

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

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

13 (b) Library circulation and order records identifying
14 library users with specific materials under the Library
15 Records Confidentiality Act.

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

22 (d) Information and records held by the Department of
23 Public Health and its authorized representatives relating

1 to known or suspected cases of sexually transmissible
2 disease or any information the disclosure of which is
3 restricted under the Illinois Sexually Transmissible
4 Disease Control Act.

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

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

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

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

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

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

26 (k) Law enforcement officer identification information

1 or driver identification information compiled by a law
2 enforcement agency or the Department of Transportation
3 under Section 11-212 of the Illinois Vehicle Code.

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

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

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

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

22 (p) Security portions of system safety program plans,
23 investigation reports, surveys, schedules, lists, data, or
24 information compiled, collected, or prepared by or for the
25 Department of Transportation under Sections 2705-300 and
26 2705-616 of the Department of Transportation Law of the

1 Civil Administrative Code of Illinois, the Regional
2 Transportation Authority under Section 2.11 of the
3 Regional Transportation Authority Act, or the St. Clair
4 County Transit District under the Bi-State Transit Safety
5 Act.

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

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

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

12 (t) All identified or deidentified health information
13 in the form of health data or medical records contained
14 in, stored in, submitted to, transferred by, or released
15 from the Illinois Health Information Exchange, and
16 identified or deidentified health information in the form
17 of health data and medical records of the Illinois Health
18 Information Exchange in the possession of the Illinois
19 Health Information Exchange Office due to its
20 administration of the Illinois Health Information
21 Exchange. The terms "identified" and "deidentified" shall
22 be given the same meaning as in the Health Insurance
23 Portability and Accountability Act of 1996, Public Law
24 104-191, or any subsequent amendments thereto, and any
25 regulations promulgated thereunder.

26 (u) Records and information provided to an independent

1 team of experts under the Developmental Disability and
2 Mental Health Safety Act (also known as Brian's Law).

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

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

16 (w) Personally identifiable information which is
17 exempted from disclosure under subsection (g) of Section
18 19.1 of the Toll Highway Act.

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

22 (y) Confidential information under the Adult
23 Protective Services Act and its predecessor enabling
24 statute, the Elder Abuse and Neglect Act, including
25 information about the identity and administrative finding
26 against any caregiver of a verified and substantiated

1 decision of abuse, neglect, or financial exploitation of
2 an eligible adult maintained in the Registry established
3 under Section 7.5 of the Adult Protective Services Act.

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

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

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

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

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

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

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

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

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

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

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

9 (kk) Information prohibited from disclosure under the
10 Seizure and Forfeiture Reporting Act.

11 (ll) Information the disclosure of which is restricted
12 and exempted under Section 5-30.8 of the Illinois Public
13 Aid Code.

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

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

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

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

26 (qq) Information and records held by the Department of

1 Public Health and its authorized representatives collected
2 under the Reproductive Health Act.

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

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

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

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

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

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

18 (xx) Information that is exempt from disclosure or
19 information that shall not be made public under the
20 Illinois Insurance Code.

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

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

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

1 (bbb) Information that is prohibited from disclosure
2 by the Illinois Police Training Act and the Illinois State
3 Police Act.

4 (ccc) Records exempt from disclosure under Section
5 2605-304 of the Illinois State Police Law of the Civil
6 Administrative Code of Illinois.

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

11 (eee) Information prohibited from being disclosed
12 under subsection (b) of Section 75 of the Domestic
13 Violence Fatality Review Act.

14 (fff) Images from cameras under the Expressway Camera
15 Act. This subsection (fff) is inoperative on and after
16 July 1, 2023.

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 Department
21 ~~of~~ State Police in an affidavit or application for an
22 assault weapon endorsement, assault weapon attachment
23 endorsement, .50 caliber rifle endorsement, or .50 caliber
24 cartridge endorsement under the Firearm Owners
25 Identification Card Act.

26 (iii) Information prohibited from being disclosed

1 under subsection (e) of Section 1-129 of the Illinois
2 Power Agency Act.

3 (Source: P.A. 101-13, eff. 6-12-19; 101-27, eff. 6-25-19;
4 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff.
5 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452,
6 eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19;
7 101-620, eff. 12-20-19; 101-649, eff. 7-7-20; 101-652, eff.
8 1-1-22; 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-237,
9 eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21;
10 102-559, eff. 8-20-21; 102-813, eff. 5-13-22; 102-946, eff.
11 7-1-22; 102-1042, eff. 6-3-22; 102-1116, eff. 1-10-23; revised
12 2-13-23.)"; and

13 Section 10. The Illinois Power Agency Act is amended by
14 changing Section 1-75 and adding Section 1-129 as follows:

15 (20 ILCS 3855/1-75)

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

19 (a) The Planning and Procurement Bureau shall each year,
20 beginning in 2008, develop procurement plans and conduct
21 competitive procurement processes in accordance with the
22 requirements of Section 16-111.5 of the Public Utilities Act
23 for the eligible retail customers of electric utilities that
24 on December 31, 2005 provided electric service to at least

1 100,000 customers in Illinois. Beginning with the delivery
2 year commencing on June 1, 2017, the Planning and Procurement
3 Bureau shall develop plans and processes for the procurement
4 of zero emission credits from zero emission facilities in
5 accordance with the requirements of subsection (d-5) of this
6 Section. Beginning on the effective date of this amendatory
7 Act of the 102nd General Assembly, the Planning and
8 Procurement Bureau shall develop plans and processes for the
9 procurement of carbon mitigation credits from carbon-free
10 energy resources in accordance with the requirements of
11 subsection (d-10) of this Section. The Planning and
12 Procurement Bureau shall also develop procurement plans and
13 conduct competitive procurement processes in accordance with
14 the requirements of Section 16-111.5 of the Public Utilities
15 Act for the eligible retail customers of small
16 multi-jurisdictional electric utilities that (i) on December
17 31, 2005 served less than 100,000 customers in Illinois and
18 (ii) request a procurement plan for their Illinois
19 jurisdictional load. This Section shall not apply to a small
20 multi-jurisdictional utility until such time as a small
21 multi-jurisdictional utility requests the Agency to prepare a
22 procurement plan for their Illinois jurisdictional load. For
23 the purposes of this Section, the term "eligible retail
24 customers" has the same definition as found in Section
25 16-111.5(a) of the Public Utilities Act.

26 Beginning with the plan or plans to be implemented in the

1 2017 delivery year, the Agency shall no longer include the
2 procurement of renewable energy resources in the annual
3 procurement plans required by this subsection (a), except as
4 provided in subsection (q) of Section 16-111.5 of the Public
5 Utilities Act, and shall instead develop a long-term renewable
6 resources procurement plan in accordance with subsection (c)
7 of this Section and Section 16-111.5 of the Public Utilities
8 Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 firms on the lists. Objections shall be based on:

2 (A) failure to satisfy qualification criteria;

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

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

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

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

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

24 (6) The Agency shall select an expert or expert
25 consulting firm, with approval of the Commission, to serve
26 as procurement administrator based on the proposals

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

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

21 (c) Renewable portfolio standard.

22 (1) (A) The Agency shall develop a long-term renewable
23 resources procurement plan that shall include procurement
24 programs and competitive procurement events necessary to
25 meet the goals set forth in this subsection (c). The
26 initial long-term renewable resources procurement plan

1 shall be released for comment no later than 160 days after
2 June 1, 2017 (the effective date of Public Act 99-906).
3 The Agency shall review, and may revise on an expedited
4 basis, the long-term renewable resources procurement plan
5 at least every 2 years, which shall be conducted in
6 conjunction with the procurement plan under Section
7 16-111.5 of the Public Utilities Act to the extent
8 practicable to minimize administrative expense. No later
9 than 120 days after the effective date of this amendatory
10 Act of the 102nd General Assembly, the Agency shall
11 release for comment a revision to the long-term renewable
12 resources procurement plan, updating elements of the most
13 recently approved plan as needed to comply with this
14 amendatory Act of the 102nd General Assembly, and any
15 long-term renewable resources procurement plan update
16 published by the Agency but not yet approved by the
17 Illinois Commerce Commission shall be withdrawn. The
18 long-term renewable resources procurement plans shall be
19 subject to review and approval by the Commission under
20 Section 16-111.5 of the Public Utilities Act.

21 (B) Subject to subparagraph (F) of this paragraph (1),
22 the long-term renewable resources procurement plan shall
23 attempt to meet the goals for procurement of renewable
24 energy credits at levels of at least the following overall
25 percentages: 13% by the 2017 delivery year; increasing by
26 at least 1.5% each delivery year thereafter to at least

1 25% by the 2025 delivery year; increasing by at least 3%
2 each delivery year thereafter to at least 40% by the 2030
3 delivery year, and continuing at no less than 40% for each
4 delivery year thereafter. The Agency shall attempt to
5 procure 50% by delivery year 2040. The Agency shall
6 determine the annual increase between delivery year 2030
7 and delivery year 2040, if any, taking into account energy
8 demand, other energy resources, and other public policy
9 goals. In the event of a conflict between these goals and
10 the new wind and new photovoltaic procurement requirements
11 described in items (i) through (iii) of subparagraph (C)
12 of this paragraph (1), the long-term plan shall prioritize
13 compliance with the new wind and new photovoltaic
14 procurement requirements described in items (i) through
15 (iii) of subparagraph (C) of this paragraph (1) over the
16 annual percentage targets described in this subparagraph
17 (B). The Agency shall not comply with the annual
18 percentage targets described in this subparagraph (B) by
19 procuring renewable energy credits that are unlikely to
20 lead to the development of new renewable resources.

21 For the delivery year beginning June 1, 2017, the
22 procurement plan shall attempt to include, subject to the
23 prioritization outlined in this subparagraph (B),
24 cost-effective renewable energy resources equal to at
25 least 13% of each utility's load for eligible retail
26 customers and 13% of the applicable portion of each

1 utility's load for retail customers who are not eligible
2 retail customers, which applicable portion shall equal 50%
3 of the utility's load for retail customers who are not
4 eligible retail customers on February 28, 2017.

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

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

1 shall determine the annual increase between delivery year
2 2030 and delivery year 2040, if any, taking into account
3 energy demand, other energy resources, and other public
4 policy goals.

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

12 (C) The long-term renewable resources procurement plan
13 described in subparagraph (A) of this paragraph (1) shall
14 include the procurement of renewable energy credits from
15 new projects in amounts equal to at least the following:

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

1 procured from photovoltaic projects, the Agency shall
2 procure: at least 50% from solar photovoltaic projects
3 using the program outlined in subparagraph (K) of this
4 paragraph (1) from distributed renewable energy
5 generation devices or community renewable generation
6 projects; at least 47% from utility-scale solar
7 projects; at least 3% from brownfield site
8 photovoltaic projects that are not community renewable
9 generation projects.

10 In developing the long-term renewable resources
11 procurement plan, the Agency shall consider other
12 approaches, in addition to competitive procurements,
13 that can be used to procure renewable energy credits
14 from brownfield site photovoltaic projects and thereby
15 help return blighted or contaminated land to
16 productive use while enhancing public health and the
17 well-being of Illinois residents, including those in
18 environmental justice communities, as defined using
19 existing methodologies and findings used by the Agency
20 and its Administrator in its Illinois Solar for All
21 Program.

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

1 outlined in item (i) of this subparagraph (C).

2 (iii) For purposes of this Section:

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

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

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

24 (D) Renewable energy credits shall be cost effective.
25 For purposes of this subsection (c), "cost effective"
26 means that the costs of procuring renewable energy

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

1 shall not be used to curtail or otherwise reduce
2 contractual obligations entered into by or through the
3 Agency prior to June 1, 2017 (the effective date of Public
4 Act 99-906).

5 (E) For purposes of this subsection (c), the required
6 procurement of cost-effective renewable energy resources
7 for a particular year commencing prior to June 1, 2017
8 shall be measured as a percentage of the actual amount of
9 electricity (megawatt-hours) supplied by the electric
10 utility to eligible retail customers in the delivery year
11 ending immediately prior to the procurement, and, for
12 delivery years commencing on and after June 1, 2017, the
13 required procurement of cost-effective renewable energy
14 resources for a particular year shall be measured as a
15 percentage of the actual amount of electricity
16 (megawatt-hours) delivered by the electric utility in the
17 delivery year ending immediately prior to the procurement,
18 to all retail customers in its service territory. For
19 purposes of this subsection (c), 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 (c), the total amount paid for
23 electric service includes without limitation amounts paid
24 for supply, transmission, capacity, distribution,
25 surcharges, and add-on taxes.

26 Notwithstanding the requirements of this subsection

1 (c), the total of renewable energy resources procured
2 under the procurement plan for any single year shall be
3 subject to the limitations of this subparagraph (E). Such
4 procurement shall be reduced for all retail customers
5 based on the amount necessary to limit the annual
6 estimated average net increase due to the costs of these
7 resources included in the amounts paid by eligible retail
8 customers in connection with electric service to no more
9 than 4.25% of the amount paid per kilowatthour by those
10 customers during the year ending May 31, 2009. To arrive
11 at a maximum dollar amount of renewable energy resources
12 to be procured for the particular delivery year, the
13 resulting per kilowatthour amount shall be applied to the
14 actual amount of kilowatthours of electricity delivered,
15 or applicable portion of such amount as specified in
16 paragraph (1) of this subsection (c), as applicable, by
17 the electric utility in the delivery year immediately
18 prior to the procurement to all retail customers in its
19 service territory. The calculations required by this
20 subparagraph (E) shall be made only once for each delivery
21 year at the time that the renewable energy resources are
22 procured. Once the determination as to the amount of
23 renewable energy resources to procure is made based on the
24 calculations set forth in this subparagraph (E) and the
25 contracts procuring those amounts are executed, no
26 subsequent rate impact determinations shall be made and no

1 adjustments to those contract amounts shall be allowed.
2 All costs incurred under such contracts shall be fully
3 recoverable by the electric utility as provided in this
4 Section.

