i) the timing of the release of
11 interconnection cost information through both MISO and PJM
12 interconnection queue processes, (ii) factors that
13 maximize the likelihood of successful project development,
14 (iii) enabling sufficient competition for price
15 competitiveness, and (iv) aligning to the extent
16 practicable with RTO study phases.

17 (5) The Agency shall procure cost-effective energy
18 storage credits or other contract instruments intended to
19 facilitate the successful development of energy storage
20 projects. The procurement administrator shall establish
21 confidential price benchmarks based on publicly available
22 data on regional technology costs. Confidential price
23 benchmarks shall be developed by the procurement
24 administrator, in consultation with Commission staff,
25 Agency staff, and the procurement monitor, and shall be
26 subject to Commission review and approval. Price

1 benchmarks shall reflect development costs, financing
2 costs, and related costs resulting from requirements
3 imposed through other provisions of State law. As used in
4 this paragraph (5), "cost-effective" means a bidder's bid
5 price that does not exceed confidential price benchmarks.

6 (6) All procurements under this subsection (d-20)
7 shall comply with the geographic requirements in
8 subparagraph (I) of paragraph (1) of subsection (c) of
9 Section 1-75 and shall follow the procurement processes
10 and procedures described in this Section and Section
11 16-111.5 of the Public Utilities Act, to the extent
12 practicable. The processes and procedures may be expedited
13 to accommodate the schedule established by this Section.
14 The Agency shall require all bidders to pay to the Agency a
15 nonrefundable deposit determined by the Agency and no less
16 than \$10,000 per bid as practical. The Agency may also
17 assess bidder and supplier fees to cover the cost of
18 procurement events and develop collateral requirements to
19 maximize the likelihood of successful project development.
20 Bidders in the initial and additional procurements
21 described in paragraph (3) of this subsection (d-20) shall
22 also demonstrate experience in developing to commercial
23 readiness. As used in this paragraph (6), "developing to
24 commercial readiness" means having notice to proceed in
25 owning or operating energy facilities with a combined
26 nameplate capacity of at least 100 megawatts.

1 (7) In order to advance priority access to the clean
2 energy economy for businesses and workers from communities
3 that have been excluded from economic opportunities in the
4 energy sector, have been subject to disproportionate
5 levels of pollution, and have disproportionately
6 experienced negative public health outcomes, the Agency
7 shall apply its equity accountability system and minimum
8 equity standards established under subsections (c-10),
9 (c-15), (c-20), (c-25), and (c-30) of this Section to
10 energy storage procurement and programs and may include
11 any proposed modifications to the equity accountability
12 system and minimum equity standards that may be warranted
13 with respect to energy storage resources in its plan
14 submission to the Commission under Section 16-111.5 of the
15 Public Utilities Act.

16 (8) Projects shall be developed in compliance with the
17 prevailing wage and project labor agreement requirements
18 for renewable energy projects in subparagraph (Q) of
19 paragraph (1) of subsection (c) of Section 1-75.

20 (9) An entity operating an energy storage facility
21 shall demonstrate that it has entered into a labor peace
22 agreement with a bona fide labor organization that is
23 actively engaged in representing its employees. The labor
24 peace agreement shall apply to the employees necessary for
25 the ongoing maintenance and operation of the energy
26 storage facility. The existence of a labor peace agreement

1 shall be an ongoing material condition of an entity's
2 authorization to maintain and operate the energy storage
3 facility.

4 (10) In order to promote the competitive development
5 of energy storage systems in furtherance of the State's
6 interest in the health, safety, and welfare of its
7 residents, storage credits shall not be eligible to be
8 selected under this subsection (d-20) if the energy
9 storage resources are sourced from an energy storage
10 system whose costs were being recovered through rates
11 regulated by the State or any other state or states on or
12 after January 1, 2017. No entity shall be permitted to bid
13 unless it certifies to the Agency that it is not an
14 electric utility, as defined in Section 16-102 of the
15 Public Utilities Act, serving more than 10,000 customers
16 in the State.

17 (11) The Agency shall require, as a prerequisite to
18 payment for any storage credits, that the winning bidder
19 provide the Agency or its designee a copy of the
20 interconnection agreement under which the applicable
21 energy storage system is connected to the transmission or
22 distribution system.

23 (12) Contracts shall provide that, if the cost
24 recovery mechanism referenced in subsection (k) of Section
25 16-108 of the Public Utilities Act remains in full force
26 without amendment or the utility is otherwise authorized

1 or entitled to full, prompt, and uninterrupted recovery of
2 its costs through any other mechanism, then such seller
3 shall be entitled to full, prompt, and uninterrupted
4 payment under the applicable contract notwithstanding the
5 application of this paragraph (12).

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

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

13 (g) The Agency shall assess fees to each affected utility
14 to recover the costs incurred in preparation of procurement
15 plans and in the operation of programs.

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

19 (i) A renewable energy credit, carbon emission credit,
20 zero emission credit, or carbon mitigation credit can only be
21 used once to comply with a single portfolio or other standard
22 as set forth in subsection (c), subsection (d), or subsection
23 (d-5) of this Section, respectively. A renewable energy
24 credit, carbon emission credit, zero emission credit, or
25 carbon mitigation credit cannot be used to satisfy the
26 requirements of more than one standard. If more than one type

1 of credit is issued for the same megawatt hour of energy, only
2 one credit can be used to satisfy the requirements of a single
3 standard. After such use, the credit must be retired together
4 with any other credits issued for the same megawatt hour of
5 energy.

6 (Source: P.A. 103-380, eff. 1-1-24; 103-580, eff. 12-8-23;
7 103-1066, eff. 2-20-25; 104-458, eff. 6-1-26.)

8 Section 30. The Illinois Procurement Code is amended by
9 changing Section 15-35 as follows:

10 (30 ILCS 500/15-35)

11 Sec. 15-35. Vendor portal. Each chief procurement officer
12 may, in consultation with the agencies under his or her
13 jurisdiction and the Procurement Policy Board, establish a
14 vendor portal. The vendor portal shall allow a potential
15 vendor to provide certifications, disclosures, registrations,
16 and other documentation needed to do business with a State
17 agency in advance of any particular procurement. A potential
18 vendor who registers with the vendor portal and provides this
19 information may submit its registration number, with a
20 confirmation that the portal information remains current, as
21 part of its response to a competitive selection or a
22 contracting process, rather than submit the same information
23 in full. One or more chief procurement officers may jointly
24 operate a vendor portal if a single portal would better serve

1 the needs of the State agencies and the vendor community. A
2 chief procurement officer may accept, for use on procurements
3 and contracts under his or her jurisdiction, the registration
4 from another chief procurement officer's vendor portal. This
5 Section applies notwithstanding any laws to the contrary
6 except for later enacted laws that specifically refer to this
7 Section.

8 Nothing in this Section shall preclude a State agency from
9 implementing its own pre-qualification, certification,
10 disclosure, and registration requirements necessary to conduct
11 and manage its program operation.

12 This Section does not apply to any contract for any
13 project as to which federal funds are available for
14 expenditure when its provisions may be in conflict with
15 federal law or federal regulation.

16 Notwithstanding any other provision of law, the vendor
17 portal for the Department of Transportation shall include any
18 locally applicable project labor agreement requirements.

19 (Source: P.A. 97-895, eff. 8-3-12; 98-1076, eff. 1-1-15.)

20 Section 35. The Illinois Income Tax Act is amended by
21 changing Section 214 as follows:

22 (35 ILCS 5/214)

23 Sec. 214. Tax credit for affordable housing donations.

24 (a) Beginning with taxable years ending on or after

1 December 31, 2001 and until the taxable year ending on
2 December 31, 2026, a taxpayer who makes a donation under
3 Section 7.28 of the Illinois Housing Development Act is
4 entitled to a credit against the tax imposed by subsections
5 (a) and (b) of Section 201 in an amount equal to 50% of the
6 value of the donation. For taxable years ending before
7 December 31, 2023, partners, shareholders of subchapter S
8 corporations, and owners of limited liability companies (if
9 the limited liability company is treated as a partnership for
10 purposes of federal and State income taxation) are entitled to
11 a credit under this Section to be determined in accordance
12 with the determination of income and distributive share of
13 income under Sections 702 and 703 and subchapter S of the
14 Internal Revenue Code. For taxable years ending on or after
15 December 31, 2023, partners and shareholders of subchapter S
16 corporations are entitled to a credit under this Section as
17 provided in Section 251. Persons or entities not subject to
18 the tax imposed by subsections (a) and (b) of Section 201 and
19 who make a donation under Section 7.28 of the Illinois Housing
20 Development Act are entitled to a credit as described in this
21 subsection and may transfer that credit as described in
22 subsection (c).