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

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

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

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

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

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

26 (i) Notwithstanding whether a long-term renewable

1 resources procurement plan has been approved, the
2 Agency shall conduct an initial forward procurement
3 for renewable energy credits from new utility-scale
4 wind projects within 160 days after June 1, 2017 (the
5 effective date of Public Act 99-906). For the purposes
6 of this initial forward procurement, the Agency shall
7 solicit 15-year contracts for delivery of 1,000,000
8 renewable energy credits delivered annually from new
9 utility-scale wind projects to begin delivery on June
10 1, 2019, if available, but not later than June 1, 2021,
11 unless the project has delays in the establishment of
12 an operating interconnection with the applicable
13 transmission or distribution system as a result of the
14 actions or inactions of the transmission or
15 distribution provider, or other causes for force
16 majeure as outlined in the procurement contract, in
17 which case, not later than June 1, 2022. Payments to
18 suppliers of renewable energy credits shall commence
19 upon delivery. Renewable energy credits procured under
20 this initial procurement shall be included in the
21 Agency's long-term plan and shall apply to all
22 renewable energy goals in this subsection (c).

23 (ii) Notwithstanding whether a long-term renewable
24 resources procurement plan has been approved, the
25 Agency shall conduct an initial forward procurement
26 for renewable energy credits from new utility-scale

1 solar projects and brownfield site photovoltaic
2 projects within one year after June 1, 2017 (the
3 effective date of Public Act 99-906). For the purposes
4 of this initial forward procurement, the Agency shall
5 solicit 15-year contracts for delivery of 1,000,000
6 renewable energy credits delivered annually from new
7 utility-scale solar projects and brownfield site
8 photovoltaic projects to begin delivery on June 1,
9 2019, if available, but not later than June 1, 2021,
10 unless the project has delays in the establishment of
11 an operating interconnection with the applicable
12 transmission or distribution system as a result of the
13 actions or inactions of the transmission or
14 distribution provider, or other causes for force
15 majeure as outlined in the procurement contract, in
16 which case, not later than June 1, 2022. The Agency may
17 structure this initial procurement in one or more
18 discrete procurement events. Payments to suppliers of
19 renewable energy credits shall commence upon delivery.
20 Renewable energy credits procured under this initial
21 procurement shall be included in the Agency's
22 long-term plan and shall apply to all renewable energy
23 goals in this subsection (c).

24 (iii) 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 conduct at least one subsequent forward procurement
3 for renewable energy credits from new utility-scale
4 wind projects, new utility-scale solar projects, and
5 new brownfield site photovoltaic projects within 240
6 days after the effective date of this amendatory Act
7 of the 102nd General Assembly in quantities necessary
8 to meet the requirements of subparagraph (C) of this
9 paragraph (1) through the delivery year beginning June
10 1, 2021.

11 (iv) 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 open capacity for each category in the Adjustable
16 Block program within 90 days after the effective date
17 of this amendatory Act of the 102nd General Assembly
18 manner:

19 (1) The Agency shall open the first block of
20 annual capacity for the category described in item
21 (i) of subparagraph (K) of this paragraph (1). The
22 first block of annual capacity for item (i) shall
23 be for at least 75 megawatts of total nameplate
24 capacity. The price of the renewable energy credit
25 for this block of capacity shall be 4% less than
26 the price of the last open block in this category.

1 Projects on a waitlist shall be awarded contracts
2 first in the order in which they appear on the
3 waitlist. Notwithstanding anything to the
4 contrary, for those renewable energy credits that
5 qualify and are procured under this subitem (1) of
6 this item (iv), the renewable energy credit
7 delivery contract value shall be paid in full,
8 based on the estimated generation during the first
9 15 years of operation, by the contracting
10 utilities at the time that the facility producing
11 the renewable energy credits is interconnected at
12 the distribution system level of the utility and
13 verified as energized and in compliance by the
14 Program Administrator. The electric utility shall
15 receive and retire all renewable energy credits
16 generated by the project for the first 15 years of
17 operation. Renewable energy credits generated by
18 the project thereafter shall not be transferred
19 under the renewable energy credit delivery
20 contract with the counterparty electric utility.

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

1 (A) The price of the renewable energy
2 credit for any project on a waitlist for this
3 category before the opening of this block
4 shall be 4% less than the price of the last
5 open block in this category. Projects on the
6 waitlist shall be awarded contracts first in
7 the order in which they appear on the
8 waitlist. Any projects that are less than or
9 equal to 25 kilowatts in size on the waitlist
10 for this capacity shall be moved to the
11 waitlist for paragraph (1) of this item (iv).
12 Notwithstanding anything to the contrary,
13 projects that were on the waitlist prior to
14 opening of this block shall not be required to
15 be in compliance with the requirements of
16 subparagraph (Q) of this paragraph (1) of this
17 subsection (c). Notwithstanding anything to
18 the contrary, for those renewable energy
19 credits procured from projects that were on
20 the waitlist for this category before the
21 opening of this block 20% of the renewable
22 energy credit delivery contract value, based
23 on the estimated generation during the first
24 15 years of operation, shall be paid by the
25 contracting utilities at the time that the
26 facility producing the renewable energy

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

13 (B) The price of renewable energy credits
14 for any project not on the waitlist for this
15 category before the opening of the block shall
16 be determined and published by the Agency.
17 Projects not on a waitlist as of the opening
18 of this block shall be subject to the
19 requirements of subparagraph (Q) of this
20 paragraph (1), as applicable. Projects not on
21 a waitlist as of the opening of this block
22 shall be subject to the contract provisions
23 outlined in item (iii) of subparagraph (L) of
24 this paragraph (1). The Agency shall strive to
25 publish updated prices and an updated
26 renewable energy credit delivery contract as

1 quickly as possible.

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

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

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

26 (B) Contract awards for waitlisted

1 projects shall be allocated proportionate to
2 the total nameplate capacity amount across
3 both ordinal waitlists associated with that
4 applicant firm or its affiliates, subject to
5 the following conditions.

6 (i) Each applicant firm having a
7 waitlisted project eligible for selection
8 shall receive no less than 500 kilowatts
9 in awarded capacity across all groups, and
10 no approved vendor may receive more than
11 20% of each Group's waitlist allocation.

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

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

24 (iv) Assuming all other program
25 requirements are met, applicant firms may
26 adjust the expected production associated

1 with applicant projects, subject to
2 verification by the Program Administrator.

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

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

1 (iii) of subparagraph (K) of this subsection
2 (c).

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

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

21 (ii) A requirement that a minimum of
22 50% of subscribers to the project's
23 nameplate capacity be residential or small
24 commercial customers with subscriptions of
25 below 25 kilowatts in size;

26 (iii) Permission for the ability of a

1 contract holder to substitute projects
2 with other waitlisted projects without
3 penalty should a project receive a
4 non-binding estimate of costs to construct
5 the interconnection facilities and any
6 required distribution upgrades associated
7 with that project of greater than 30 cents
8 per watt AC of that project's nameplate
9 capacity. In developing the applicable
10 contract instrument, the Agency may
11 consider whether other circumstances
12 outside of the control of the applicant
13 firm should also warrant project
14 substitution rights.

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

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

1 selected project.

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

19 (5) The Agency shall open the equivalent of 2
20 years of annual capacity for the category
21 described in item (v) of subparagraph (K) of this
22 paragraph (1). The first block of annual capacity
23 for item (v) shall be for at least 10 megawatts of
24 total nameplate capacity. Notwithstanding the
25 provisions of item (v) of subparagraph (K) of this
26 paragraph (1), for the purpose of this initial

1 block, the agency shall accept new project
2 applications intended to increase the diversity of
3 areas hosting community solar projects, the
4 business models of projects, and the size of
5 projects, as described by the Agency in its
6 long-term renewable resources procurement plan
7 that is approved as of the effective date of this
8 amendatory Act of the 102nd General Assembly.
9 Projects in this category shall be subject to the
10 contract terms outlined in item (iii) of
11 subsection (L) of this paragraph (1).

12 (6) The Agency shall open the first blocks of
13 annual capacity for the category described in item
14 (vi) of subparagraph (K) of this paragraph (1),
15 with allocations of capacity within the block
16 generally matching the historical share of block
17 capacity allocated between the category described
18 in items (i) and (ii) of subparagraph (K) of this
19 paragraph (1). The first two blocks of annual
20 capacity for item (vi) shall be for at least 75
21 megawatts of total nameplate capacity. The price
22 of renewable energy credits for the blocks of
23 capacity shall be 4% less than the price of the
24 last open blocks in the categories described in
25 items (i) and (ii) of subparagraph (K) of this
26 paragraph (1). Pricing for future blocks of annual

1 capacity for this category may be adjusted in the
2 Agency's second revision to its Long-Term
3 Renewable Resources Procurement Plan. Projects in
4 this category shall be subject to the applicable
5 contract terms outlined in items (ii) and (iii) of
6 subparagraph (L) of this paragraph (1).

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

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

1 quantity of energy produced in the relevant
2 settlement period.

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

6 (3) To ensure funding in the annual budget
7 established under subparagraph (E) for indexed
8 renewable energy credit procurements for each year
9 of the term of such contracts, which must have a
10 minimum tenure of 20 calendar years, the
11 procurement administrator, Agency, Commission
12 staff, and procurement monitor shall quantify the
13 annual cost of the contract by utilizing an
14 industry-standard, third-party forward price curve
15 for energy at the appropriate hub or load zone,
16 including the estimated magnitude and timing of
17 the price effects related to federal carbon
18 controls. Each forward price curve shall contain a
19 specific value of the forecasted market price of
20 electricity for each annual delivery year of the
21 contract. For procurement planning purposes, the
22 impact on the annual budget for the cost of
23 indexed renewable energy credits for each delivery
24 year shall be determined as the expected annual
25 contract expenditure for that year, equaling the
26 difference between (i) the sum across all relevant

1 contracts of the applicable strike price
2 multiplied by contract quantity and (ii) the sum
3 across all relevant contracts of the forward price
4 curve for the applicable load zone for that year
5 multiplied by contract quantity. The contracting
6 utility shall not assume an obligation in excess
7 of the estimated annual cost of the contracts for
8 indexed renewable energy credits. Forward curves
9 shall be revised on an annual basis as updated
10 forward price curves are released and filed with
11 the Commission in the proceeding approving the
12 Agency's most recent long-term renewable resources
13 procurement plan. If the expected contract spend
14 is higher or lower than the total quantity of
15 contracts multiplied by the forward price curve
16 value for that year, the forward price curve shall
17 be updated by the procurement administrator, in
18 consultation with the Agency, Commission staff,
19 and procurement monitors, using then-currently
20 available price forecast data and additional
21 budget dollars shall be obligated or reobligated
22 as appropriate.

23 (4) To ensure that indexed renewable energy
24 credit prices remain predictable and affordable,
25 the Agency may consider the institution of a price
26 collar on REC prices paid under indexed renewable

1 energy credit procurements establishing floor and
2 ceiling REC prices applicable to indexed REC
3 contract prices. Any price collars applicable to
4 indexed REC procurements shall be proposed by the
5 Agency through its long-term renewable resources
6 procurement plan.

7 (vi) All procurements under this subparagraph (G)
8 shall comply with the geographic requirements in
9 subparagraph (I) of this paragraph (1) and shall
10 follow the procurement processes and procedures
11 described in this Section and Section 16-111.5 of the
12 Public Utilities Act to the extent practicable, and
13 these processes and procedures may be expedited to
14 accommodate the schedule established by this
15 subparagraph (G).

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

21 (i) Within 45 days after June 1, 2017 (the
22 effective date of Public Act 99-906), an alternative
23 retail electric supplier or its successor shall submit
24 an informational filing to the Illinois Commerce
25 Commission certifying that, as of December 31, 2015,
26 the alternative retail electric supplier owned one or

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

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

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

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

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

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

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

1 shall increase by 1.5% each delivery year
2 thereafter to 25% by the delivery year beginning
3 June 1, 2025, and thereafter the 25% value shall
4 apply to each delivery year.

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

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

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

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

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

1 further these legislative purposes, renewable energy
2 credits shall be eligible to be counted toward the
3 renewable energy requirements of this subsection (c) if
4 they are generated from facilities located in this State.
5 The Agency may qualify renewable energy credits from
6 facilities located in states adjacent to Illinois or
7 renewable energy credits associated with the electricity
8 generated by a utility-scale wind energy facility or
9 utility-scale photovoltaic facility and transmitted by a
10 qualifying direct current project described in subsection
11 (b-5) of Section 8-406 of the Public Utilities Act to a
12 delivery point on the electric transmission grid located
13 in this State or a state adjacent to Illinois, if the
14 generator demonstrates and the Agency determines that the
15 operation of such facility or facilities will help promote
16 the State's interest in the health, safety, and welfare of
17 its residents based on the public interest criteria
18 described above. For the purposes of this Section,
19 renewable resources that are delivered via a high voltage
20 direct current converter station located in Illinois shall
21 be deemed generated in Illinois at the time and location
22 the energy is converted to alternating current by the high
23 voltage direct current converter station if the high
24 voltage direct current transmission line: (i) after the
25 effective date of this amendatory Act of the 102nd General
26 Assembly, was constructed with a project labor agreement;

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

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

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

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

25 (K) The long-term renewable resources procurement plan
26 developed by the Agency in accordance with subparagraph

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

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

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

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

26 (i) At least 20% from distributed renewable energy

1 generation devices with a nameplate capacity of no
2 more than 25 kilowatts.

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

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

23 (1) the Agency shall select projects on a
24 first-come, first-serve basis, however the Agency
25 may suggest additional methods to prioritize
26 projects that are submitted at the same time;

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

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

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

17 (iv) At least 15% from distributed renewable
18 generation devices or photovoltaic community renewable
19 generation projects installed on ~~at~~ public school land
20 ~~schools~~. The Agency may create subcategories within
21 this category to account for the differences between
22 project size or location. Projects located within
23 environmental justice communities or within
24 Organizational Units that fall within Tier 1 or Tier 2
25 shall be given priority. Each of the Agency's periodic
26 updates to its long-term renewable resources

1 procurement plan to incorporate the procurement
2 described in this subparagraph (iv) shall also include
3 the proposed quantities or blocks, pricing, and
4 contract terms applicable to the procurement as
5 indicated herein. In each such update and procurement,
6 the Agency shall set the renewable energy credit price
7 and establish payment terms for the renewable energy
8 credits procured pursuant to this subparagraph (iv)
9 that make it feasible and affordable for public
10 schools to install photovoltaic distributed renewable
11 energy devices on their premises, including, but not
12 limited to, those public schools subject to the
13 prioritization provisions of this subparagraph. For
14 the purposes of this item (iv):

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

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

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

25 (v) At least 5% from community-driven community
26 solar projects intended to provide more direct and

1 tangible connection and benefits to the communities
2 which they serve or in which they operate and,
3 additionally, to increase the variety of community
4 solar locations, models, and options in Illinois. As
5 part of its long-term renewable resources procurement
6 plan, the Agency shall develop selection criteria for
7 projects participating in this category. Nothing in
8 this Section shall preclude the Agency from creating a
9 selection process that maximizes community ownership
10 and community benefits in selecting projects to
11 receive renewable energy credits. Selection criteria
12 shall include:

13 (1) community ownership or community
14 wealth-building;

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

20 (3) meaningful involvement in project
21 organization and development by community members
22 or nonprofit organizations or public entities
23 located in or serving the community;

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

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

5 Selection criteria may also prioritize projects
6 that:

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

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

18 (3) are located in Equity Investment Eligible
19 Communities;

20 (4) are not greenfield projects;

21 (5) serve only local subscribers;

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

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

26 (8) otherwise meaningfully advance the goals

1 of providing more direct and tangible connection
2 and benefits to the communities which they serve
3 or in which they operate and increasing the
4 variety of community solar locations, models, and
5 options in Illinois.