23 (b) If the amount of the credit exceeds the tax liability
24 for the year, the excess may be carried forward and applied to
25 the tax liability of the 5 taxable years following the excess
26 credit year. The tax credit shall be applied to the earliest

1 year for which there is a tax liability. If there are credits
2 for more than one year that are available to offset a
3 liability, the earlier credit shall be applied first.

4 (c) The transfer of the tax credit allowed under this
5 Section may be made (i) to the purchaser of land that has been
6 designated solely for affordable housing projects in
7 accordance with the Illinois Housing Development Act or (ii)
8 to another donor who has also made a donation in accordance
9 with Section 7.28 of the Illinois Housing Development Act.
10 Construction projects funded in whole or in part by the
11 proceeds of tax credits transferred pursuant to this
12 subsection shall be considered public works within the meaning
13 of the Prevailing Wage Act, unless such construction projects
14 are owner-occupied residential structures. This requirement
15 applies only to the initial construction of the project and
16 does not apply in perpetuity to either future modifications to
17 the structure or other construction projects not funded by the
18 proceeds of the transfer or sale of the credit.

19 (d) A taxpayer claiming the credit provided by this
20 Section must maintain and record any information that the
21 Department may require by regulation regarding the project for
22 which the credit is claimed. When claiming the credit provided
23 by this Section, the taxpayer must provide information
24 regarding the taxpayer's donation to the project under the
25 Illinois Housing Development Act.

26 (Source: P.A. 102-16, eff. 6-17-21; 102-175, eff. 7-29-21;

1 103-396, eff. 1-1-24.)

2 Section 40. The Illinois Educational Labor Relations Act
3 is amended by changing Section 12 as follows:

4 (115 ILCS 5/12) (from Ch. 48, par. 1712)

5 Sec. 12. Impasse procedures.

6 (a) This subsection (a) applies only to collective
7 bargaining between an educational employer that is not a
8 public school district organized under Article 34 of the
9 School Code and an exclusive representative of its employees.
10 If the parties engaged in collective bargaining have not
11 reached an agreement by 90 days before the scheduled start of
12 the forthcoming school year, the parties shall notify the
13 Illinois Educational Labor Relations Board concerning the
14 status of negotiations. This notice shall include a statement
15 on whether mediation has been used.

16 Upon demand of either party, collective bargaining between
17 the employer and an exclusive bargaining representative must
18 begin within 60 days of the date of certification of the
19 representative by the Board, or in the case of an existing
20 exclusive bargaining representative, within 60 days of the
21 receipt by a party of a demand to bargain issued by the other
22 party. Once commenced, collective bargaining must continue for
23 at least a 60 day period, unless a contract is entered into.

24 Except as otherwise provided in subsection (b) of this

1 Section, if after a reasonable period of negotiation and
2 within 90 days of the scheduled start of the forth-coming
3 school year, the parties engaged in collective bargaining have
4 reached an impasse, either party may petition the Board to
5 initiate mediation. Alternatively, the Board on its own motion
6 may initiate mediation during this period. However, mediation
7 shall be initiated by the Board at any time when jointly
8 requested by the parties and the services of the mediators
9 shall continuously be made available to the employer and to
10 the exclusive bargaining representative for purposes of
11 arbitration of grievances and mediation or arbitration of
12 contract disputes. If requested by the parties, the mediator
13 may perform fact-finding and in so doing conduct hearings and
14 make written findings and recommendations for resolution of
15 the dispute. Such mediation shall be provided by the Board and
16 shall be held before qualified impartial individuals. Nothing
17 prohibits the use of other individuals or organizations such
18 as the Federal Mediation and Conciliation Service, the
19 Illinois Department of Labor, or the American Arbitration
20 Association selected by both the exclusive bargaining
21 representative and the employer.

22 If the parties engaged in collective bargaining fail to
23 reach an agreement within 45 days of the scheduled start of the
24 forthcoming school year and have not requested mediation, the
25 Illinois Educational Labor Relations Board shall invoke
26 mediation.

1 Whenever mediation is initiated or invoked under this
2 subsection (a), the parties may stipulate to defer selection
3 of a mediator in accordance with rules adopted by the Board.

4 (a-5) This subsection (a-5) applies only to collective
5 bargaining between a public school district or a combination
6 of public school districts, including, but not limited to,
7 joint cooperatives, that is not organized under Article 34 of
8 the School Code and an exclusive representative of its
9 employees.

10 (1) Any time 15 days after mediation has commenced,
11 either party may initiate the public posting process. The
12 mediator may initiate the public posting process at any
13 time 15 days after mediation has commenced during the
14 mediation process. Initiation of the public posting
15 process must be filed in writing with the Board, and
16 copies must be submitted to the parties on the same day the
17 initiation is filed with the Board.

18 (2) Within 7 days after the initiation of the public
19 posting process, each party shall submit to the mediator,
20 the Board, and the other party in writing the most recent
21 offer of the party, including a cost summary of the offer.
22 Seven days after receipt of the parties' offers, the Board
23 shall make public the offers and each party's cost summary
24 dealing with those issues on which the parties have failed
25 to reach agreement by immediately posting the offers on
26 its Internet website, unless otherwise notified by the

1 mediator or jointly by the parties that agreement has been
2 reached. On the same day of publication by the Board, at a
3 minimum, the school district shall distribute notice of
4 the availability of the offers on the Board's Internet
5 website to all news media that have filed an annual
6 request for notices from the school district pursuant to
7 Section 2.02 of the Open Meetings Act. The parties' offers
8 shall remain on the Board's Internet website until the
9 parties have reached and ratified an agreement.

10 (a-10) This subsection (a-10) applies only to collective
11 bargaining between a public school district organized under
12 Article 34 of the School Code and an exclusive representative
13 of its employees, other than educational employees who are
14 forbidden from striking under this Act. For educational
15 employees who are forbidden from striking, either the employer
16 or exclusive representative may elect to utilize the
17 fact-finding procedures set forth in this subsection (a-10),
18 except as otherwise specified in paragraph (5) of this
19 subsection (a-10).

20 (1) For collective bargaining agreements between an
21 educational employer to which this subsection (a-10)
22 applies and an exclusive representative of its employees,
23 if the parties fail to reach an agreement after a
24 reasonable period of mediation, the dispute shall be
25 submitted to fact-finding in accordance with this
26 subsection (a-10). Either the educational employer or the

1 exclusive representative may initiate fact-finding by
2 submitting a written demand to the other party with a copy
3 of the demand submitted simultaneously to the Board.

4 (2) Within 3 days following a party's demand for
5 fact-finding, each party shall appoint one member of the
6 fact-finding panel, unless the parties agree to proceed
7 without a tri-partite panel. Following these appointments,
8 if any, the parties shall select a qualified impartial
9 individual to serve as the fact-finder and chairperson of
10 the fact-finding panel, if applicable. An individual shall
11 be considered qualified to serve as the fact-finder and
12 chairperson of the fact-finding panel, if applicable, if
13 he or she was not the same individual who was appointed as
14 the mediator and if he or she satisfies the following
15 requirements: membership in good standing with the
16 National Academy of Arbitrators, Federal Mediation and
17 Conciliation Service, or American Arbitration Association
18 for a minimum of 10 years; membership on the mediation
19 roster for the Illinois Labor Relations Board or Illinois
20 Educational Labor Relations Board; issuance of at least 5
21 interest arbitration awards arising under the Illinois
22 Public Labor Relations Act; and participation in impasse
23 resolution processes arising under private or public
24 sector collective bargaining statutes in other states. If
25 the parties are unable to agree on a fact-finder, the
26 parties shall request a panel of fact-finders who satisfy

1 the requirements set forth in this paragraph (2) from
2 either the Federal Mediation and Conciliation Service or
3 the American Arbitration Association and shall select a
4 fact-finder from such panel in accordance with the
5 procedures established by the organization providing the
6 panel.

7 (3) The fact-finder shall have the following duties
8 and powers:

9 (A) to require the parties to submit a statement
10 of disputed issues and their positions regarding each
11 issue either jointly or separately;

12 (B) to identify disputed issues that are economic
13 in nature;

14 (C) to meet with the parties either separately or
15 in executive sessions;

16 (D) to conduct hearings and regulate the time,
17 place, course, and manner of the hearings;

18 (E) to request the Board to issue subpoenas
19 requiring the attendance and testimony of witnesses or
20 the production of evidence;

21 (F) to administer oaths and affirmations;

22 (G) to examine witnesses and documents;

23 (H) to create a full and complete written record
24 of the hearings;

25 (I) to attempt mediation or remand a disputed
26 issue to the parties for further collective

1 bargaining;

2 (J) to require the parties to submit final offers
3 for each disputed issue either individually or as a
4 package or as a combination of both; and

5 (K) to employ any other measures deemed
6 appropriate to resolve the impasse.