6 For the purposes of this item (v):

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

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

23 "Community ownership" means an arrangement in
24 which an electric generating facility is, or over time
25 will be, in significant part, owned collectively by
26 members of the community to which an electric

1 generating facility provides benefits; members of that
2 community participate in decisions regarding the
3 governance, operation, maintenance, and upgrades of
4 and to that facility; and members of that community
5 benefit from regular use of that facility.

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

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

1 contractors and capacity used in this item (vi) in
2 previous delivery years.

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

21 Contracts developed featuring capital advanced
22 prior to a project's energization shall feature
23 provisions to ensure both the successful development
24 of applicant projects and the delivery of the
25 renewable energy credits for the full term of the
26 contract, including ongoing collateral requirements

1 and other provisions deemed necessary by the Agency,
2 and may include energization timelines longer than for
3 comparable project types. The percentage or amount of
4 capital advanced prior to project energization shall
5 not operate to increase the overall contract value,
6 however contracts executed under this subparagraph may
7 feature renewable energy credit prices higher than
8 those offered to similar projects participating in
9 other categories. Capital advanced prior to
10 energization shall serve to reduce the ratable
11 payments made after energization under items (ii) and
12 (iii) of subparagraph (L) or payments made for each
13 renewable energy credit delivery under item (iv) of
14 subparagraph (L).

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

19 To the extent there is uncontracted capacity from any
20 block in any of categories (i) through (vi) at the end of a
21 delivery year, the Agency shall redistribute that capacity
22 to one or more other categories giving priority to
23 categories with projects on a waitlist. The redistributed
24 capacity shall be added to the annual capacity in the
25 subsequent delivery year, and the price for renewable
26 energy credits shall be the price for the new delivery

1 year. Redistributed capacity shall not be considered
2 redistributed when determining whether the goals in this
3 subsection (K) have been met.

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

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

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

20 (i) (Blank).

21 (ii) For those renewable energy credits that
22 qualify and are procured under item (i) of
23 subparagraph (K) of this paragraph (1), and any
24 similar category projects that are procured under item
25 (vi) of subparagraph (K) of this paragraph (1) that
26 qualify and are procured under item (vi), the contract

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

15 (iii) For those renewable energy credits that
16 qualify and are procured under item (ii) and (v) of
17 subparagraph (K) of this paragraph (1) and any like
18 projects similar category that qualify and are
19 procured under item (vi), the contract length shall be
20 15 years. 15% of the renewable energy credit delivery
21 contract value, based on the estimated generation
22 during the first 15 years of operation, shall be paid
23 by the contracting utilities at the time that the
24 facility producing the renewable energy credits is
25 interconnected at the distribution system level of the
26 utility and verified as energized and compliant by the

1 Program Administrator. The remaining portion shall be
2 paid ratably over the subsequent 6-year period. The
3 electric utility shall receive and retire all
4 renewable energy credits generated by the project for
5 the first 15 years of operation. Renewable energy
6 credits generated by the project thereafter shall not
7 be transferred under the renewable energy credit
8 delivery contract with the counterparty electric
9 utility.

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

1 generation amount, payments during such delivery year
2 will not exceed the quantity generated plus the
3 quantity carried forward multiplied by the contract
4 price. The electric utility shall receive all
5 renewable energy credits generated by the project
6 during the first 20 years of operation and retire all
7 renewable energy credits paid for under this item (iv)
8 and return at the end of the delivery term all
9 renewable energy credits that were not paid for.
10 Renewable energy credits generated by the project
11 thereafter shall not be transferred under the
12 renewable energy credit delivery contract with the
13 counterparty electric utility. Notwithstanding the
14 preceding, for those projects participating under item
15 (iii) of subparagraph (K), the contract price for a
16 delivery year shall be based on subscription levels as
17 measured on the higher of the first business day of the
18 delivery year or the first business day 6 months after
19 the first business day of the delivery year.
20 Subscription of 90% of nameplate capacity or greater
21 shall be deemed to be fully subscribed for the
22 purposes of this item (iv). For projects receiving a
23 20-year delivery contract, REC prices shall be
24 adjusted downward for consistency with the incentive
25 levels previously determined to be necessary to
26 support projects under 15-year delivery contracts,

1 taking into consideration any additional new
2 requirements placed on the projects, including, but
3 not limited to, labor standards.

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

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

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

23 (viii) Nothing in this Section shall require the
24 utility to advance any payment or pay any amounts that
25 exceed the actual amount of revenues anticipated to be
26 collected by the utility under paragraph (6) of this

1 subsection (c) and subsection (k) of Section 16-108 of
2 the Public Utilities Act inclusive of eligible funds
3 collected in prior years and alternative compliance
4 payments for use by the utility, and contracts
5 executed under this Section shall expressly
6 incorporate this limitation.

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

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

20 (M) The Agency shall be authorized to retain one or
21 more experts or expert consulting firms to develop,
22 administer, implement, operate, and evaluate the
23 Adjustable Block program described in subparagraph (K) of
24 this paragraph (1), and the Agency shall retain the
25 consultant or consultants in the same manner, to the
26 extent practicable, as the Agency retains others to

1 administer provisions of this Act, including, but not
2 limited to, the procurement administrator. The selection
3 of experts and expert consulting firms and the procurement
4 process described in this subparagraph (M) are exempt from
5 the requirements of Section 20-10 of the Illinois
6 Procurement Code, under Section 20-10 of that Code. The
7 Agency shall strive to minimize administrative expenses in
8 the implementation of the Adjustable Block program.

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

21 In addition to covering the costs of program
22 administration, the Agency, in conjunction with its
23 Program Administrator, may also use the proceeds of such
24 fees charged to participating firms to support public
25 education and ongoing regional and national coordination
26 with nonprofit organizations, public bodies, and others

1 engaged in the implementation of renewable energy
2 incentive programs or similar initiatives. This work may
3 include developing papers and reports, hosting regional
4 and national conferences, and other work deemed necessary
5 by the Agency to position the State of Illinois as a
6 national leader in renewable energy incentive program
7 development and administration.

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

1 The Agency and its program administrators for both the
2 Adjustable Block program and the Illinois Solar for All
3 Program, consistent with the requirements of this
4 subsection (c) and subsection (b) of Section 1-56 of this
5 Act, shall propose the Adjustable Block program terms,
6 conditions, and requirements, including the prices to be
7 paid for 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 must maintain a list of approved entities on
20 each program's website, and may revoke a vendor's
21 ability to receive program-administered incentive
22 funding status upon a determination that the vendor
23 failed to comply with contract terms, the law, or
24 other program requirements.

25 (ii) The Agency shall establish program
26 requirements and minimum contract terms to ensure

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

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

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

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

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

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

21 (N) The Agency shall establish the terms, conditions,
22 and program requirements for photovoltaic community
23 renewable generation projects with a goal to expand access
24 to a broader group of energy consumers, to ensure robust
25 participation opportunities for residential and small
26 commercial customers and those who cannot install

1 renewable energy on their own properties. Subject to
2 reasonable limitations, any plan approved by the
3 Commission shall allow subscriptions to community
4 renewable generation projects to be portable and
5 transferable. For purposes of this subparagraph (N),
6 "portable" means that subscriptions may be retained by the
7 subscriber even if the subscriber relocates or changes its
8 address within the same utility service territory; and
9 "transferable" means that a subscriber may assign or sell
10 subscriptions to another person within the same utility
11 service territory.

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

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

23 The Agency shall purchase renewable energy credits
24 from subscribed shares of photovoltaic community renewable
25 generation projects through the Adjustable Block program
26 described in subparagraph (K) of this paragraph (1) or

1 through the Illinois Solar for All Program described in
2 Section 1-56 of this Act. The electric utility shall
3 purchase any unsubscribed energy from community renewable
4 generation projects that are Qualifying Facilities ("QF")
5 under the electric utility's tariff for purchasing the
6 output from QFs under Public Utilities Regulatory Policies
7 Act of 1978.

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

17 (O) For the delivery year beginning June 1, 2018, the
18 long-term renewable resources procurement plan required by
19 this subsection (c) shall provide for the Agency to
20 procure contracts to continue offering the Illinois Solar
21 for All Program described in subsection (b) of Section
22 1-56 of this Act, and the contracts approved by the
23 Commission shall be executed by the utilities that are
24 subject to this subsection (c). The long-term renewable
25 resources procurement plan shall allocate up to
26 \$50,000,000 per delivery year to fund the programs, and

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

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

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

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

23 (1) Each facility shall be subject to the
24 prevailing wage requirements included in the
25 Prevailing Wage Act. The Agency shall require
26 verification that all construction performed on the

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

15 (i) all new utility-scale wind projects;

16 (ii) all new utility-scale photovoltaic
17 projects;

18 (iii) all new brownfield photovoltaic
19 projects;

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

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

26 (vi) all new photovoltaic projects on public

1 school land ~~distributed renewable energy~~
2 ~~generation devices on schools~~ that qualify for
3 item (iv) of subparagraph (K) of this paragraph
4 (1);

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

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

21 (2) Renewable energy credits procured from new
22 utility-scale wind projects, new utility-scale solar
23 projects, and new brownfield solar projects pursuant
24 to Agency procurement events occurring after the
25 effective date of this amendatory Act of the 102nd
26 General Assembly must be from facilities built by

1 general contractors that must enter into a project
2 labor agreement, as defined by this Act, prior to
3 construction. The project labor agreement shall be
4 filed with the Director in accordance with procedures
5 established by the Agency through its long-term
6 renewable resources procurement plan. Any information
7 submitted to the Agency in this item (2) shall be
8 considered commercially sensitive information. At a
9 minimum, the project labor agreement must provide the
10 names, addresses, and occupations of the owner of the
11 plant and the individuals representing the labor
12 organization employees participating in the project
13 labor agreement consistent with the Project Labor
14 Agreements Act. The agreement must also specify the
15 terms and conditions 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 shall take such costs into consideration

1 in a nondiscriminatory manner when comparing bids for
2 competitive procurements. The Agency shall consider
3 costs associated with compliance whether in the
4 development, financing, or construction of projects.
5 The Agency shall periodically review the assumptions
6 in these costs and may adjust prices, in compliance
7 with subparagraph (M) of this paragraph (1).

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

21 (1) For the purposes of this subparagraph:

22 "Eligible self-direct customer" means any retail
23 customers of an electric utility that serves 3,000,000
24 or more retail customers in the State and whose total
25 highest 30-minute demand was more than 10,000
26 kilowatts, or any retail customers of an electric

1 utility that serves less than 3,000,000 retail
2 customers but more than 500,000 retail customers in
3 the State and whose total highest 15-minute demand was
4 more than 10,000 kilowatts.

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

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

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

19 (ii) be sourced from one or more renewable
20 energy generating facilities that comply with the
21 geographic requirements as set forth in
22 subparagraph (I) of paragraph (1) of subsection
23 (c) as interpreted through the Agency's long-term
24 renewable resources procurement plan, or, where
25 applicable, the geographic requirements that
26 governed utility-scale renewable energy credits at

1 the time the eligible self-direct customer entered
2 into the applicable renewable energy credit
3 purchase agreement;

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

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

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

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

22 (vii) if the contracts for renewable energy
23 credits are entered into after the effective date
24 of this amendatory Act of the 102nd General
25 Assembly, the new utility-scale wind projects or
26 new utility-scale solar projects must comply with

1 the requirements established in subparagraphs (P)
2 and (Q) of paragraph (1) of this subsection (c)
3 and subsection (c-10).

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

1 the Agency is otherwise required to procure from new
2 utility-scale projects pursuant to subparagraph (C) of
3 paragraph (1) of this subsection (c) on behalf of
4 contracting utilities where the eligible self-direct
5 customer is located. The self-direct customer shall
6 file an annual compliance report with the Agency
7 pursuant to terms established by the Agency through
8 its long-term renewable resources procurement plan to
9 be eligible for participation in this program.
10 Customers must provide the Agency with their most
11 recent electricity billing statements or other
12 information deemed necessary by the Agency to
13 demonstrate they are an eligible self-direct customer.

14 (4) The Commission shall approve a reduction in
15 the volumetric charges collected pursuant to Section
16 16-108 of the Public Utilities Act for approved
17 eligible self-direct customers equivalent to the
18 anticipated cost of renewable energy credit deliveries
19 under contracts for new utility-scale wind and new
20 utility-scale solar entered for each delivery year
21 after the large energy customer begins retiring
22 eligible new utility scale renewable energy credits
23 for self-compliance. The self-direct credit amount
24 shall be determined annually and is equal to the
25 estimated portion of the cost authorized by
26 subparagraph (E) of paragraph (1) of this subsection

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

22 (5) Customers described in this subparagraph (R)
23 shall apply, on a form developed by the Agency, to the
24 Agency to be designated as a self-direct eligible
25 customer. Once the Agency determines that a
26 self-direct customer is eligible for participation in

1 the program, the self-direct customer will remain
2 eligible until the end of the term of the contract.
3 Thereafter, application may be made not less than 12
4 months before the filing date of the long-term
5 renewable resources procurement plan described in this
6 Act. At a minimum, such application shall contain the
7 following:

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

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

19 (iii) certification that the contract or
20 contracts for new renewable energy resources are
21 long-term contracts with term lengths of at least
22 10 years, including supporting documentation;

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

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

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

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

23 (2) (Blank).