7 (4) If the dispute is not settled within 75 days after
8 the appointment of the fact-finding panel, the
9 fact-finding panel shall issue a private report to the
10 parties that contains advisory findings of fact and
11 recommended terms of settlement for all disputed issues
12 and that sets forth a rationale for each recommendation.
13 The fact-finding panel, acting by a majority of its
14 members, shall base its findings and recommendations upon
15 the following criteria as applicable:

16 (A) the lawful authority of the employer;

17 (B) the federal and State statutes or local
18 ordinances and resolutions applicable to the employer;

19 (C) prior collective bargaining agreements and the
20 bargaining history between the parties;

21 (D) stipulations of the parties;

22 (E) the interests and welfare of the public and
23 the students and families served by the employer;

24 (F) the employer's financial ability to fund the
25 proposals based on existing available resources,
26 provided that such ability is not predicated on an

1 assumption that lines of credit or reserve funds are
2 available or that the employer may or will receive or
3 develop new sources of revenue or increase existing
4 sources of revenue;

5 (G) the impact of any economic adjustments on the
6 employer's ability to pursue its educational mission;

7 (H) the present and future general economic
8 conditions in the locality and State;

9 (I) a comparison of the wages, hours, and
10 conditions of employment of the employees involved in
11 the dispute with the wages, hours, and conditions of
12 employment of employees performing similar services in
13 public education in the 10 largest U.S. cities, except
14 that for educational employees who are forbidden to
15 strike, this comparison shall be based on comparable
16 communities;

17 (J) the average consumer prices in urban areas for
18 goods and services, which is commonly known as the
19 cost of living;

20 (K) the overall compensation presently received by
21 the employees involved in the dispute, including
22 direct wage compensation; vacations, holidays, and
23 other excused time; insurance and pensions; medical
24 and hospitalization benefits; the continuity and
25 stability of employment and all other benefits
26 received; and how each party's proposed compensation

1 structure supports the educational goals of the
2 district, however for educational employees who are
3 forbidden from striking, this analysis shall also
4 include all other employees who are employed by the
5 educational employer;

6 (L) changes in any of the circumstances listed in
7 items (A) through (K) of this paragraph (4) during the
8 fact-finding proceedings;

9 (M) the effect that any term the parties are at
10 impasse on has or may have on the overall educational
11 environment, learning conditions, and working
12 conditions with the school district; and

13 (N) the effect that any term the parties are at
14 impasse on has or may have in promoting the public
15 policy of this State.

16 (5) The fact-finding panel's recommended terms of
17 settlement shall be deemed agreed upon by the parties as
18 the final resolution of the disputed issues and
19 incorporated into the collective bargaining agreement
20 executed by the parties, unless either party tenders to
21 the other party and the chairperson of the fact-finding
22 panel a notice of rejection of the recommended terms of
23 settlement with a rationale for the rejection, within 15
24 days after the date of issuance of the fact-finding
25 panel's report. With regard to educational employees who
26 are forbidden from striking, if either party submits a

1 notice of rejection, either party may utilize mandatory
2 interest arbitration proceedings established in subsection
3 (e). For all other educational employees subject to this
4 subsection (a-10), if either party submits a notice of
5 rejection, the chairperson of the fact-finding panel shall
6 publish the fact-finding panel's report and the notice of
7 rejection for public information by delivering a copy to
8 all newspapers of general circulation in the community
9 with simultaneous written notice to the parties.

10 The changes made to this subsection (a-10) by this
11 amendatory Act of the 103rd General Assembly apply only to
12 collective bargaining agreements entered into, modified,
13 extended, or renewed on or after the effective date of this
14 amendatory Act of the 103rd General Assembly.

15 (b) (Blank).

16 (c) The costs of fact finding and mediation shall be
17 shared equally between the employer and the exclusive
18 bargaining agent, provided that, for purposes of mediation
19 under this Act, if either party requests the use of mediation
20 services from the Federal Mediation and Conciliation Service
21 or, if the Federal Mediation and Conciliation Service is
22 unable to provide mediation services, from the Illinois
23 Department of Labor, the other party shall either join in such
24 request or bear the additional cost of mediation services from
25 another source. All other costs and expenses of complying with
26 this Section must be borne by the party incurring them.

1 (c-5) If an educational employer or exclusive bargaining
2 representative refuses to participate in mediation or fact
3 finding when required by this Section, the refusal shall be
4 deemed a refusal to bargain in good faith.

5 (d) Nothing in this Act prevents an employer and an
6 exclusive bargaining representative from mutually submitting
7 to final and binding impartial arbitration unresolved issues
8 concerning the terms of a new collective bargaining agreement.

9 (e) This subsection only applies to collective bargaining
10 between a public school district organized under Article 34 of
11 the School Code and an exclusive representative of educational
12 employees who are forbidden from striking under this Act after
13 the parties reach impasse when bargaining an initial and any
14 successor collective bargaining agreements. Educational
15 employees who are forbidden from striking have the right to
16 submit negotiation disputes regarding wages, hours, and
17 conditions of employment that are mandatory subjects of
18 bargaining for resolution through the following mandatory
19 arbitration procedures:

20 (1) For collective bargaining agreements between an
21 educational employer and exclusive representative,
22 mediation shall commence 30 days prior to the expiration
23 of a collective bargaining agreement; or upon 15 days'
24 notice from either party; or at such later time as the
25 mediation services chosen can be provided to the parties.
26 In mediation under this Section, if either party requests

1 the use of mediation services from the Federal Mediation
2 and Conciliation Service, the other party shall either
3 join in such request or bear the additional cost of
4 mediation services from another source. The mediator shall
5 have a duty to keep the Board informed on the progress of
6 the mediation. If any dispute has not been resolved within
7 15 days after the first meeting of the parties and the
8 mediator, or within such other time limit as may be
9 mutually agreed upon by the parties, either the exclusive
10 representative or employer may request of the other, in
11 writing, arbitration, and shall submit a copy of the
12 request to the Board.

13 (2) Within 10 days after such a request for
14 arbitration has been made, the educational employer shall
15 choose a delegate and the employees' exclusive
16 representative shall choose a delegate to a panel of
17 arbitration as provided in this Section. The employer and
18 employees shall forthwith advise the other and the Board
19 of their selections. The parties may agree to waive the
20 tripartite panel and use a sole arbitrator to resolve this
21 issue.

22 (3) Within 7 days after the request of either party,
23 the parties shall request a panel of impartial arbitrators
24 from which they shall select the neutral chairperson, or
25 sole arbitrator, according to the procedures provided in
26 this Section. If the parties have agreed to a contract

1 that contains a grievance resolution procedure, the
2 chairperson or sole arbitrator shall be selected using
3 their agreed contract procedure unless they mutually agree
4 to another procedure. If the parties fail to notify the
5 Board of their selection of a neutral chairperson within 7
6 days after receipt of the list of impartial arbitrators,
7 the Board shall appoint, at random, a neutral chairperson
8 from the list. In the absence of an agreed contract
9 procedure for selecting an impartial arbitrator, the
10 parties shall submit a request to the Federal Mediation
11 and Conciliation Service for a panel of 7 arbitrators who
12 are members in good standing with the National Academy of
13 Arbitrators, and have issued at least 5 interest
14 arbitration awards arising under the Illinois Public Labor
15 Relations Act or this Act. The parties shall conduct a
16 coin toss to determine who strikes first, and the parties
17 shall alternately strike arbitrators from the list until
18 one remains. The parties shall promptly notify the Board
19 of their selection.

20 (4) The chairperson or sole arbitrator shall call a
21 hearing to begin within 15 days and give reasonable notice
22 of the time and place of the hearing. The hearing shall be
23 held at the offices of the Board or at such other location
24 as the Board deems appropriate. The chairperson or sole
25 arbitrator shall preside over the hearing and shall take
26 testimony. Any oral or documentary evidence and other data

1 deemed relevant by the arbitration panel may be received
2 in evidence. The proceedings shall be informal. Technical
3 rules of evidence shall not apply and the competency of
4 the evidence shall not thereby be deemed impaired. A
5 verbatim record of the proceedings shall be made and the
6 arbitrator shall arrange for the necessary recording
7 service. Transcripts may be ordered at the expense of the
8 party ordering them, but the transcripts shall not be
9 necessary for a decision by the arbitration panel or sole
10 arbitrator. The expense of the proceedings, including a
11 fee for the chairperson or sole arbitrator, shall be borne
12 equally by each of the parties to the dispute. The
13 delegates, if public officers or employees, shall continue
14 on the payroll of the public employer without loss of pay.
15 The hearing conducted by the arbitration panel or sole
16 arbitrator may be adjourned from time to time, but unless
17 otherwise agreed by the parties, shall be concluded within
18 30 days of the time of its commencement. Majority actions
19 and rulings shall constitute the actions and rulings of
20 the arbitration panel. Arbitration proceedings under this
21 Section shall not be interrupted or terminated by reason
22 of any unfair labor practice charge filed by either party
23 at any time.

24 (5) The arbitration panel or sole arbitrator may
25 administer oaths, require the attendance of witnesses, and
26 the production of such books, papers, contracts,

1 agreements, and documents as may be deemed by it material
2 to a just determination of the issues in dispute, and for
3 such purpose may issue subpoenas. If any person refuses to
4 obey a subpoena, or refuses to be sworn or to testify, or
5 if any witness, party, or attorney is guilty of any
6 contempt while in attendance at any hearing, the
7 arbitration panel or sole arbitrator may, or the Attorney
8 General if requested shall, invoke the aid of any circuit
9 court within the jurisdiction in which the hearing is
10 being held, which court shall issue an appropriate order.
11 Any failure to obey the order may be punished by the court
12 as contempt.

13 (6) At any time before the rendering of an award, the
14 chairperson of the arbitration panel or sole arbitrator,
15 if the chairperson of the arbitration panel or sole
16 arbitrator is of the opinion that it would be useful or
17 beneficial to do so, may remand the dispute to the parties
18 for further collective bargaining for a period not to
19 exceed 2 weeks. If the dispute is remanded for further
20 collective bargaining, the time provisions of this Act
21 shall be extended for a time period equal to that of the
22 remand. The chairperson of the arbitration panel or sole
23 arbitrator shall notify the Board of the remand.

24 (7) At or before the conclusion of the hearing held
25 pursuant to paragraph (4), the arbitration panel or sole
26 arbitrator shall identify the economic issues in dispute,

1 and direct each of the parties to submit, within such time
2 limit as the panel shall prescribe, to the arbitration
3 panel or sole arbitrator and to each other its last offer
4 of settlement on each economic issue. The determination of
5 the arbitration panel or sole arbitrator as to the issues
6 in dispute and as to which of these issues are economic
7 shall be conclusive. The arbitration panel or sole
8 arbitrator, within 30 days after the conclusion of the
9 hearing, or such further additional periods to which the
10 parties may agree, shall make written findings of fact and
11 adopt a written opinion and shall mail or otherwise
12 deliver a true copy thereof to the parties and their
13 representatives and to the Board. As to each economic
14 issue, the arbitration panel or sole arbitrator shall
15 adopt the last offer of settlement which, in the opinion
16 of the arbitration panel or sole arbitrator, more nearly
17 complies with the applicable factors prescribed in
18 paragraph (8). The findings, opinions, and order as to all
19 other issues shall be based upon the applicable factors
20 prescribed in paragraph (8).

21 (8) The arbitration decision shall be limited to
22 mandatory subjects of bargaining. If there is no agreement
23 between the parties, or if there is an agreement but the
24 parties have begun negotiations or discussions looking to
25 a new agreement or amendment of the existing agreement,
26 and wage rates or other conditions of employment under the

1 proposed new or amended agreement are in dispute, the
2 arbitration panel shall base its findings, opinions, and
3 order upon the following factors, as applicable:

4 (A) the lawful authority of the employer;

5 (B) the federal and State statutes or local
6 ordinances and resolutions applicable to the employer;

7 (C) prior collective bargaining agreements and the
8 bargaining history between the parties;

9 (D) stipulations of the parties;

10 (E) the interests and welfare of the public and
11 the students and families served by the employer;

12 (F) the employer's financial ability to fund the
13 proposals based on existing available resources,
14 provided that such ability is not predicated on an
15 assumption that lines of credit or reserve funds are
16 available or that the employer may or will receive or
17 develop new sources of revenue or increase existing
18 sources of revenue;

19 (G) the impact of any economic adjustments on the
20 employer's ability to pursue its educational mission;

21 (H) the present and future general economic
22 conditions in the locality and State;

23 (I) a comparison of the wages, hours, and
24 conditions of employment of the employees involved in
25 the arbitration proceeding with the wages, hours, and
26 conditions of employment of other employees performing

1 similar services in public education in the 10 largest
2 cities in the United States;

3 (J) the average consumer prices in urban areas for
4 goods and services, which is commonly known as the
5 cost of living;

6 (K) the overall compensation presently received by
7 the employees involved in the dispute and by all other
8 employees who are employed by the educational
9 employer, including direct wage compensation;
10 vacations, holidays, and other excused time, insurance
11 and pensions, medical and hospitalization benefits,
12 the continuity and stability of employment and all
13 other benefits received, and how each party's proposed
14 compensation structure supports the educational goals
15 of the district;

16 (L) changes in any of the circumstances listed in
17 items (A) through (K) of this paragraph (8) during the
18 arbitration proceedings;

19 (M) the effect that any term the parties are at
20 impasse on has or may have on the overall educational
21 environment, learning conditions, and working
22 conditions with the school district; and

23 (N) the effect that any term the parties are at
24 impasse on has or may have in promoting the public
25 policy of this State.

26 No terms in the arbitration award or order may

1 conflict with any terms and conditions set forth in a
2 collective bargaining agreement between the educational
3 employer and another collective bargaining representative.

4 (9) Arbitration procedures shall be deemed to be
5 initiated by the filing of a letter requesting mediation
6 as required under paragraph (1). The commencement of a new
7 fiscal year after the initiation of arbitration procedures
8 under this Act, but before the arbitration decision, or
9 its enforcement, shall not be deemed to render a dispute
10 moot, or to otherwise impair the jurisdiction or authority
11 of the arbitration panel or sole arbitrator or its
12 decision. Increases in rates of compensation awarded by
13 the arbitration panel or sole arbitrator may be effective
14 only at the start of the fiscal year next commencing after
15 the date of the arbitration award. If a new fiscal year has
16 commenced either since the initiation of arbitration
17 procedures under this Act or since any mutually agreed
18 extension of the statutorily required period of mediation
19 under this Act by the parties to the labor dispute causing
20 a delay in the initiation of arbitration, the foregoing
21 limitations shall be inapplicable, and such awarded
22 increases may be retroactive to the commencement of the
23 fiscal year, any other statute or charter provisions to
24 the contrary, notwithstanding. At any time the parties, by
25 stipulation, may amend or modify an award of arbitration.

26 (10) Orders of the arbitration panel or sole

1 arbitrator shall be reviewable, upon appropriate petition
2 by either the educational employer or the exclusive
3 bargaining representative, by the circuit court for the
4 county in which the dispute arose or in which a majority of
5 the affected employees reside, but only for reasons that
6 the arbitration panel or sole arbitrator was without or
7 exceeded its statutory authority; the order is arbitrary,
8 or capricious; or the order was procured by fraud,
9 collusion, or other similar and unlawful means. Such
10 petitions for review must be filed with the appropriate
11 circuit court within 90 days following the issuance of the
12 arbitration order. The pendency of such proceeding for
13 review shall not automatically stay the order of the
14 arbitration panel or sole arbitrator. The party against
15 whom the final decision of any such court shall be
16 adverse, if such court finds such appeal or petition to be
17 frivolous, shall pay reasonable attorney's fees and costs
18 to the successful party as determined by said court in its
19 discretion. If said court's decision affirms the award of
20 money, such award, if retroactive, shall bear interest at
21 the rate of 12% per annum from the effective retroactive
22 date.

23 (11) During the pendency of proceedings before the
24 arbitration panel or sole arbitrator, existing wages,
25 hours, and other conditions of employment shall not be
26 changed by action of either party without the consent of

1 the other but a party may so consent without prejudice to
2 the party's rights or position under this Act. The
3 proceedings are deemed to be pending before the
4 arbitration panel or sole arbitrator upon the initiation
5 of arbitration procedures under this Act.

6 (12) The educational employees covered by this Section
7 may not withhold services, nor may educational employers
8 lock out or prevent such employees from performing
9 services at any time.