24 (3) (Blank).

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

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

26 (6) The electric utility shall be entitled to recover

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

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

18 In meeting the renewable energy requirements of this
19 subsection (c), to the extent feasible and consistent with
20 State and federal law, the renewable energy credit
21 procurements, Adjustable Block solar program, and
22 community renewable generation program shall provide
23 employment opportunities for all segments of the
24 population and workforce, including minority-owned and
25 female-owned business enterprises, and shall not,
26 consistent with State and federal law, discriminate based

1 on race or socioeconomic status.

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

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

1 requirements. The procurement of renewable energy credits
2 by electric utilities pursuant to this subsection (c-5)
3 shall be funded solely by revenues collected from the Coal
4 to Solar and Energy Storage Initiative Charge provided for
5 in this subsection (c-5) and subsection (i-5) of Section
6 16-108 of the Public Utilities Act, shall not be funded by
7 revenues collected through any of the other funding
8 mechanisms provided for in subsection (c) of this Section,
9 and shall not be subject to the limitation imposed by
10 subsection (c) on charges to retail customers for costs to
11 procure renewable energy resources pursuant to subsection
12 (c), and shall not be subject to any other requirements or
13 limitations of subsection (c).

14 (2) The Agency shall conduct 2 procurement events to
15 select owners of electric generating facilities meeting
16 the eligibility criteria specified in this subsection
17 (c-5) to enter into long-term contracts to sell renewable
18 energy credits to electric utilities serving more than
19 300,000 retail customers in this State as of January 1,
20 2019. The first procurement event shall be conducted no
21 later than March 31, 2022, unless the Agency elects to
22 delay it, until no later than May 1, 2022, due to its
23 overall volume of work, and shall be to select owners of
24 electric generating facilities located in this State and
25 south of federal Interstate Highway 80 that meet the
26 eligibility criteria specified in this subsection (c-5).

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

14 (A) The applicant owns an electric generating
15 facility located in this State that: (i) as of January
16 1, 2016, burned coal as its primary fuel to generate
17 electricity; and (ii) has, or had prior to retirement,
18 an electric generating capacity of at least 150
19 megawatts. The electric generating facility can be
20 either: (i) retired as of the date of the procurement
21 event; or (ii) still operating as of the date of the
22 procurement event.

23 (B) The applicant is not (i) an electric
24 cooperative as defined in Section 3-119 of the Public
25 Utilities Act, or (ii) an entity described in
26 subsection (b)(1) of Section 3-105 of the Public

1 Utilities Act, or an association or consortium of or
2 an entity owned by entities described in (i) or (ii);
3 and the coal-fueled electric generating facility was
4 at one time owned, in whole or in part, by a public
5 utility as defined in Section 3-105 of the Public
6 Utilities Act.

7 (C) If participating in the first procurement
8 event, the applicant proposes and commits to construct
9 and operate, at the site, and if necessary for
10 sufficient space on property adjacent to the existing
11 property, at which the electric generating facility
12 identified in paragraph (A) is located: (i) a new
13 renewable energy facility of at least 20 megawatts but
14 no more than 100 megawatts of electric generating
15 capacity, and (ii) an energy storage facility having a
16 storage capacity equal to at least 2 megawatts and at
17 most 10 megawatts. If participating in the second
18 procurement event, the applicant proposes and commits
19 to construct and operate, at the site, and if
20 necessary for sufficient space on property adjacent to
21 the existing property, at which the electric
22 generating facility identified in paragraph (A) is
23 located: (i) a new renewable energy facility of at
24 least 5 megawatts but no more than 20 megawatts of
25 electric generating capacity, and (ii) an energy
26 storage facility having a storage capacity equal to at

1 least 0.5 megawatts and at most one megawatt.

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

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

22 (F) The applicant commits that not less than the
23 prevailing wage, as determined pursuant to the
24 Prevailing Wage Act, will be paid to the applicant's
25 employees engaged in construction activities
26 associated with the new renewable energy facility and

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

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

20 (H) The applicant commits to enter into a contract
21 or contracts for the applicable duration to provide
22 specified numbers of renewable energy credits each
23 year from the new renewable energy facility to
24 electric utilities that served more than 300,000
25 retail customers in this State as of January 1, 2019,
26 at a price of \$30 per renewable energy credit. The

1 price per renewable energy credit shall be fixed at
2 \$30 for the applicable duration and the renewable
3 energy credits shall not be indexed renewable energy
4 credits as provided for in item (v) of subparagraph
5 (G) of paragraph (1) of subsection (c) of Section 1-75
6 of this Act. The applicable duration of each contract
7 shall be 20 years, unless the applicant is physically
8 interconnected to the PJM Interconnection, LLC
9 transmission grid and had a generating capacity of at
10 least 1,200 megawatts as of January 1, 2021, in which
11 case the applicable duration of the contract shall be
12 15 years.

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

16 (3) An applicant may submit applications to contract
17 to supply renewable energy credits from more than one new
18 renewable energy facility to be constructed at or adjacent
19 to one or more qualifying electric generating facilities
20 owned by the applicant. The Agency may select new
21 renewable energy facilities to be located at or adjacent
22 to the sites of more than one qualifying electric
23 generation facility owned by an applicant to contract with
24 electric utilities to supply renewable energy credits from
25 such facilities.

26 (4) The Agency shall assess fees to each applicant to

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

9 (5) The Agency shall select the applicants and the new
10 renewable energy facilities to contract with electric
11 utilities to supply renewable energy credits in accordance
12 with this subsection (c-5). In the first procurement
13 event, the Agency shall select applicants and new
14 renewable energy facilities to supply renewable energy
15 credits, at a price of \$30 per renewable energy credit,
16 aggregating to no less than 400,000 renewable energy
17 credits per year for the applicable duration, assuming
18 sufficient qualifying applications to supply, in the
19 aggregate, at least that amount of renewable energy
20 credits per year; and not more than 580,000 renewable
21 energy credits per year for the applicable duration. In
22 the second procurement event, the Agency shall select
23 applicants and new renewable energy facilities to supply
24 renewable energy credits, at a price of \$30 per renewable
25 energy credit, aggregating to no more than 625,000
26 renewable energy credits per year less the amount of

1 renewable energy credits each year contracted for as a
2 result of the first procurement event, for the applicable
3 durations. The number of renewable energy credits to be
4 procured as specified in this paragraph (5) shall not be
5 reduced based on renewable energy credits procured in the
6 self-direct renewable energy credit compliance program
7 established pursuant to subparagraph (R) of paragraph (1)
8 of subsection (c) of Section 1-75.

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

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

15 (8) The Agency, in conjunction with its procurement
16 administrator if one is retained, the electric utilities,
17 and potential applicants for contracts to produce and
18 supply renewable energy credits pursuant to this
19 subsection (c-5), shall develop a standard form contract
20 for the sale, delivery and purchase of renewable energy
21 credits pursuant to this subsection (c-5). Each contract
22 resulting from the first procurement event shall allow for
23 a commercial operation date for the new renewable energy
24 facility of either June 1, 2023 or June 1, 2024, with such
25 dates subject to adjustment as provided in this paragraph.
26 Each contract resulting from the second procurement event

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

1 shall be retired. The Agency shall make the proposed
2 contracts available for a reasonable period for comment by
3 potential applicants, and shall publish the final form
4 contract at least 30 days before the date of the first
5 procurement event.

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

8 (A) By no later than July 1, 2022, each electric
9 utility that served more than 300,000 retail customers
10 in this State as of January 1, 2019 shall file a tariff
11 with the Commission for the billing and collection of
12 a Coal to Solar and Energy Storage Initiative Charge
13 in accordance with subsection (i-5) of Section 16-108
14 of the Public Utilities Act, with such tariff to be
15 effective, following review and approval or
16 modification by the Commission, beginning January 1,
17 2023. The tariff shall provide for the calculation and
18 setting of the electric utility's Coal to Solar and
19 Energy Storage Initiative Charge to collect revenues
20 estimated to be sufficient, in the aggregate, (i) to
21 enable the electric utility to pay for the renewable
22 energy credits it has contracted to purchase in the
23 delivery year beginning June 1, 2023 and each delivery
24 year thereafter from new renewable energy facilities
25 located at the sites of qualifying electric generating
26 facilities, and (ii) to fund the grant payments to be

1 made in each delivery year by the Department of
2 Commerce and Economic Opportunity, or any successor
3 department or agency, which shall be referred to in
4 this subsection (c-5) as the Department, pursuant to
5 paragraph (10) of this subsection (c-5). The electric
6 utility's tariff shall provide for the billing and
7 collection of the Coal to Solar and Energy Storage
8 Initiative Charge on each kilowatthour of electricity
9 delivered to its delivery services customers within
10 its service territory and shall provide for an annual
11 reconciliation of revenues collected with actual
12 costs, in accordance with subsection (i-5) of Section
13 16-108 of the Public Utilities Act.

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

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

24 (A) The Coal to Solar and Energy Storage
25 Initiative Fund is established as a special fund in
26 the State treasury. The Coal to Solar and Energy

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

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

23 (C) The Department shall utilize up to
24 \$280,500,000 in the Coal to Solar and Energy Storage
25 Initiative Fund for grants, assuming sufficient
26 qualifying applicants, to support installation of

1 energy storage facilities at the sites of up to 3
2 qualifying electric generating facilities located in
3 the Midcontinent Independent System Operator, Inc.,
4 region in Illinois and the sites of up to 2 qualifying
5 electric generating facilities located in the PJM
6 Interconnection, LLC region in Illinois that meet the
7 criteria set forth in this subparagraph (C). The
8 criteria for receipt of a grant pursuant to this
9 subparagraph (C) are as follows:

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

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

16 (3) if the electric generating facility is
17 retired, it was retired subsequent to January 1,
18 2016;

19 (4) the owner of the electric generating
20 facility has not been selected by the Agency
21 pursuant to this subsection (c-5) of this Section
22 to enter into a contract to sell renewable energy
23 credits to one or more electric utilities from a
24 new renewable energy facility located or to be
25 located at or adjacent to the site at which the
26 electric generating facility is located;

1 (5) the electric generating facility located
2 at the site was at one time owned, in whole or in
3 part, by a public utility as defined in Section
4 3-105 of the Public Utilities Act;

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

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

16 (8) the owner commits to place the energy
17 storage facility into commercial operation on
18 either June 1, 2023, June 1, 2024, or June 1, 2025,
19 with such date subject to adjustment as needed due
20 to any delays in completing the grant contracting
21 process, in finalizing interconnection agreements
22 and in installing interconnection facilities, and
23 in obtaining necessary governmental permits and
24 approvals;

25 (9) the owner agrees that the new energy
26 storage facility will be constructed or installed

1 by a qualified entity or entities consistent with
2 the requirements of subsection (g) of Section
3 16-128A of the Public Utilities Act and any rules
4 adopted under that Section;

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

19 (11) the owner commits that not less than the
20 prevailing wage, as determined pursuant to the
21 Prevailing Wage Act, will be paid to the owner's
22 employees engaged in construction activities
23 associated with the new energy storage facility
24 and to the employees of the owner's contractors
25 engaged in construction activities associated with
26 the new energy storage facility, and that, on or

1 before the commercial operation date of the new
2 energy storage facility, the owner shall file a
3 report with the Department certifying that the
4 requirements of this subparagraph (11) have been
5 met; and

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

17 The Department shall accept applications for this
18 grant program until March 31, 2022 and shall announce
19 the award of grants no later than June 1, 2022. The
20 Department shall make the grant payments to a
21 recipient in equal annual amounts for 10 years
22 following the date the energy storage facility is
23 placed into commercial operation. The annual grant
24 payments to a qualifying energy storage facility shall
25 be \$110,000 per megawatt of energy storage capacity,
26 with total annual grant payments pursuant to this

1 subparagraph (C) for qualifying energy storage
2 facilities not to exceed \$28,050,000 in any year.

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

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

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

23 (A) Each applicant selected in a procurement event
24 to contract to supply renewable energy credits in
25 accordance with this subsection (c-5) and each owner
26 selected by the Department to receive a grant or

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

17 (B) For purposes of this paragraph (11), diversity
18 composition shall be based on the percentage, which
19 shall be a minimum of 25%, of eligible expenditures
20 for contract awards for materials and services (which
21 shall be defined in the plan) to business enterprises
22 owned by minority persons, women, or persons with
23 disabilities as defined in Section 2 of the Business
24 Enterprise for Minorities, Women, and Persons with
25 Disabilities Act, to LGBTQ business enterprises, to
26 veteran-owned business enterprises, and to business

1 enterprises located in environmental justice
2 communities. The diversity composition goals of the
3 plan may include eligible expenditures in areas for
4 vendor or supplier opportunities in addition to
5 development and construction of the project, and may
6 exclude from eligible expenditures materials and
7 services with limited market availability, limited
8 production and availability from suppliers in the
9 United States, such as solar panels and storage
10 batteries, and material and services that are subject
11 to critical energy infrastructure or cybersecurity
12 requirements or restrictions. The plan may provide
13 that the diversity composition goals may be met
14 through Tier 1 Direct or Tier 2 subcontracting
15 expenditures or a combination thereof for the project.

16 (C) The plan shall provide for, but not be limited
17 to: (i) internal initiatives, including multi-tier
18 initiatives, by the applicant or owner, or by its
19 engineering, procurement and construction contractor
20 if one is used for the project, which for purposes of
21 this paragraph (11) shall be referred to as the EPC
22 contractor, to enable diverse businesses to be
23 considered fairly for selection to provide materials
24 and services; (ii) requirements for the applicant or
25 owner or its EPC contractor to proactively solicit and
26 utilize diverse businesses to provide materials and

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

20 (D) The applicant or owner may submit a revised or
21 updated plan to the Commission from time to time as
22 circumstances warrant. The applicant or owner shall
23 file annual reports with the Commission detailing the
24 applicant's or owner's progress in implementing its
25 plan and achieving its goals and any modifications the
26 applicant or owner has made to its plan to better

1 achieve its diversity, equity and inclusion goals. The
2 applicant or owner shall file a final report on the
3 fifth June 1 following the commercial operation date
4 of the new renewable energy resource or new energy
5 storage facility, but the applicant or owner shall
6 thereafter continue to be subject to applicable
7 reporting requirements of Section 5-117 of the Public
8 Utilities Act.

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

1 disproportionately experienced negative public health
2 outcomes.