10 (13) All of the terms decided upon by the arbitration
11 panel or sole arbitrator shall be included in an agreement
12 to be submitted to the educational employer's governing
13 body for ratification and adoption by law, ordinance, or
14 the equivalent appropriate means.

15 The governing body shall review each term decided by
16 the arbitration panel or sole arbitrator. If the governing
17 body fails to reject one or more terms of the arbitration
18 panel's or sole arbitrator's decision by a 3/5 vote of
19 those duly elected and qualified members of the governing
20 body, at the next regularly scheduled meeting of the
21 governing body after issuance, such term or terms shall
22 become a part of the collective bargaining agreement of
23 the parties. If the governing body affirmatively rejects
24 one or more terms of the arbitration panel's or sole
25 arbitrator's decision, it must provide reasons for such
26 rejection with respect to each term so rejected, within 20

1 days of such rejection and the parties shall return to the
2 arbitration panel or sole arbitrator for further
3 proceedings and issuance of a supplemental decision with
4 respect to the rejected terms. Any supplemental decision
5 by an arbitration panel, sole arbitrator, or other
6 decision maker agreed to by the parties shall be submitted
7 to the governing body for ratification and adoption in
8 accordance with the procedures and voting requirements set
9 forth in this Section. The voting requirements of this
10 subsection shall apply to all disputes submitted to
11 arbitration pursuant to this Section notwithstanding any
12 contrary voting requirements contained in any existing
13 collective bargaining agreement between the parties.

14 (14) If the governing body of the employer votes to
15 reject the panel's or sole arbitrator's decision, the
16 parties shall return to the panel or sole arbitrator
17 within 30 days from the issuance of the reasons for
18 rejection for further proceedings and issuance of a
19 supplemental decision. All reasonable costs of such
20 supplemental proceeding including the exclusive
21 representative's reasonable attorney's fees, as
22 established by the Board, shall be paid by the educational
23 employer.

24 (15) Notwithstanding the provisions of this Section,
25 the educational employer and exclusive representative may
26 agree to submit unresolved disputes concerning wages,

1 hours, terms, and conditions of employment to an
2 alternative form of impasse resolution.

3 (16) The costs of mediation and arbitration shall be
4 shared equally between the educational employer and the
5 exclusive bargaining agent, provided that for purposes of
6 mediation under this Act, if either party requests the use
7 of mediation services from the Federal Mediation and
8 Conciliation Service, the other party shall either join in
9 such request or bear the additional cost of mediation
10 services from another source. All other costs and expenses
11 of complying with this Section must be borne by the party
12 incurring them, except as otherwise expressly provided.

13 (17) If an educational employer or exclusive
14 bargaining representative refuses to participate in
15 mediation or arbitration when required by this Section,
16 the refusal shall be deemed a refusal to bargain in good
17 faith.

18 (18) Nothing in this Act prevents an employer and an
19 exclusive bargaining representative who are not subject to
20 mandatory arbitration under this Section from mutually
21 submitting to final and binding impartial arbitration
22 unresolved issues concerning the terms of a new collective
23 bargaining agreement.

24 This subsection (e) applies only to collective bargaining
25 agreements entered into, modified, extended, or renewed on or
26 after the effective date of this amendatory Act of the 103rd

1 General Assembly.

2 (Source: P.A. 103-1067, eff. 1-1-26.)

3 Section 45. The Broadband Infrastructure Advancement Act
4 is amended by changing Section 4-20 and by adding Section 4-30
5 as follows:

6 (220 ILCS 81/4-20)

7 Sec. 4-20. Use of other broadband funds. The Department of
8 Commerce and Economic Opportunity, the Office of Broadband, or
9 any other State agency, board, office, or commission
10 appropriated funding to provide grants for broadband
11 deployment, broadband expansion, broadband access, broadband
12 affordability, and broadband improvement projects must
13 establish program eligibility and selection criteria by
14 administrative rules.

15 The Department of Commerce and Economic Opportunity, when
16 evaluating grant applications for the deployment of broadband
17 network, must consider the expediency with which a project can
18 be completed and broadband Internet access service delivered.
19 Projects for which the Department awards grants to deploy
20 broadband service in unserved areas or underserved areas shall
21 include, as a project expense, costs necessarily incurred for
22 the acquisition of any license, easement, right-of-way, or
23 other property interest, or for the use of or for access to
24 public utility (as defined in Section 3-105 of the Public

1 Utilities Act) owned or State or local government owned
2 infrastructure or assets for such project that are used
3 directly in the provision of broadband service to locations in
4 such unserved or underserved areas.

5 If a grantee for the Connect Illinois Program or the
6 grantee's contractors intend to solicit bids for the
7 construction or development of the project, the grantee or the
8 contractor shall post the solicitation on a public website for
9 the duration of the solicitation period and for 30 days after
10 the close of the solicitation period. The grantee shall
11 provide the URL for the public website to the Department and
12 the Office of Broadband shall make one URL for each grantee
13 publicly available on the Office of Broadband's website. Each
14 bid solicitation by a grantee shall be posted to the same URL.

15 (Source: P.A. 104-426, eff. 8-15-25.)

16 (220 ILCS 81/4-30 new)

17 Sec. 4-30. Apprenticeship participation requirements for
18 covered broadband projects.

19 (a) As used in this Section:

20 "Covered broadband project" means any broadband
21 infrastructure deployment that receives, in whole or in part,
22 grant or loan funds administered by the Department after the
23 effective date of this amendatory Act of the 104th General
24 Assembly or any successor broadband funding program
25 administered by the Department.

1 "Registered apprenticeship program" means a program
2 registered with and approved by the Office of Apprenticeship
3 within the U.S. Department of Labor's Employment and Training
4 Administration under 29 CFR Parts 29 and 30 and that covers one
5 or more trades employed in construction, installation, or
6 maintenance of a covered broadband project.

7 (b) Not less than 60 days after the effective date of this
8 amendatory Act of the 104th General Assembly, a person or
9 entity shall not be eligible to receive grant or loan funds for
10 a covered broadband project unless the applicant demonstrates,
11 at the time of application and on a continuous basis
12 throughout project construction, that the applicant, if
13 self-performing, or the applicant's contractor and
14 subcontractors, participation in a registered apprenticeship
15 program. A covered broadband project shall comply with the
16 requirements of this Section as a continuing condition of
17 eligibility throughout the construction phase of the project.
18 The project owner shall be responsible for ensuring that each
19 contractor and subcontractor performing work on the covered
20 broadband project complies with the apprenticeship
21 participation requirement of this Section, unless a good-faith
22 effort determination or waiver has been granted under
23 subsection (c).

24 (c) An applicant, contractor, or subcontractor that cannot
25 satisfy the requirements of subsections (b) and (c) through
26 immediate program participation may demonstrate a good-faith

1 effort to comply with the requirements by showing that the
2 applicant, contractor, or subcontractor:

3 (1) contacted at least 3 registered apprenticeship
4 programs in each applicable trade and requested apprentice
5 referrals not less than 30 days before beginning
6 construction; and

7 (2) documented responses, including the identity of
8 each registered apprenticeship program contacted, the date
9 of contact, and the reason any referred apprentices were
10 not employed.

11 An applicant, contractor, or subcontractor may seek a full
12 waiver upon a showing that no registered apprenticeship
13 program exists covering any of the occupational
14 classifications required for the covered broadband project. A
15 waiver granted under this subsection is valid only for the
16 duration of the project and only for the specific trade
17 classifications for which program unavailability is
18 demonstrated.

19 An applicant may seek a partial waiver upon a showing that
20 all programs contacted under paragraph (1) declined to refer
21 apprentices and no alternative programs are available within
22 50 miles.

23 The Department shall document and publish all waivers
24 granted under this subsection in its annual report.

25 (d) The Department may withhold, suspend, or recover grant
26 or loan funds from any recipient of a covered broadband

1 project that fails to comply with the requirements of this
2 Section.

3 Before imposing sanctions under this subsection, the
4 Department shall provide the applicant or recipient with
5 written notice of non-compliance and a 60-day period to cure
6 the deficiency, except where the non-compliance is willful,
7 involves falsification of certified payroll records, or
8 constitutes a second or subsequent violation within a 3-year
9 period.

10 Any applicant that submits a materially false compliance
11 certification under subsection (f) shall be ineligible to
12 apply for covered broadband project grants for a period of 3
13 years from the date of the adverse determination. The
14 Department shall maintain a public debarment list and shall
15 notify the Department of Labor of all debarment
16 determinations.

17 (e) Each applicant for a covered broadband project shall
18 submit, with the initial application, a signed certification
19 of compliance with this Section, identifying the registered
20 apprenticeship program or programs under which construction
21 work will be performed, or documenting the basis for a
22 good-faith effort claim or waiver request under subsection
23 (d). The Department shall include in its annual report a
24 summary of:

25 (1) the number and total construction value of covered
26 broadband projects subject to this Section;

1 (2) the number of apprentices employed on covered
2 broadband projects and estimated total apprentice labor
3 hours;

4 (3) waivers and good-faith effort determinations
5 granted, including geographic and trade classification
6 data; and

7 (4) enforcement actions taken, including fund recovery
8 amounts.

9 (f) The Department may adopt rules necessary to implement
10 and administer this Section.

11 (g) This Section applies to grant applications submitted
12 to the Department at least 60 days after the effective date of
13 this amendatory Act of the 104th General Assembly.

14 Section 50. The Code of Civil Procedure is amended by
15 adding Section 8-804.6 as follows:

16 (735 ILCS 5/8-804.6 new)

17 Sec. 8-804.6. Mediator and parties to mediation.

18 (a) A mediator or an agency employing a mediator shall not
19 be compelled to disclose, in any court or to any
20 administrative board or agency arbitration or proceeding,
21 whether civil or criminal, any mediation communications or
22 mediation documents received or created during a mediation.
23 Mediation communications and mediation documents shall not be
24 admissible as evidence in any action or proceeding, including,

1 but not limited to, a judicial, administrative, or arbitration
2 action or proceeding.

3 (b) A mediator may not testify about, use, or reveal any
4 information obtained during the course of a mediation in any
5 proceeding.

6 Section 55. The Prevailing Wage Act is amended by changing
7 Sections 2, 3, and 5 and by adding Section 2.2 as follows:

8 (820 ILCS 130/2)

9 Sec. 2. This Act applies to the wages of laborers,
10 mechanics, and other workers employed in any public works, as
11 hereinafter defined, by any public body and to anyone under
12 contracts for public works. This includes any maintenance,
13 repair, assembly, or disassembly work performed on equipment
14 whether owned, leased, or rented.

15 As used in this Act, unless the context indicates
16 otherwise:

17 "Public works" means all fixed works constructed or
18 demolished by any public body, or paid for wholly or in part
19 out of public funds. "Public works" as defined herein includes
20 all projects financed in whole or in part with bonds, grants,
21 loans, or other funds made available by or through the State or
22 any of its political subdivisions, including, but not limited
23 to: bonds issued under the Industrial Project Revenue Bond Act
24 (Article 11, Division 74 of the Illinois Municipal Code), the

1 Industrial Building Revenue Bond Act, the Illinois Finance
2 Authority Act, the Illinois Sports Facilities Authority Act,
3 or the Build Illinois Bond Act; loans or other funds made
4 available pursuant to the Build Illinois Act; loans or other
5 funds made available pursuant to the Riverfront Development
6 Fund under Section 10-15 of the River Edge Redevelopment Zone
7 Act; funds received from the sale or transfer of tax credits
8 awarded by the State under Section 214 of the Illinois Income
9 Tax Act if the sale or transfer occurs prior to construction
10 beginning; or funds from the Fund for Illinois' Future under
11 Section 6z-47 of the State Finance Act, funds for school
12 construction under Section 5 of the General Obligation Bond
13 Act, funds authorized under Section 3 of the School
14 Construction Bond Act, funds for school infrastructure under
15 Section 6z-45 of the State Finance Act, and funds for
16 transportation purposes under Section 4 of the General
17 Obligation Bond Act. "Public works" also includes all federal
18 construction projects administered or controlled by a public
19 body if the prevailing rate of wages is equal to or greater
20 than the prevailing wage determination by the United States
21 Secretary of Labor for the same locality for the same type of
22 construction used to classify the federal construction
23 project. "Public works" also includes (i) all projects
24 financed in whole or in part with funds from the Environmental
25 Protection Agency under the Illinois Renewable Fuels
26 Development Program Act for which there is no project labor

1 agreement; (ii) all work performed pursuant to a public
2 private agreement under the Public Private Agreements for the
3 Illiana Expressway Act or the Public-Private Agreements for
4 the South Suburban Airport Act; (iii) all projects undertaken
5 under a public-private agreement under the Public-Private
6 Partnerships for Transportation Act or the Department of
7 Natural Resources World Shooting and Recreational Complex Act;
8 and (iv) all transportation facilities undertaken under a
9 design-build contract or a Construction Manager/General
10 Contractor contract under the Innovations for Transportation
11 Infrastructure Act. "Public works" also includes all projects
12 at leased facility property used for airport purposes under
13 Section 35 of the Local Government Facility Lease Act. "Public
14 works" also includes the construction of a new wind power
15 facility by a business designated as a High Impact Business
16 under Section 5.5(a)(3)(E) of the Illinois Enterprise Zone
17 Act, the construction of a new utility-scale solar power
18 facility by a business designated as a High Impact Business
19 under Section 5.5(a)(3)(E-5) of the Illinois Enterprise Zone
20 Act, the construction of a new battery energy storage solution
21 facility by a business designated as a High Impact Business
22 under Section 5.5(a)(3)(I) of the Illinois Enterprise Zone
23 Act, and the construction of a high voltage direct current
24 converter station by a business designated as a High Impact
25 Business under Section 5.5(a)(3)(J) of the Illinois Enterprise
26 Zone Act. "Public works" also includes electric vehicle

1 charging station projects financed pursuant to the Electric
2 Vehicle Act and renewable energy projects required to pay the
3 prevailing wage pursuant to the Illinois Power Agency Act.
4 "Public works" also includes power washing projects by a
5 public body or paid for wholly or in part out of public funds
6 in which steam or pressurized water, with or without added
7 abrasives or chemicals, is used to remove paint or other
8 coatings, oils or grease, corrosion, or debris from a surface
9 or to prepare a surface for a coating. "Public works" also
10 includes all electric transmission systems projects subject to
11 the Electric Transmission Systems Construction Standards Act.
12 "Public works" does not include work done directly by any
13 public utility company, whether or not done under public
14 supervision or direction, or paid for wholly or in part out of
15 public funds. "Public works" also includes construction
16 projects performed by a third party contracted by any public
17 utility, as described in subsection (a) of Section 2.1, in
18 public rights-of-way, as defined in Section 21-201 of the
19 Public Utilities Act, whether or not done under public
20 supervision or direction, or paid for wholly or in part out of
21 public funds. "Public works" also includes construction
22 projects that exceed 15 aggregate miles of new fiber optic
23 cable, performed by a third party contracted by any public
24 utility, as described in subsection (b) of Section 2.1, in
25 public rights-of-way, as defined in Section 21-201 of the
26 Public Utilities Act, whether or not done under public

1 supervision or direction, or paid for wholly or in part out of
2 public funds. "Public works" also includes any corrective
3 action performed pursuant to Title XVI of the Environmental
4 Protection Act for which payment from the Underground Storage
5 Tank Fund is requested. "Public works" also includes all
6 construction projects involving fixtures or permanent
7 attachments affixed to light poles that are owned by a public
8 body, including street light poles, traffic light poles, and
9 other lighting fixtures, whether or not done under public
10 supervision or direction, or paid for wholly or in part out of
11 public funds, unless the project is performed by employees
12 employed directly by the public body. "Public works" also
13 includes work performed subject to the Mechanical Insulation
14 Energy and Safety Assessment Act. "Public works" also includes
15 the removal, hauling, and transportation of biosolids, lime
16 sludge, and lime residue from a water treatment plant or
17 facility and the disposal of biosolids, lime sludge, and lime
18 residue removed from a water treatment plant or facility at a
19 landfill. "Public works" also includes sewer inspection
20 projects that use a closed-circuit television to identify
21 issues in a sewer system, such as cracks in pipes, root
22 intrusion, blockages, or other structural damage. "Public
23 works" also includes the routine inspection or testing of any
24 fire sprinkler system, as defined in Section 10 of the Fire
25 Sprinkler Contractor Licensing Act, when performed by a third
26 party under contract with a public body or when paid for wholly

1 or in part out of public funds. "Public works" also includes
2 the installation, service, maintenance, on-site programming,
3 configuration, calibration, commissioning, repair, or
4 integration of a building automation system used to monitor or
5 control heating, ventilation, air conditioning, hydronic,
6 steam, or other mechanical building systems when performed by
7 a third party under contract with a public body or paid for
8 wholly or in part out of public funds. "Public works" does not
9 include projects undertaken by the owner at an owner-occupied
10 single-family residence or at an owner-occupied unit of a
11 multi-family residence. "Public works" does not include work
12 performed for soil and water conservation purposes on
13 agricultural lands, whether or not done under public
14 supervision or paid for wholly or in part out of public funds,
15 done directly by an owner or person who has legal control of
16 those lands. "Public works" does not include routine
17 inspection or testing performed by employees of the State, a
18 municipality, a county, a fire department, a fire protection
19 district, or the Office of the State Fire Marshal when those
20 employees perform the inspection or testing in the course of
21 their official duties as described in subsection (c) of
22 Section 17 of the Fire Sprinkler Contractor Licensing Act.