3 (1) Minimum equity standards. The Agency shall create
4 programs with the purpose of increasing access to and
5 development of equity eligible contractors, who are prime
6 contractors and subcontractors, across all of the programs
7 it manages. All applications for renewable energy credit
8 procurements shall comply with specific minimum equity
9 commitments. Starting in the delivery year immediately
10 following the next long-term renewable resources
11 procurement plan, at least 10% of the project workforce
12 for each entity participating in a procurement program
13 outlined in this subsection (c-10) must be done by equity
14 eligible persons or equity eligible contractors. The
15 Agency shall increase the minimum percentage each delivery
16 year thereafter by increments that ensure a statewide
17 average of 30% of the project workforce for each entity
18 participating in a procurement program is done by equity
19 eligible persons or equity eligible contractors by 2030.
20 The Agency shall propose a schedule of percentage
21 increases to the minimum equity standards in its draft
22 revised renewable energy resources procurement plan
23 submitted to the Commission for approval pursuant to
24 paragraph (5) of subsection (b) of Section 16-111.5 of the
25 Public Utilities Act. In determining these annual
26 increases, the Agency shall have the discretion to

1 establish different minimum equity standards for different
2 types of procurements and different regions of the State
3 if the Agency finds that doing so will further the
4 purposes of this subsection (c-10). The proposed schedule
5 of annual increases shall be revisited and updated on an
6 annual basis. Revisions shall be developed with
7 stakeholder input, including from equity eligible persons,
8 equity eligible contractors, clean energy industry
9 representatives, and community-based organizations that
10 work with such persons and contractors.

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

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

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

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

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

25 (2) Equity accountability system within the Adjustable
26 Block program. The equity category described in item (vi)

1 of subparagraph (K) of subsection (c) is only available to
2 applicants that are equity eligible contractors.

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

26 (4) In the first revision to the long-term renewable

1 energy resources procurement plan and each revision
2 thereafter, the Agency shall include the following:

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

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

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

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

26 (E) An application for waiver of the minimum

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

1 eligible persons or eligible contractors to the
2 database.

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

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

14 (7) Modifications to the equity accountability system.
15 As part of the update of the long-term renewable resources
16 procurement plan to be initiated in 2023, or sooner if the
17 Agency deems necessary, the Agency shall determine the
18 extent to which the equity accountability system described
19 in this subsection (c-10) has advanced the goals of this
20 amendatory Act of the 102nd General Assembly, including
21 through the inclusion of equity eligible persons and
22 equity eligible contractors in renewable energy credit
23 projects. If the Agency finds that the equity
24 accountability system has failed to meet those goals to
25 its fullest potential, the Agency may revise the following
26 criteria for future Agency procurements: (A) the

1 percentage of project workforce, or other appropriate
2 workforce measure, certified as equity eligible persons or
3 equity eligible contractors; (B) definitions for equity
4 investment eligible persons and equity investment eligible
5 community; and (C) such other modifications necessary to
6 advance the goals of this amendatory Act of the 102nd
7 General Assembly effectively. Such revised criteria may
8 also establish distinct equity accountability systems for
9 different types of procurements or different regions of
10 the State if the Agency finds that doing so will further
11 the purposes of such programs. Revisions shall be
12 developed with stakeholder input, including from equity
13 eligible persons, equity eligible contractors, and
14 community-based organizations that work with such persons
15 and contractors.

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

18 (1) Purpose. It is the purpose of this subsection to
19 empower the Agency and other State actors to remedy racial
20 discrimination in Illinois' clean energy economy as
21 effectively and expediently as possible, including through
22 the use of race-conscious remedies, such as race-conscious
23 contracting and hiring goals, as consistent with State and
24 federal law.

25 (2) Racial disparity and discrimination review
26 process.

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

12 (B) As soon as is practicable thereafter, the
13 Agency, in consultation with the Department of
14 Commerce and Economic Opportunity, Department of
15 Labor, and other agencies that may be relevant, shall
16 commission and publish a disparity and availability
17 study that measures the presence and impact of
18 discrimination on minority businesses and workers in
19 Illinois' clean energy economy. The Agency may hire
20 consultants and experts to conduct the disparity and
21 availability study, with the retention of those
22 consultants and experts exempt from the requirements
23 of Section 20-10 of the Illinois Procurement Code. The
24 Illinois Power Agency shall forward a copy of its
25 findings and recommendations to the Governor, the
26 General Assembly, and the Illinois Commerce

1 Commission. If the disparity and availability study
2 establishes a strong basis in evidence that there is
3 discrimination in Illinois' clean energy economy, the
4 Agency, Department of Commerce and Economic
5 Opportunity, Department of Labor, Department of
6 Corrections, and other appropriate agencies shall take
7 appropriate remedial actions, including race-conscious
8 remedial actions as consistent with State and federal
9 law, to effectively remedy this discrimination. Such
10 remedies may include modification of the equity
11 accountability system as described in subsection
12 (c-10).

13 (c-20) Program data collection.

14 (1) Purpose. Data collection, data analysis, and
15 reporting are critical to ensure that the benefits of the
16 clean energy economy provided to Illinois residents and
17 businesses are equitably distributed across the State. The
18 Agency shall collect data from program applicants in order
19 to track and improve equitable distribution of benefits
20 across Illinois communities for all procurements the
21 Agency conducts. The Agency shall use this data to, among
22 other things, measure any potential impact of racial
23 discrimination on the distribution of benefits and provide
24 information necessary to correct any discrimination
25 through methods consistent with State and federal law.

26 (2) Agency collection of program data. The Agency

1 shall collect demographic and geographic data for each
2 entity awarded contracts under any Agency-administered
3 program.

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

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

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

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

20 (4) Publication of collected information. The Agency
21 shall publish, at least annually, information on the
22 demographics of program participants on an aggregate
23 basis.

24 (5) Nothing in this subsection shall be interpreted to
25 limit the authority of the Agency, or other agency or
26 department of the State, to require or collect demographic

1 information from applicants of other State programs.

2 (c-25) Energy Workforce Equity Database.

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

13 (A) publicly accessible;

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

15 (C) organized by company specialty or field;

16 (D) region-specific; and

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

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

26 (A) a map of environmental justice and equity

1 investment eligible communities;

2 (B) job postings and recruiting opportunities;

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

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

10 (E) renewable energy company diversity reporting;

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

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

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

22 (3) The Agency shall ensure the database is regularly
23 updated to ensure information is current and shall
24 coordinate with the Department of Commerce and Economic
25 Opportunity to ensure that it includes information on
26 individuals and entities that are or have participated in

1 the Clean Jobs Workforce Network Program, Clean Energy
2 Contractor Incubator Program, Returning Residents Clean
3 Jobs Training Program, or Clean Energy Primes Contractor
4 Accelerator Program.

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

20 (d) Clean coal portfolio standard.

21 (1) The procurement plans shall include electricity
22 generated using clean coal. Each utility shall enter into
23 one or more sourcing agreements with the initial clean
24 coal facility, as provided in paragraph (3) of this
25 subsection (d), covering electricity generated by the
26 initial clean coal facility representing at least 5% of

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

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

23 Utilities shall maintain adequate records documenting
24 the purchases under the sourcing agreement to comply with
25 this subsection (d) and shall file an accounting with the
26 load forecast that must be filed with the Agency by July 15

1 of each year, in accordance with subsection (d) of Section
2 16-111.5 of the Public Utilities Act.

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

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

21 Notwithstanding the requirements of this subsection
22 (d), the total amount paid under sourcing agreements with
23 clean coal facilities pursuant to the procurement plan for
24 any given year shall be reduced by an amount necessary to
25 limit the annual estimated average net increase due to the
26 costs of these resources included in the amounts paid by

1 eligible retail customers in connection with electric
2 service to:

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

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

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

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

21 (E) thereafter, the total amount paid under
22 sourcing agreements with clean coal facilities
23 pursuant to the procurement plan for any single year
24 shall be reduced by an amount necessary to limit the
25 estimated average net increase due to the cost of
26 these resources included in the amounts paid by

1 eligible retail customers in connection with electric
2 service to no more than the greater of (i) 2.015% of
3 the amount paid per kilowatthour by those customers
4 during the year ending May 31, 2009 or (ii) the
5 incremental amount per kilowatthour paid for these
6 resources in 2013. These requirements may be altered
7 only as provided by statute.

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

16 (3) Initial clean coal facility. In order to promote
17 development of clean coal facilities in Illinois, each
18 electric utility subject to this Section shall execute a
19 sourcing agreement to source electricity from a proposed
20 clean coal facility in Illinois (the "initial clean coal
21 facility") that will have a nameplate capacity of at least
22 500 MW when commercial operation commences, that has a
23 final Clean Air Act permit on June 1, 2009 (the effective
24 date of Public Act 95-1027), and that will meet the
25 definition of clean coal facility in Section 1-10 of this
26 Act when commercial operation commences. The sourcing

1 agreements with this initial clean coal facility shall be
2 subject to both approval of the initial clean coal
3 facility by the General Assembly and satisfaction of the
4 requirements of paragraph (4) of this subsection (d) and
5 shall be executed within 90 days after any such approval
6 by the General Assembly. The Agency and the Commission
7 shall have authority to inspect all books and records
8 associated with the initial clean coal facility during the
9 term of such a sourcing agreement. A utility's sourcing
10 agreement for electricity produced by the initial clean
11 coal facility shall include:

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

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

25 (ii) provide that all miscellaneous net
26 revenue, including but not limited to net revenue

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

15 (B) power purchase provisions, which shall:

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

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

23 (iii) require the utility party to such
24 sourcing agreement to buy from the initial clean
25 coal facility in each hour an amount of energy
26 equal to all clean coal energy made available from

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

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

21 (C) contract for differences provisions, which
22 shall:

23 (i) require the utility party to such sourcing
24 agreement to contract with the initial clean coal
25 facility in each hour with respect to an amount of
26 energy equal to all clean coal energy made

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

19 (ii) provide that the utility's payment
20 obligation in respect of the quantity of
21 electricity determined pursuant to the preceding
22 clause (i) shall be limited to an amount equal to
23 (1) the difference between the contract price
24 determined pursuant to subparagraph (A) of
25 paragraph (3) of this subsection (d) and the
26 day-ahead price for electricity delivered to the

1 regional transmission organization market of the
2 utility that is party to such sourcing agreement
3 (or any successor delivery point at which such
4 utility's supply obligations are financially
5 settled on an hourly basis) (the "reference
6 price") on the day preceding the day on which the
7 electricity is delivered to the initial clean coal
8 facility busbar, multiplied by (2) the quantity of
9 electricity determined pursuant to the preceding
10 clause (i); and

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

14 (D) general provisions, which shall:

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

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

26 (iii) provide that all costs associated with

1 the initial clean coal facility will be
2 periodically reported to the Federal Energy
3 Regulatory Commission and to purchasers in
4 accordance with applicable laws governing
5 cost-based wholesale power contracts;

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

13 (v) require the owner of the initial clean
14 coal facility to provide documentation to the
15 Commission each year, starting in the facility's
16 first year of commercial operation, accurately
17 reporting the quantity of carbon emissions from
18 the facility that have been captured and
19 sequestered and report any quantities of carbon
20 released from the site or sites at which carbon
21 emissions were sequestered in prior years, based
22 on continuous monitoring of such sites. If, in any
23 year after the first year of commercial operation,
24 the owner of the facility fails to demonstrate
25 that the initial clean coal facility captured and
26 sequestered at least 50% of the total carbon

1 emissions that the facility would otherwise emit
2 or that sequestration of emissions from prior
3 years has failed, resulting in the release of
4 carbon dioxide into the atmosphere, the owner of
5 the facility must offset excess emissions. Any
6 such carbon offsets must be permanent, additional,
7 verifiable, real, located within the State of
8 Illinois, and legally and practicably enforceable.
9 The cost of such offsets for the facility that are
10 not recoverable shall not exceed \$15 million in
11 any given year. No costs of any such purchases of
12 carbon offsets may be recovered from a utility or
13 its customers. All carbon offsets purchased for
14 this purpose and any carbon emission credits
15 associated with sequestration of carbon from the
16 facility must be permanently retired. The initial
17 clean coal facility shall not forfeit its
18 designation as a clean coal facility if the
19 facility fails to fully comply with the applicable
20 carbon sequestration requirements in any given
21 year, provided the requisite offsets are
22 purchased. However, the Attorney General, on
23 behalf of the People of the State of Illinois, may
24 specifically enforce the facility's sequestration
25 requirement and the other terms of this contract
26 provision. Compliance with the sequestration

1 requirements and offset purchase requirements
2 specified in paragraph (3) of this subsection (d)
3 shall be reviewed annually by an independent
4 expert retained by the owner of the initial clean
5 coal facility, with the advance written approval
6 of the Attorney General. The Commission may, in
7 the course of the review specified in item (vii),
8 reduce the allowable return on equity for the
9 facility if the facility willfully fails to comply
10 with the carbon capture and sequestration
11 requirements set forth in this item (v);

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

17 (vii) require Commission review: (1) to
18 determine the justness, reasonableness, and
19 prudence of the inputs to the formula referenced
20 in subparagraphs (A)(i) through (A)(iii) of
21 paragraph (3) of this subsection (d), prior to an
22 adjustment in those inputs including, without
23 limitation, the capital structure and return on
24 equity, fuel costs, and other operations and
25 maintenance costs and (2) to approve the costs to
26 be passed through to customers under the sourcing

1 agreement by which the utility satisfies its
2 statutory obligations. Commission review shall
3 occur no less than every 3 years, regardless of
4 whether any adjustments have been proposed, and
5 shall be completed within 9 months;

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

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

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

26 (xi) append documentation showing that the

1 formula rate and contract, insofar as they relate
2 to the power purchase provisions, have been
3 approved by the Federal Energy Regulatory
4 Commission pursuant to Section 205 of the Federal
5 Power Act;

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

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

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

21 (i) Facility cost report. The owner of the initial
22 clean coal facility shall submit to the Commission,
23 the Agency, and the General Assembly a front-end
24 engineering and design study, a facility cost report,
25 method of financing (including but not limited to
26 structure and associated costs), and an operating and

1 maintenance cost quote for the facility (collectively
2 "facility cost report"), which shall be prepared in
3 accordance with the requirements of this paragraph (4)
4 of subsection (d) of this Section, and shall provide
5 the Commission and the Agency access to the work
6 papers, relied upon documents, and any other backup
7 documentation related to the facility cost report.

8 (ii) Commission report. Within 6 months following
9 receipt of the facility cost report, the Commission,
10 in consultation with the Agency, shall submit a report
11 to the General Assembly setting forth its analysis of
12 the facility cost report. Such report shall include,
13 but not be limited to, a comparison of the costs
14 associated with electricity generated by the initial
15 clean coal facility to the costs associated with
16 electricity generated by other types of generation
17 facilities, an analysis of the rate impacts on
18 residential and small business customers over the life
19 of the sourcing agreements, and an analysis of the
20 likelihood that the initial clean coal facility will
21 commence commercial operation by and be delivering
22 power to the facility's busbar by 2016. To assist in
23 the preparation of its report, the Commission, in
24 consultation with the Agency, may hire one or more
25 experts or consultants, the costs of which shall be
26 paid for by the owner of the initial clean coal

1 facility. The Commission and Agency may begin the
2 process of selecting such experts or consultants prior
3 to receipt of the facility cost report.

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

15 (iv) Commission review. If the General Assembly
16 enacts authorizing legislation pursuant to
17 subparagraph (iii) approving a sourcing agreement, the
18 Commission shall, within 90 days of such enactment,
19 complete a review of such sourcing agreement. During
20 such time period, the Commission shall implement any
21 directive of the General Assembly, resolve any
22 disputes between the parties to the sourcing agreement
23 concerning the terms of such agreement, approve the
24 form of such agreement, and issue an order finding
25 that the sourcing agreement is prudent and reasonable.
26 The facility cost report shall be prepared as follows:

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

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

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

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

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

15 (C) The facility cost report shall also include an
16 operating and maintenance cost quote that will provide
17 the estimated cost of delivered fuel, personnel,
18 maintenance contracts, chemicals, catalysts,
19 consumables, spares, and other fixed and variable
20 operations and maintenance costs. The delivered fuel
21 cost estimate will be provided by a recognized third
22 party expert or experts in the fuel and transportation
23 industries. The balance of the operating and
24 maintenance cost quote, excluding delivered fuel
25 costs, will be developed based on the inputs provided
26 by duly licensed engineering and construction firms

1 performing the construction cost quote, potential
2 vendors under long-term service agreements and plant
3 operating agreements, or recognized third party plant
4 operator or operators.

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

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

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

25 (5) Re-powering and retrofitting coal-fired power
26 plants previously owned by Illinois utilities to qualify

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

1 facilities during the term of any such contract.

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

8 (d-5) Zero emission standard.

9 (1) Beginning with the delivery year commencing on
10 June 1, 2017, the Agency shall, for electric utilities
11 that serve at least 100,000 retail customers in this
12 State, procure contracts with zero emission facilities
13 that are reasonably capable of generating cost-effective
14 zero emission credits in an amount approximately equal to
15 16% of the actual amount of electricity delivered by each
16 electric utility to retail customers in the State during
17 calendar year 2014. For an electric utility serving fewer
18 than 100,000 retail customers in this State that
19 requested, under Section 16-111.5 of the Public Utilities
20 Act, that the Agency procure power and energy for all or a
21 portion of the utility's Illinois load for the delivery
22 year commencing June 1, 2016, the Agency shall procure
23 contracts with zero emission facilities that are
24 reasonably capable of generating cost-effective zero
25 emission credits in an amount approximately equal to 16%
26 of the portion of power and energy to be procured by the

1 Agency for the utility. The duration of the contracts
2 procured under this subsection (d-5) shall be for a term
3 of 10 years ending May 31, 2027. The quantity of zero
4 emission credits to be procured under the contracts shall
5 be all of the zero emission credits generated by the zero
6 emission facility in each delivery year; however, if the
7 zero emission facility is owned by more than one entity,
8 then the quantity of zero emission credits to be procured
9 under the contracts shall be the amount of zero emission
10 credits that are generated from the portion of the zero
11 emission facility that is owned by the winning supplier.

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

16 The procurement process shall be subject to the
17 following provisions:

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

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

25 (ii) the amount of power generated annually
26 for each of the years 2005 through 2015, and the

1 projected zero emission credits to be generated
2 over the remaining useful life of the zero
3 emission facility, which shall be used to
4 determine the capability of each facility;

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

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

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

12 (B) The price for each zero emission credit
13 procured under this subsection (d-5) for each delivery
14 year shall be in an amount that equals the Social Cost
15 of Carbon, expressed on a price per megawatthour
16 basis. However, to ensure that the procurement remains
17 affordable to retail customers in this State if
18 electricity prices increase, the price in an
19 applicable delivery year shall be reduced below the
20 Social Cost of Carbon by the amount ("Price
21 Adjustment") by which the market price index for the
22 applicable delivery year exceeds the baseline market
23 price index for the consecutive 12-month period ending
24 May 31, 2016. If the Price Adjustment is greater than
25 or equal to the Social Cost of Carbon in an applicable
26 delivery year, then no payments shall be due in that

1 delivery year. The components of this calculation are
2 defined as follows:

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

15 (ii) Baseline market price index: The baseline
16 market price index for the consecutive 12-month
17 period ending May 31, 2016 is \$31.40 per
18 megawatthour, which is based on the sum of (aa)
19 the average day-ahead energy price across all
20 hours of such 12-month period at the PJM
21 Interconnection LLC Northern Illinois Hub, (bb)
22 50% multiplied by the Base Residual Auction, or
23 its successor, capacity price for the rest of the
24 RTO zone group determined by PJM Interconnection
25 LLC, divided by 24 hours per day, and (cc) 50%
26 multiplied by the Planning Resource Auction, or

1 its successor, capacity price for Zone 4
2 determined by the Midcontinent Independent System
3 Operator, Inc., divided by 24 hours per day.

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

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

23 (bb) Projected capacity prices:

24 (I) For the delivery years commencing
25 June 1, 2017, June 1, 2018, and June 1,
26 2019, the projected capacity price shall

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

16 (II) For the delivery year commencing
17 June 1, 2020, and each year thereafter,
18 the projected capacity price shall be
19 equal to the sum of (1) 50% multiplied by
20 the Base Residual Auction, or its
21 successor, price for the ComEd zone as
22 determined by PJM Interconnection LLC,
23 divided by 24 hours per day, and (2) 50%
24 multiplied by the resource auction price
25 determined in the resource auction
26 administered by the Midcontinent

1 Independent System Operator, Inc., in
2 which the largest percentage of load
3 cleared for Local Resource Zone 4, divided
4 by 24 hours per day, and where such price
5 is determined by the Midcontinent
6 Independent System Operator, Inc.

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

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

11 "RTO" means regional transmission
12 organization.

13 (C) No later than 45 days after June 1, 2017 (the
14 effective date of Public Act 99-906), the Agency shall
15 publish its proposed zero emission standard
16 procurement plan. The plan shall be consistent with
17 the provisions of this paragraph (1) and shall provide
18 that winning bids shall be selected based on public
19 interest criteria that include, but are not limited
20 to, minimizing carbon dioxide emissions that result
21 from electricity consumed in Illinois and minimizing
22 sulfur dioxide, nitrogen oxide, and particulate matter
23 emissions that adversely affect the citizens of this
24 State. In particular, the selection of winning bids
25 shall take into account the incremental environmental
26 benefits resulting from the procurement, such as any

1 existing environmental benefits that are preserved by
2 the procurements held under Public Act 99-906 and
3 would cease to exist if the procurements were not
4 held, including the preservation of zero emission
5 facilities. The plan shall also describe in detail how
6 each public interest factor shall be considered and
7 weighted in the bid selection process to ensure that
8 the public interest criteria are applied to the
9 procurement and given full effect.

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

18 Upon publishing of the zero emission standard
19 procurement plan, copies of the plan shall be posted
20 and made publicly available on the Agency's website.
21 All interested parties shall have 10 days following
22 the date of posting to provide comment to the Agency on
23 the plan. All comments shall be posted to the Agency's
24 website. Following the end of the comment period, but
25 no more than 60 days later than June 1, 2017 (the
26 effective date of Public Act 99-906), the Agency shall

1 revise the plan as necessary based on the comments
2 received and file its zero emission standard
3 procurement plan with the Commission.

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

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

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

26 (ii) specifically address how the selection of

1 winning bids takes into account the incremental
2 environmental benefits resulting from the
3 procurement, including any existing environmental
4 benefits that are preserved by the procurements
5 held under Public Act 99-906 and would have ceased
6 to exist if the procurements had not been held,
7 such as the preservation of zero emission
8 facilities;

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

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

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

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

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

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

22 The procurement described in this subsection
23 (d-5), including, but not limited to, the execution of
24 all contracts procured, shall be completed no later
25 than May 10, 2017. Based on the effective date of
26 Public Act 99-906, the Agency and Commission may, as

1 appropriate, modify the various dates and timelines
2 under this subparagraph and subparagraphs (C) and (D)
3 of this paragraph (1). The procurement and plan
4 approval processes required by this subsection (d-5)
5 shall be conducted in conjunction with the procurement
6 and plan approval processes required by subsection (c)
7 of this Section and Section 16-111.5 of the Public
8 Utilities Act, to the extent practicable.
9 Notwithstanding whether a procurement event is
10 conducted under Section 16-111.5 of the Public
11 Utilities Act, the Agency shall immediately initiate a
12 procurement process on June 1, 2017 (the effective
13 date of Public Act 99-906).

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

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

1 instances:

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

24 (ii) A zero emission facility shall be
25 permitted to terminate the contract if legislation
26 is enacted into law by the General Assembly that

1 imposes or authorizes a new tax, special
2 assessment, or fee on the generation of
3 electricity, the ownership or leasehold of a
4 generating unit, or the privilege or occupation of
5 such generation, ownership, or leasehold of
6 generation units by a zero emission facility.
7 However, the provisions of this item (ii) do not
8 apply to any generally applicable tax, special
9 assessment or fee, or requirements imposed by
10 federal law.

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

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

22 (F) If the zero emission facility elects to
23 terminate a contract under subparagraph (E) of this
24 paragraph (1), then the Commission shall reopen the
25 docket in which the Commission approved the zero
26 emission standard procurement plan under subparagraph

1 (C) of this paragraph (1) and, after notice and
2 hearing, enter an order acknowledging the contract
3 termination election if such termination is consistent
4 with the provisions of this subsection (d-5).

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

12 Notwithstanding the requirements of this subsection
13 (d-5), the contracts executed under this subsection (d-5)
14 shall provide that the total of zero emission credits
15 procured under a procurement plan shall be subject to the
16 limitations of this paragraph (2). For each delivery year,
17 the contractual volume receiving payments in such year
18 shall be reduced for all retail customers based on the
19 amount necessary to limit the net increase that delivery
20 year to the costs of those credits included in the amounts
21 paid by eligible retail customers in connection with
22 electric service to no more than 1.65% of the amount paid
23 per kilowatthour by eligible retail customers during the
24 year ending May 31, 2009. The result of this computation
25 shall apply to and reduce the procurement for all retail
26 customers, and all those customers shall pay the same

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

23 No later than June 30, 2019, the Commission shall
24 review the limitation on the amount of zero emission
25 credits procured under this subsection (d-5) and report to
26 the General Assembly its findings as to whether that

1 limitation unduly constrains the procurement of
2 cost-effective zero emission credits.

3 (3) Six years after the execution of a contract under
4 this subsection (d-5), the Agency shall determine whether
5 the actual zero emission credit payments received by the
6 supplier over the 6-year period exceed the Average ZEC
7 Payment. In addition, at the end of the term of a contract
8 executed under this subsection (d-5), or at the time, if
9 any, a zero emission facility's contract is terminated
10 under subparagraph (E) of paragraph (1) of this subsection
11 (d-5), then the Agency shall determine whether the actual
12 zero emission credit payments received by the supplier
13 over the term of the contract exceed the Average ZEC
14 Payment, after taking into account any amounts previously
15 credited back to the utility under this paragraph (3). If
16 the Agency determines that the actual zero emission credit
17 payments received by the supplier over the relevant period
18 exceed the Average ZEC Payment, then the supplier shall
19 credit the difference back to the utility. The amount of
20 the credit shall be remitted to the applicable electric
21 utility no later than 120 days after the Agency's
22 determination, which the utility shall reflect as a credit
23 on its retail customer bills as soon as practicable;
24 however, the credit remitted to the utility shall not
25 exceed the total amount of payments received by the
26 facility under its contract.

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

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

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

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

20 (4) Cost-effective zero emission credits procured from
21 zero emission facilities shall satisfy the applicable
22 definitions set forth in Section 1-10 of this Act.

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

26 (6) Electric utilities shall be entitled to recover

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

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

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

14 (1) The General Assembly finds:

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

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

1 energy.

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

9 (D) The clean energy attributes of nuclear generation
10 facilities support the State in its efforts to achieve
11 100% clean energy.

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

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

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

4 (H) The procurement of carbon mitigation credits
5 representing the environmental benefits of carbon-free
6 generation will further the State's efforts at achieving
7 100% clean energy and decarbonizing the electricity sector
8 in a safe, reliable, and affordable manner. Further, the
9 procurement of carbon emission credits will enhance the
10 health and welfare of Illinois residents through decreased
11 reliance on more highly polluting generation.

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

18 (2) As used in this subsection:

19 "Baseline costs" means costs used to establish a customer
20 protection cap that have been evaluated through an independent
21 audit of a carbon-free energy resource conducted by the
22 Environmental Protection Agency that evaluated projected
23 annual costs for operation and maintenance expenses; fully
24 allocated overhead costs, which shall be allocated using the
25 methodology developed by the Institute for Nuclear Power
26 Operations; fuel expenditures; nonfuel capital expenditures;

1 spent fuel expenditures; a return on working capital; the cost
2 of operational and market risks that could be avoided by
3 ceasing operation; and any other costs necessary for continued
4 operations, provided that "necessary" means, for purposes of
5 this definition, that the costs could reasonably be avoided
6 only by ceasing operations of the carbon-free energy resource.

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

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

14 (3) Procurement.

15 (A) Beginning with the delivery year commencing on
16 June 1, 2022, the Agency shall, for electric utilities
17 serving at least 3,000,000 retail customers in the State,
18 seek to procure contracts for no more than approximately
19 54,500,000 cost-effective carbon mitigation credits from
20 carbon-free energy resources because such credits are
21 necessary to support current levels of carbon-free energy
22 generation and ensure the State meets its carbon dioxide
23 emissions reduction goals. The Agency shall not make a
24 partial award of a contract for carbon mitigation credits
25 covering a fractional amount of a carbon-free energy
26 resource's projected output.