23 "Construction" means all work on public works involving
24 laborers, workers or mechanics. This includes any maintenance,
25 repair, assembly, or disassembly work performed on equipment
26 whether owned, leased, or rented.

1 "Locality" means the county where the physical work upon
2 public works is performed, except (1) that if there is not
3 available in the county a sufficient number of competent
4 skilled laborers, workers and mechanics to construct the
5 public works efficiently and properly, "locality" includes any
6 other county nearest the one in which the work or construction
7 is to be performed and from which such persons may be obtained
8 in sufficient numbers to perform the work and (2) that, with
9 respect to contracts for highway work with the Department of
10 Transportation of this State, "locality" may at the discretion
11 of the Secretary of the Department of Transportation be
12 construed to include two or more adjacent counties from which
13 workers may be accessible for work on such construction.

14 "Public body" means the State or any officer, board or
15 commission of the State or any political subdivision or
16 department thereof, or any institution supported in whole or
17 in part by public funds, and includes every county, city,
18 town, village, township, school district, irrigation, utility,
19 reclamation improvement or other district and every other
20 political subdivision, district or municipality of the state
21 whether such political subdivision, municipality or district
22 operates under a special charter or not.

23 "Labor organization" means an organization that is the
24 exclusive representative of an employer's employees recognized
25 or certified pursuant to the National Labor Relations Act.

26 The terms "general prevailing rate of hourly wages",

1 "general prevailing rate of wages" or "prevailing rate of
2 wages" when used in this Act mean the hourly cash wages plus
3 full journeyman annualized fringe benefits for training and
4 apprenticeship programs registered with the Office of
5 Apprenticeship within the U.S. Department of Labor's
6 Employment and Training Administration with full journeymen
7 annualized fringe benefits for health and welfare, insurance,
8 vacations, and pensions paid generally, in the locality in
9 which the work is being performed, to employees engaged in
10 work of a similar character on public works.

11 (Source: P.A. 103-8, eff. 6-7-23; 103-327, eff. 1-1-24;
12 103-346, eff. 1-1-24; 103-359, eff. 7-28-23; 103-447, eff.
13 8-4-23; 103-605, eff. 7-1-24; 103-1066, eff. 2-20-25; 104-17,
14 eff. 7-1-26 (see Section 35-5 of P.A. 104-434 for effective
15 date of P.A. 104-17); 104-23, eff. 6-30-25; 104-160, eff.
16 8-14-25; revised 12-2-25.)

17 (820 ILCS 130/2.2 new)

18 Sec. 2.2. Multiple classifications. A laborer, mechanic,
19 or other worker entitled to prevailing wages under this Act
20 who is classified under 2 or more prevailing wage
21 classifications on a single public works project shall be paid
22 the higher applicable prevailing wage rate for all subsequent
23 hours worked on that project, beginning on the date the higher
24 classification is assigned and continuing through the end of
25 the worker's employment on the project.

1 (820 ILCS 130/3) (from Ch. 48, par. 39s-3)

2 Sec. 3. Not less than the general prevailing rate of
3 hourly wages for work of a similar character on public works in
4 the locality in which the work is performed, and not less than
5 the general prevailing rate of hourly wages for legal holiday
6 and overtime work, shall be paid to all laborers, workers, and
7 mechanics employed by or on behalf of any public body engaged
8 in the construction or demolition of public works. This
9 includes any maintenance, repair, assembly, or disassembly
10 work performed on equipment whether owned, leased, or rented
11 and, notwithstanding any other provision of this Act, applies
12 to field mechanics, technicians, or similar positions,
13 including time spent transporting parts, materials, or
14 equipment to and from a site, regardless of whether the person
15 is employed by a contractor, subcontractor, seller, or
16 supplier. Only such laborers, workers and mechanics as are
17 directly employed by contractors or subcontractors in actual
18 construction work on the site of the building or construction
19 job, and laborers, workers and mechanics engaged in the
20 transportation of materials and equipment to or from the site,
21 but not including the transportation by the sellers and
22 suppliers or the manufacture or processing of materials or
23 equipment, in the execution of any contract or contracts for
24 public works with any public body shall be deemed to be
25 employed upon public works. The wage for a tradesman

1 performing maintenance is equivalent to that of a tradesman
2 engaged in construction or demolition.

3 (Source: P.A. 95-341, eff. 8-21-07; 96-186, eff. 1-1-10.)

4 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

5 Sec. 5. Certified payroll.

6 (a) Any contractor and each subcontractor who participates
7 in public works shall:

8 (1) make and keep, for a period of not less than 3
9 years from the date of the last payment made before
10 January 1, 2014 (the effective date of Public Act 98-328)
11 and for a period of 5 years from the date of the last
12 payment made on or after January 1, 2014 (the effective
13 date of Public Act 98-328) on a contract or subcontract
14 for public works, records of all laborers, mechanics, and
15 other workers employed by them on the project; the records
16 shall include (i) the worker's name, (ii) the worker's
17 address, (iii) the worker's telephone number when
18 available, (iv) the last 4 digits of the worker's social
19 security number, (v) the worker's gender, (vi) the
20 worker's race, (vii) the worker's ethnicity, (viii)
21 veteran status, (ix) the worker's classification or
22 classifications, (x) the worker's skill level, such as
23 apprentice or journeyman, (xi) the worker's gross and net
24 wages paid in each pay period, (xii) the worker's number
25 of hours worked each day, (xiii) the worker's starting and

1 ending times of work each day, (xiv) the worker's hourly
2 wage rate, (xv) the worker's hourly overtime wage rate,
3 (xvi) the worker's hourly fringe benefit rates, (xvii) the
4 name and address of each fringe benefit fund, (xviii) the
5 plan sponsor of each fringe benefit, if applicable, ~~and~~
6 (xix) the plan administrator of each fringe benefit, if
7 applicable, and (xx) copies of the contractor's or
8 subcontractor's registered apprenticeship program
9 documentation, including the United States Department of
10 Labor registered apprenticeship program number, and, for
11 each apprentice employed by the contractor or
12 subcontractor on the public works project, documentation
13 sufficient to verify that the apprentice is registered in
14 good standing in the applicable registered apprenticeship
15 program; and

16 (2) no later than the 15th day of each calendar month
17 file a certified payroll for the immediately preceding
18 month with the public body in charge of the project until
19 the Department of Labor activates the database created
20 under Section 5.1 at which time certified payroll shall
21 only be submitted to that database, except for projects
22 done by State agencies that opt to have contractors submit
23 certified payrolls directly to that State agency. A State
24 agency that opts to directly receive certified payrolls
25 must submit the required information in a specified
26 electronic format to the Department of Labor no later than

1 10 days after the certified payroll was filed with the
2 State agency. A certified payroll must be filed for only
3 those calendar months during which construction on a
4 public works project has occurred. The certified payroll
5 shall consist of a complete copy of the records identified
6 in paragraph (1) of this subsection (a), but may exclude
7 the starting and ending times of work each day and any
8 copies of the contractor's registered apprenticeship
9 programs documentation. The certified payroll shall
10 contain all other information identified in paragraph (1)
11 pertaining to apprentices. The certified payroll shall be
12 accompanied by a statement signed by the contractor or
13 subcontractor or an officer, employee, or agent of the
14 contractor or subcontractor which avers that: (i) he or
15 she has examined the certified payroll records required to
16 be submitted by the Act and such records are true and
17 accurate; (ii) the hourly rate paid to each worker is not
18 less than the general prevailing rate of hourly wages
19 required by this Act; and (iii) the contractor or
20 subcontractor is aware that filing a certified payroll
21 that he or she knows to be false is a Class A misdemeanor.
22 A general contractor is not prohibited from relying on the
23 certification of a lower tier subcontractor, provided the
24 general contractor does not knowingly rely upon a
25 subcontractor's false certification. Any contractor or
26 subcontractor subject to this Act and any officer,

1 employee, or agent of such contractor or subcontractor
2 whose duty as such officer, employee, or agent it is to
3 file such certified payroll who willfully fails to file
4 such a certified payroll on or before the date such
5 certified payroll is required by this paragraph to be
6 filed and any person who willfully files a false certified
7 payroll that is false as to any material fact is in
8 violation of this Act and guilty of a Class A misdemeanor.
9 The public body in charge of the project shall keep the
10 records submitted in accordance with this paragraph (2) of
11 subsection (a) before January 1, 2014 (the effective date
12 of Public Act 98-328) for a period of not less than 3
13 years, and the records submitted in accordance with this
14 paragraph (2) of subsection (a) on or after January 1,
15 2014 (the effective date of Public Act 98-328) for a
16 period of 5 years, from the date of the last payment for
17 work on a contract or subcontract for public works or
18 until the Department of Labor activates the database
19 created under Section 5.1, whichever is less. After the
20 activation of the database created under Section 5.1, the
21 Department of Labor rather than the public body in charge
22 of the project shall keep the records and maintain the
23 database. The records submitted in accordance with this
24 paragraph (2) of subsection (a) shall be considered public
25 records, except an employee's address, telephone number,
26 social security number, race, ethnicity, and gender, and

1 made available in accordance with the Freedom of
2 Information Act. The public body shall accept any
3 reasonable submissions by the contractor that meet the
4 requirements of this Section.

5 A contractor, subcontractor, or public body may retain
6 records required under this Section in paper or electronic
7 format.

8 (b) Upon 7 business days' notice, the contractor and each
9 subcontractor shall make available for inspection and copying
10 at a location within this State during reasonable hours, the
11 records identified in paragraph (1) of subsection (a) of this
12 Section to the public body in charge of the project, its
13 officers and agents, the Director of Labor and his deputies
14 and agents, and to federal, State, or local law enforcement
15 agencies and prosecutors.

16 (c) A contractor or subcontractor who remits contributions
17 to fringe benefit funds that are jointly maintained and
18 jointly governed by one or more employers and one or more labor
19 organizations in accordance with the federal Labor Management
20 Relations Act shall make and keep certified payroll records
21 that include the information required under items (i) through
22 (viii) of paragraph (1) of subsection (a) only. However, the
23 information required under items (ix) through (xv) of
24 paragraph (1) of subsection (a) shall be required for any
25 contractor or subcontractor who remits contributions to a
26 fringe benefit fund that is not jointly maintained and jointly

1 governed by one or more employers and one or more labor
2 organizations in accordance with the federal Labor Management
3 Relations Act.

4 (d) Any contractor or subcontractor subject to this Act
5 and any officer, employee, or agent of the contractor or
6 subcontractor whose duty as the officer, employee, or agent is
7 to file the certified payroll, who the Department of Labor
8 finds has failed to file the certified payroll for any public
9 works project as required under this Act, is subject to a civil
10 penalty, payable to the Department of Labor, of up to \$1,000
11 for a first offense and up to \$2,000 for a second or subsequent
12 offense no more than 5 years after the first offense. A second
13 or subsequent offense that occurs more than 5 years after the
14 first offense shall be considered a first offense. Each month
15 in which a violation of this Section occurs shall constitute a
16 separate offense.

17 A finding of an offense by the Department of Labor for
18 failure to file the certified payroll may be challenged if a
19 request for administrative hearing is received no later than
20 10 business days after receipt of the notice of the offense.
21 The Department of Labor shall have the burden of establishing
22 good cause for its action. Good cause exists if the Department
23 of Labor establishes that the contractor or subcontractor
24 participated in a public works project under this Act and
25 failed to submit a certified payroll to the Department of
26 Labor's electronic database no later than 15 calendar days

1 after the immediately preceding month in which the public
2 works were performed by the contractor or subcontractor. Any
3 mitigating evidence that a contractor or subcontractor
4 attempted to timely submit certified payrolls to the
5 Department of Labor's electronic database but failed due to
6 technical issues shall be considered. A contractor or
7 subcontractor's lack of knowledge of the requirements of this
8 Section shall not be considered as mitigating evidence.

9 All hearings held under this Section shall comply with the
10 Illinois Administrative Procedure Act and the Department of
11 Labor's rules for administrative hearings. The final
12 administrative decision by the Department of Labor shall be
13 rendered after the conclusion of the hearing. A final
14 administrative decision made under this Section is subject to
15 the Administrative Review Law. If a final administrative
16 decision issued by the Department of Labor requires a
17 contractor or subcontractor to pay a civil penalty, and the
18 subcontractor or contractor has not: (i) made the required
19 payment within 35 days after the issuance of the final
20 administrative decision; or (ii) timely filed a complaint
21 seeking review of the final administrative decision within 35
22 days after the issuance of the final administrative decision
23 in a court of competent jurisdiction, the Department of Labor,
24 by and through the Office of the Attorney General, may file a
25 verified petition against the contractor or subcontractor to
26 enforce the final administrative decision and to collect any

1 amounts due in the circuit court of any county where an office
2 of the Department of Labor is located.

3 (Source: P.A. 104-23, eff. 6-30-25.)

4 Section 60. The Paid Leave for All Workers Act is amended
5 by changing Section 10 as follows:

6 (820 ILCS 192/10)

7 Sec. 10. Definitions. As used in this Act:

8 "Construction industry" means any constructing, altering,
9 reconstructing, repairing, rehabilitating, refinishing,
10 refurbishing, remodeling, remediating, renovating, custom
11 fabricating, maintenance, landscaping, improving, wrecking,
12 painting, decorating, demolishing, or adding to or subtracting
13 from any building, structure, highway, roadway, street,
14 bridge, alley, sewer, ditch, sewage disposal plant,
15 waterworks, parking facility, railroad, excavation or other
16 structure, project, development, real property, or
17 improvement, or to do any part thereof, whether or not the
18 performance of the work herein described involves the addition
19 to or fabrication into, any structure, project, development,
20 real property, or improvement herein described of any material
21 or article of merchandise.

22 "Construction industry" also includes moving construction
23 related materials on the job site or to or from the job site,
24 snow plowing, snow removal, and refuse collection.

25 "Department" means the Illinois Department of Labor.

1 "Domestic work" and "domestic worker" have the same
2 meanings as defined in Section 10 of the Domestic Workers'
3 Bill of Rights Act, except that "domestic worker" also
4 includes independent contractors, sole proprietors, and
5 partnerships.

6 "Employee" has the same application and meaning as that
7 provided in Sections 1 and 2 of the Illinois Wage Payment and
8 Collection Act. "Employee" also includes all domestic workers,
9 and, for the purposes of this Act, domestic workers shall not
10 be excluded as employees under the provisions of item (1),
11 (2), or (3) of Section 2 of the Illinois Wage Payment and
12 Collection Act. "Employee" does not include:

13 (1) an employee as defined in the federal Railroad
14 Unemployment Insurance Act (45 U.S.C. 351 et seq.) or the
15 Railway Labor Act;

16 (2) a student enrolled in and regularly attending
17 classes in a college or university that is also the
18 student's employer, and who is employed on a temporary
19 basis at less than full time at the college or university,
20 but this exclusion applies only to work performed for that
21 college or university; ~~or~~

22 (3) a short-term employee who is employed by an
23 institution of higher education for less than 2
24 consecutive calendar quarters during a calendar year and
25 who does not have a reasonable expectation that they will
26 be rehired by the same employer of the same service in a

1 subsequent calendar year; or -

2 (4) an employee employed as a crew member of a towing
3 vessel as defined by 46 CFR 136.105.

4 "Employer" has the same application and meaning as that
5 provided in Sections 1 and 2 of the Illinois Wage Payment and
6 Collection Act, except that for purposes of this Act,
7 "employer" also means the State and units of local government,
8 any political subdivision of the State or units of local
9 government, or any State or local government agency.

10 "Employer" does not include school districts organized
11 under the School Code or park districts organized under the
12 Park District Code.

13 "Writing" or "written" means a printed or printable
14 communication in physical or electronic format, including a
15 communication that is transmitted through electronic mail,
16 text message, or a computer system or is otherwise sent or
17 stored electronically.

18 (Source: P.A. 102-1143, eff. 1-1-24.)

19 Section 95. No acceleration or delay. Where this Act makes
20 changes in a statute that is represented in this Act by text
21 that is not yet or no longer in effect (for example, a Section
22 represented by multiple versions), the use of that text does
23 not accelerate or delay the taking effect of (i) the changes
24 made by this Act or (ii) provisions derived from any other
25 Public Act.

1 Section 97. Severability. The provisions of this Act are
2 severable under Section 1.31 of the Statute on Statutes.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".