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

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

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

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

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

23 (I) the carbon-free energy resource's cost
24 projections, expressed on a per megawatt-hour
25 basis, over the next 5 delivery years, which shall
26 include the following: operation and maintenance

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

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

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

1 information pursuant to Section 6.5 of the Attorney
2 General Act.

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

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

18 (ii) Contracts for carbon mitigation credits shall
19 commence with the delivery year beginning on June 1,
20 2022 and shall be for a term of 5 delivery years
21 concluding on May 31, 2027.

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

25 (I) one of the following energy price indices,
26 selected by the bidder at the time of the bid for

1 the term of the contract:

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

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

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

1 and

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

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

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

26 (iv) To ensure that retail customers in Northern

1 Illinois do not pay more for carbon mitigation credits
2 than the value such credits provide, and
3 notwithstanding the provisions of this subsection
4 (d-10), the Agency shall not accept bids for contracts
5 that exceed a customer protection cap equal to the
6 baseline costs of carbon-free energy resources.

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

9 (I) For the delivery year beginning June 1,
10 2022, the baseline costs shall be an amount equal
11 to \$30.30 per megawatt-hour.

12 (II) For the delivery year beginning June 1,
13 2023, the baseline costs shall be an amount equal
14 to \$32.50 per megawatt-hour.

15 (III) For the delivery year beginning June 1,
16 2024, the baseline costs shall be an amount equal
17 to \$33.43 per megawatt-hour.

18 (IV) For the delivery year beginning June 1,
19 2025, the baseline costs shall be an amount equal
20 to \$33.50 per megawatt-hour.

21 (V) For the delivery year beginning June 1,
22 2026, the baseline costs shall be an amount equal
23 to \$34.50 per megawatt-hour.

24 An Environmental Protection Agency consultant
25 forecast, included in a report issued April 14, 2021,
26 projects that a carbon-free energy resource has the

1 opportunity to earn on average approximately \$30.28
2 per megawatt-hour, for the sale of energy and capacity
3 during the time period between 2022 and 2027.
4 Therefore, the sale of carbon mitigation credits
5 provides the opportunity to receive an additional
6 amount per megawatt-hour in addition to the projected
7 prices for energy and capacity.

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

21 (D) No later than 7 days after the effective date of
22 this amendatory Act of the 102nd General Assembly, the
23 Agency shall publish its proposed carbon mitigation credit
24 procurement plan. The Plan shall provide that winning bids
25 shall be selected by taking into consideration which
26 resources best match public interest criteria that

1 include, but are not limited to, minimizing carbon dioxide
2 emissions that result from electricity consumed in
3 Illinois and minimizing sulfur dioxide, nitrogen oxide,
4 and particulate matter emissions that adversely affect the
5 citizens of this State. The selection of winning bids
6 shall also take into account the incremental environmental
7 benefits resulting from the procurement or procurements,
8 such as any existing environmental benefits that are
9 preserved by a procurement held under this subsection
10 (d-10) and would cease to exist if the procurement were
11 not held, including the preservation of carbon-free energy
12 resources. For those bidders having the same public
13 interest criteria score, the relative ranking of such
14 bidders shall be determined by price. The Plan shall
15 describe in detail how each public interest factor shall
16 be considered and weighted in the bid selection process to
17 ensure that the public interest criteria are applied to
18 the procurement. The Plan shall, to the extent practical
19 and permissible by federal law, ensure that successful
20 bidders make commercially reasonable efforts to apply for
21 federal tax credits, direct payments, or similar subsidy
22 programs that support carbon-free generation and for which
23 the successful bidder is eligible. Upon publishing of the
24 carbon mitigation credit procurement plan, copies of the
25 plan shall be posted and made publicly available on the
26 Agency's website. All interested parties shall have 7 days

1 following the date of posting to provide comment to the
2 Agency on the plan. All comments shall be posted to the
3 Agency's website. Following the end of the comment period,
4 but no more than 19 days later than the effective date of
5 this amendatory Act of the 102nd General Assembly, the
6 Agency shall revise the plan as necessary based on the
7 comments received and file its carbon mitigation credit
8 procurement plan with the Commission.

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

22 (i) identify how the selected carbon-free energy
23 resources satisfy the public interest criteria
24 described in this paragraph (3) of minimizing carbon
25 dioxide emissions that result from electricity
26 consumed in Illinois and minimizing sulfur dioxide,

1 nitrogen oxide, and particulate matter emissions that
2 adversely affect the citizens of this State;

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

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

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

22 (II) an assessment of costs of replacement
23 with other carbon-free energy resources and
24 renewable energy resources, including wind and
25 photovoltaic generation, based upon an assessment
26 of the prices paid for renewable energy credits

1 through programs and procurements conducted
2 pursuant to subsection (c) of Section 1-75 of this
3 Act, and the additional storage necessary to
4 produce the same or similar capability of matching
5 customer usage patterns.

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

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

1 Commission.

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

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

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

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

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

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

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

24 (i) A renewable energy credit, carbon emission credit,
25 zero emission credit, or carbon mitigation credit can only be
26 used once to comply with a single portfolio or other standard

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

11 (Source: P.A. 101-81, eff. 7-12-19; 101-113, eff. 1-1-20;
12 102-662, eff. 9-15-21.)

13 (20 ILCS 3855/1-129 new)

14 Sec. 1-129. Policy study.

15 (a) The General Assembly finds that:

16 (1) in 2021, Illinois became the first state in the
17 Midwest to mandate a clean energy future when it enacted
18 the Climate and Equitable Jobs Act (Public Act 102-662);

19 (2) through the Climate and Equitable Jobs Act,
20 Illinois established a plan to completely decarbonize its
21 energy sector by 2050 in an equitable manner that invests
22 in the State's workforce;

23 (3) technology in the energy sector continues to
24 advance creating cleaner and more efficient options to
25 help the State attain the target of 50% renewable energy

1 by 2040; and

2 (4) while numerous legislative proposals purport to
3 help the State on its path to equitably attain 100% clean
4 energy, it is important to have a neutral party with
5 relevant expertise evaluate each proposal to ensure it is
6 consistent with the State's goals and maximizes benefits
7 to Illinois residents.

8 (b) The General Assembly intends:

9 (1) to prioritize the public interest over the profit
10 motives of utilities and private developers; and

11 (2) to invest in projects that reduce harmful
12 emissions and contribute to the clean economy.

13 (c) The Agency shall commission and publish a policy study
14 to evaluate the potential impacts of the proposals described
15 in subsection (g). The potential impacts may include, but are
16 not limited to, support for Illinois' decarbonization goals,
17 the environment, grid reliability, carbon and other pollutant
18 emissions, resource adequacy, long-term and short-term
19 electric rates, environmental justice communities, jobs, and
20 the economy. Where applicable, the study shall address the
21 impact of a proposal with respect to reports by the
22 Midcontinent Independent System Operator, PJM, and North
23 American Electric Reliability Corporation staff that Illinois
24 has begun to experience resource adequacy issues.

25 (d) The Agency shall retain the services of technical and
26 policy experts with energy market and other relevant fields of

1 expertise. The technical and policy experts may include the
2 existing planning and procurement consultant and applicable
3 subcontractors and the procurement administrator and
4 applicable subcontractors. The Illinois Commerce Commission,
5 the Illinois Environmental Protection Agency, and the
6 Department of Commerce and Economic Opportunity shall provide
7 support to and consult with the Agency. The Agency may consult
8 with other State agencies, commissions, or task forces as
9 needed. The Agency may consult with and seek assistance from
10 the Regional Transmission Organizations PJM and MISO.

11 (e) The Agency may solicit information, including
12 confidential or proprietary information, from entities likely
13 to be impacted by the proposals described in subsection (g)
14 for purposes of this study. Any information designated as
15 confidential or proprietary information by the entity
16 providing the information shall be kept confidential by the
17 Agency, its consultants, and its contractors and is not
18 subject to disclosure under the Freedom of Information Act.

19 (f) The Agency shall publish a final policy study no later
20 than March 1, 2024 and suitable copies shall be delivered to
21 the Governor and members of the General Assembly. Prior to
22 publishing the final policy study, the Agency shall publish a
23 preliminary draft of the policy study and provide for a 20-day
24 open public comment period. The Agency shall review public
25 comments and publish a final policy study no later than 20 days
26 after the public comment period ends. The policy study shall

1 include policy recommendations to the General Assembly.

2 (g) The policy study shall evaluate the following
3 proposals and may consider or suggest additional or
4 alternative items:

5 (1) House Bill 2132 of the 103rd General Assembly as
6 it passed out of the House on March 24, 2023 or a similar
7 pilot program to establish one new utility-scale offshore
8 wind project capable of producing at least 700,000
9 megawatt hours annually for at least 20 years in Lake
10 Michigan that includes an equity and inclusion plan to
11 create job opportunities for underrepresented populations
12 in addition to equity investment eligible communities and
13 a fully executed project labor agreement. The pilot
14 program may result in an increase in the amounts paid by
15 eligible retail customers in connection with electric
16 service that shall not exceed 0.25% of the amount paid per
17 kilowatt hour by those customers during the year ending
18 May 31, 2009.

19 (2) Senate Bill 1587 and amendments to Senate Bill
20 1587 of the 103rd General Assembly filed prior to May 31,
21 2023 or a similar proposal for the deployment of energy
22 storage systems supported by the State through the
23 development of energy storage credit targets for the
24 Agency to procure on behalf of Illinois electric utilities
25 from privately owned, large scale energy storage providers
26 using energy storage contracts of at least 15 year

1 durations based on a competitive energy storage
2 procurement plan developed by the Agency designed to
3 enhance overall grid reliability, flexibility and
4 efficiency, and to lower electricity prices. The plan must
5 require participants to comply with the equity
6 accountability system requirements in subsection (c-10) of
7 Section 1-75 and to submit proof of project labor
8 agreements. For purposes of this policy study, it should
9 be assumed that the costs associated with procuring energy
10 storage credits shall be recovered through tariffed
11 charges assessed across all retail customers in a uniform
12 cents per kilowatt hour charge. In addition to large scale
13 energy storage, the proposal shall also include the
14 creation of distributed level energy storage programs
15 through utility tariffs as approved by the Illinois
16 Commerce Commission. The programs shall include a
17 residential and a commercial storage program that would
18 allow customer-sited batteries to provide grid benefits
19 and cost-savings to ratepayers. The proposal shall also
20 include a community solar energy storage program intended
21 to serve as a peak reduction program by utilizing
22 community solar paired storage projects deployed daily in
23 summer months during peak hours. The installation of the
24 energy storage systems associated with these distributed
25 renewable systems must comply with the prevailing wage
26 requirements described in subparagraph (Q) of paragraph

1 (1) of subsection (c) of Section 1-75. The policy study
2 shall include a review of the ability of coal-fueled
3 generating plant sites located in Illinois that have been
4 closed since 2016 or are scheduled to be closed by 2030 to
5 support the installation of energy storage systems and
6 potential associated interconnection costs. This review
7 shall include: (i) whether those sites are already in a
8 regional transmission organization interconnection queue,
9 including MISO's replacement power interconnection queue,
10 or would be submitted to the replacement power
11 interconnection queue no later than September 1, 2023,
12 and, if a site is in a queue, the site's position in the
13 queue; and (ii) how soon those sites could support
14 development and installation of energy storage systems and
15 any barriers to that development. This review shall also
16 include consultation with electric generation facility
17 owners or operators and renewable developers that own or
18 are in the process of developing energy storage systems in
19 Illinois or that have experience developing energy storage
20 systems in other States.

21 (3) A policy establishing high voltage direct current
22 renewable energy credits that requires the Agency to
23 procure contracts with at least 25 years but no more than
24 40 years duration for the delivery of renewable energy
25 credits on behalf of electric utilities in Illinois with
26 at least 300,000 customers from a high voltage direct

1 current transmission facility with more than 100 miles of
2 underground transmission lines in this State capable of
3 transmitting electricity at or above 525 kilovolts and
4 delivering power in the PJM market. High voltage direct
5 current renewable energy credits procured by the Agency
6 pursuant to this policy would not count toward the
7 renewable energy credit purchase targets in subsection (c)
8 of Section 1-75. The study shall also evaluate: (i) this
9 policy's potential for wholesale electricity price impacts
10 in both PJM and MISO, the net rate impact to Illinois
11 ratepayers, and the impact on grid reliability and
12 resilience; (ii) whether a 25-year to 40-year guaranteed
13 contract is necessary to build a high voltage direct
14 current transmission facility; (iii) whether specific high
15 voltage direct current transmission facility projects are
16 committed to Illinois' fair labor and equity standards;
17 and (iv) whether the policy creates incentives for
18 renewable development outside of Illinois rather than
19 within the State.

20 Section 15. The Illinois Procurement Code is amended by
21 changing Section 1-10 as follows:

22 (30 ILCS 500/1-10)

23 Sec. 1-10. Application.

24 (a) This Code applies only to procurements for which

1 bidders, offerors, potential contractors, or contractors were
2 first solicited on or after July 1, 1998. This Code shall not
3 be construed to affect or impair any contract, or any
4 provision of a contract, entered into based on a solicitation
5 prior to the implementation date of this Code as described in
6 Article 99, including, but not limited to, any covenant
7 entered into with respect to any revenue bonds or similar
8 instruments. All procurements for which contracts are
9 solicited between the effective date of Articles 50 and 99 and
10 July 1, 1998 shall be substantially in accordance with this
11 Code and its intent.

12 (b) This Code shall apply regardless of the source of the
13 funds with which the contracts are paid, including federal
14 assistance moneys. This Code shall not apply to:

15 (1) Contracts between the State and its political
16 subdivisions or other governments, or between State
17 governmental bodies, except as specifically provided in
18 this Code.

19 (2) Grants, except for the filing requirements of
20 Section 20-80.

21 (3) Purchase of care, except as provided in Section
22 5-30.6 of the Illinois Public Aid Code and this Section.

23 (4) Hiring of an individual as an employee and not as
24 an independent contractor, whether pursuant to an
25 employment code or policy or by contract directly with
26 that individual.

1 (5) Collective bargaining contracts.

2 (6) Purchase of real estate, except that notice of
3 this type of contract with a value of more than \$25,000
4 must be published in the Procurement Bulletin within 10
5 calendar days after the deed is recorded in the county of
6 jurisdiction. The notice shall identify the real estate
7 purchased, the names of all parties to the contract, the
8 value of the contract, and the effective date of the
9 contract.

10 (7) Contracts necessary to prepare for anticipated
11 litigation, enforcement actions, or investigations,
12 provided that the chief legal counsel to the Governor
13 shall give his or her prior approval when the procuring
14 agency is one subject to the jurisdiction of the Governor,
15 and provided that the chief legal counsel of any other
16 procuring entity subject to this Code shall give his or
17 her prior approval when the procuring entity is not one
18 subject to the jurisdiction of the Governor.

19 (8) (Blank).

20 (9) Procurement expenditures by the Illinois
21 Conservation Foundation when only private funds are used.

22 (10) (Blank).

23 (11) Public-private agreements entered into according
24 to the procurement requirements of Section 20 of the
25 Public-Private Partnerships for Transportation Act and
26 design-build agreements entered into according to the

1 procurement requirements of Section 25 of the
2 Public-Private Partnerships for Transportation Act.

3 (12) (A) Contracts for legal, financial, and other
4 professional and artistic services entered into by the
5 Illinois Finance Authority in which the State of Illinois
6 is not obligated. Such contracts shall be awarded through
7 a competitive process authorized by the members of the
8 Illinois Finance Authority and are subject to Sections
9 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code,
10 as well as the final approval by the members of the
11 Illinois Finance Authority of the terms of the contract.

12 (B) Contracts for legal and financial services entered
13 into by the Illinois Housing Development Authority in
14 connection with the issuance of bonds in which the State
15 of Illinois is not obligated. Such contracts shall be
16 awarded through a competitive process authorized by the
17 members of the Illinois Housing Development Authority and
18 are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35,
19 and 50-37 of this Code, as well as the final approval by
20 the members of the Illinois Housing Development Authority
21 of the terms of the contract.

22 (13) Contracts for services, commodities, and
23 equipment to support the delivery of timely forensic
24 science services in consultation with and subject to the
25 approval of the Chief Procurement Officer as provided in
26 subsection (d) of Section 5-4-3a of the Unified Code of

1 Corrections, except for the requirements of Sections
2 20-60, 20-65, 20-70, and 20-160 and Article 50 of this
3 Code; however, the Chief Procurement Officer may, in
4 writing with justification, waive any certification
5 required under Article 50 of this Code. For any contracts
6 for services which are currently provided by members of a
7 collective bargaining agreement, the applicable terms of
8 the collective bargaining agreement concerning
9 subcontracting shall be followed.

10 On and after January 1, 2019, this paragraph (13),
11 except for this sentence, is inoperative.

12 (14) Contracts for participation expenditures required
13 by a domestic or international trade show or exhibition of
14 an exhibitor, member, or sponsor.

15 (15) Contracts with a railroad or utility that
16 requires the State to reimburse the railroad or utilities
17 for the relocation of utilities for construction or other
18 public purpose. Contracts included within this paragraph
19 (15) shall include, but not be limited to, those
20 associated with: relocations, crossings, installations,
21 and maintenance. For the purposes of this paragraph (15),
22 "railroad" means any form of non-highway ground
23 transportation that runs on rails or electromagnetic
24 guideways and "utility" means: (1) public utilities as
25 defined in Section 3-105 of the Public Utilities Act, (2)
26 telecommunications carriers as defined in Section 13-202

1 of the Public Utilities Act, (3) electric cooperatives as
2 defined in Section 3.4 of the Electric Supplier Act, (4)
3 telephone or telecommunications cooperatives as defined in
4 Section 13-212 of the Public Utilities Act, (5) rural
5 water or waste water systems with 10,000 connections or
6 less, (6) a holder as defined in Section 21-201 of the
7 Public Utilities Act, and (7) municipalities owning or
8 operating utility systems consisting of public utilities
9 as that term is defined in Section 11-117-2 of the
10 Illinois Municipal Code.

11 (16) Procurement expenditures necessary for the
12 Department of Public Health to provide the delivery of
13 timely newborn screening services in accordance with the
14 Newborn Metabolic Screening Act.

15 (17) Procurement expenditures necessary for the
16 Department of Agriculture, the Department of Financial and
17 Professional Regulation, the Department of Human Services,
18 and the Department of Public Health to implement the
19 Compassionate Use of Medical Cannabis Program and Opioid
20 Alternative Pilot Program requirements and ensure access
21 to medical cannabis for patients with debilitating medical
22 conditions in accordance with the Compassionate Use of
23 Medical Cannabis Program Act.

24 (18) This Code does not apply to any procurements
25 necessary for the Department of Agriculture, the
26 Department of Financial and Professional Regulation, the

1 Department of Human Services, the Department of Commerce
2 and Economic Opportunity, and the Department of Public
3 Health to implement the Cannabis Regulation and Tax Act if
4 the applicable agency has made a good faith determination
5 that it is necessary and appropriate for the expenditure
6 to fall within this exemption and if the process is
7 conducted in a manner substantially in accordance with the
8 requirements of Sections 20-160, 25-60, 30-22, 50-5,
9 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35,
10 50-36, 50-37, 50-38, and 50-50 of this Code; however, for
11 Section 50-35, compliance applies only to contracts or
12 subcontracts over \$100,000. Notice of each contract
13 entered into under this paragraph (18) that is related to
14 the procurement of goods and services identified in
15 paragraph (1) through (9) of this subsection shall be
16 published in the Procurement Bulletin within 14 calendar
17 days after contract execution. The Chief Procurement
18 Officer shall prescribe the form and content of the
19 notice. Each agency shall provide the Chief Procurement
20 Officer, on a monthly basis, in the form and content
21 prescribed by the Chief Procurement Officer, a report of
22 contracts that are related to the procurement of goods and
23 services identified in this subsection. At a minimum, this
24 report shall include the name of the contractor, a
25 description of the supply or service provided, the total
26 amount of the contract, the term of the contract, and the

1 exception to this Code utilized. A copy of any or all of
2 these contracts shall be made available to the Chief
3 Procurement Officer immediately upon request. The Chief
4 Procurement Officer shall submit a report to the Governor
5 and General Assembly no later than November 1 of each year
6 that includes, at a minimum, an annual summary of the
7 monthly information reported to the Chief Procurement
8 Officer. This exemption becomes inoperative 5 years after
9 June 25, 2019 (the effective date of Public Act 101-27).

10 (19) Acquisition of modifications or adjustments,
11 limited to assistive technology devices and assistive
12 technology services, adaptive equipment, repairs, and
13 replacement parts to provide reasonable accommodations (i)
14 that enable a qualified applicant with a disability to
15 complete the job application process and be considered for
16 the position such qualified applicant desires, (ii) that
17 modify or adjust the work environment to enable a
18 qualified current employee with a disability to perform
19 the essential functions of the position held by that
20 employee, (iii) to enable a qualified current employee
21 with a disability to enjoy equal benefits and privileges
22 of employment as are enjoyed by other similarly situated
23 employees without disabilities, and (iv) that allow a
24 customer, client, claimant, or member of the public
25 seeking State services full use and enjoyment of and
26 access to its programs, services, or benefits.

1 For purposes of this paragraph (19):

2 "Assistive technology devices" means any item, piece
3 of equipment, or product system, whether acquired
4 commercially off the shelf, modified, or customized, that
5 is used to increase, maintain, or improve functional
6 capabilities of individuals with disabilities.

7 "Assistive technology services" means any service that
8 directly assists an individual with a disability in
9 selection, acquisition, or use of an assistive technology
10 device.

11 "Qualified" has the same meaning and use as provided
12 under the federal Americans with Disabilities Act when
13 describing an individual with a disability.

14 (20) Procurement expenditures necessary for the
15 Illinois Commerce Commission to hire third-party
16 facilitators pursuant to Sections 16-105.17 and 16-108.18
17 of the Public Utilities Act or an ombudsman pursuant to
18 Section 16-107.5 of the Public Utilities Act, a
19 facilitator pursuant to Section 16-105.17 of the Public
20 Utilities Act, or a grid auditor pursuant to Section
21 16-105.10 of the Public Utilities Act.

22 (21) Procurement expenditures for the purchase,
23 renewal, and expansion of software, software licenses, or
24 software maintenance agreements that support the efforts
25 of the Illinois State Police to enforce, regulate, and
26 administer the Firearm Owners Identification Card Act, the

1 Firearm Concealed Carry Act, the Firearms Restraining
2 Order Act, the Firearm Dealer License Certification Act,
3 the Law Enforcement Agencies Data System (LEADS), the
4 Uniform Crime Reporting Act, the Criminal Identification
5 Act, the Uniform Conviction Information Act, and the Gun
6 Trafficking Information Act, or establish or maintain
7 record management systems necessary to conduct human
8 trafficking investigations or gun trafficking or other
9 stolen firearm investigations. This paragraph (21) applies
10 to contracts entered into on or after the effective date
11 of this amendatory Act of the 102nd General Assembly and
12 the renewal of contracts that are in effect on the
13 effective date of this amendatory Act of the 102nd General
14 Assembly.

15 Notwithstanding any other provision of law, for contracts
16 with an annual value of more than \$100,000 entered into on or
17 after October 1, 2017 under an exemption provided in any
18 paragraph of this subsection (b), except paragraph (1), (2),
19 or (5), each State agency shall post to the appropriate
20 procurement bulletin the name of the contractor, a description
21 of the supply or service provided, the total amount of the
22 contract, the term of the contract, and the exception to the
23 Code utilized. The chief procurement officer shall submit a
24 report to the Governor and General Assembly no later than
25 November 1 of each year that shall include, at a minimum, an
26 annual summary of the monthly information reported to the

1 chief procurement officer.

2 (c) This Code does not apply to the electric power
3 procurement process provided for under Section 1-75 of the
4 Illinois Power Agency Act and Section 16-111.5 of the Public
5 Utilities Act. This Code does not apply to the procurement of
6 technical and policy experts pursuant to Section 1-129 of the
7 Illinois Power Agency Act.

8 (d) Except for Section 20-160 and Article 50 of this Code,
9 and as expressly required by Section 9.1 of the Illinois
10 Lottery Law, the provisions of this Code do not apply to the
11 procurement process provided for under Section 9.1 of the
12 Illinois Lottery Law.

13 (e) This Code does not apply to the process used by the
14 Capital Development Board to retain a person or entity to
15 assist the Capital Development Board with its duties related
16 to the determination of costs of a clean coal SNG brownfield
17 facility, as defined by Section 1-10 of the Illinois Power
18 Agency Act, as required in subsection (h-3) of Section 9-220
19 of the Public Utilities Act, including calculating the range
20 of capital costs, the range of operating and maintenance
21 costs, or the sequestration costs or monitoring the
22 construction of clean coal SNG brownfield facility for the
23 full duration of construction.

24 (f) (Blank).

25 (g) (Blank).

26 (h) This Code does not apply to the process to procure or

1 contracts entered into in accordance with Sections 11-5.2 and
2 11-5.3 of the Illinois Public Aid Code.

3 (i) Each chief procurement officer may access records
4 necessary to review whether a contract, purchase, or other
5 expenditure is or is not subject to the provisions of this
6 Code, unless such records would be subject to attorney-client
7 privilege.

8 (j) This Code does not apply to the process used by the
9 Capital Development Board to retain an artist or work or works
10 of art as required in Section 14 of the Capital Development
11 Board Act.

12 (k) This Code does not apply to the process to procure
13 contracts, or contracts entered into, by the State Board of
14 Elections or the State Electoral Board for hearing officers
15 appointed pursuant to the Election Code.

16 (l) This Code does not apply to the processes used by the
17 Illinois Student Assistance Commission to procure supplies and
18 services paid for from the private funds of the Illinois
19 Prepaid Tuition Fund. As used in this subsection (l), "private
20 funds" means funds derived from deposits paid into the
21 Illinois Prepaid Tuition Trust Fund and the earnings thereon.

22 (m) This Code shall apply regardless of the source of
23 funds with which contracts are paid, including federal
24 assistance moneys. Except as specifically provided in this
25 Code, this Code shall not apply to procurement expenditures
26 necessary for the Department of Public Health to conduct the

1 Healthy Illinois Survey in accordance with Section 2310-431 of
2 the Department of Public Health Powers and Duties Law of the
3 Civil Administrative Code of Illinois.

4 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
5 101-363, eff. 8-9-19; 102-175, eff. 7-29-21; 102-483, eff
6 1-1-22; 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662,
7 eff. 9-15-21; 102-721, eff. 1-1-23; 102-813, eff. 5-13-22;
8 102-1116, eff. 1-10-23.)

9 Section 20. The Counties Code is amended by changing
10 Section 5-12020 as follows:

11 (55 ILCS 5/5-12020)

12 Sec. 5-12020. Commercial wind energy facilities and
13 commercial solar energy facilities.

14 (a) As used in this Section:

15 "Commercial solar energy facility" means a "commercial
16 solar energy system" as defined in Section 10-720 of the
17 Property Tax Code. "Commercial solar energy facility" does not
18 mean a utility-scale solar energy facility being constructed
19 at a site that was eligible to participate in a procurement
20 event conducted by the Illinois Power Agency pursuant to
21 subsection (c-5) of Section 1-75 of the Illinois Power Agency
22 Act.

23 "Commercial wind energy facility" means a wind energy
24 conversion facility of equal or greater than 500 kilowatts in

1 total nameplate generating capacity. "Commercial wind energy
2 facility" includes a wind energy conversion facility seeking
3 an extension of a permit to construct granted by a county or
4 municipality before January 27, 2023 (the effective date of
5 Public Act 102-1123) ~~this amendatory Act of the 102nd General~~
6 ~~Assembly.~~

7 "Facility owner" means (i) a person with a direct
8 ownership interest in a commercial wind energy facility or a
9 commercial solar energy facility, or both, regardless of
10 whether the person is involved in acquiring the necessary
11 rights, permits, and approvals or otherwise planning for the
12 construction and operation of the facility, and (ii) at the
13 time the facility is being developed, a person who is acting as
14 a developer of the facility by acquiring the necessary rights,
15 permits, and approvals or by planning for the construction and
16 operation of the facility, regardless of whether the person
17 will own or operate the facility.

18 "Nonparticipating property" means real property that is
19 not a participating property.

20 "Nonparticipating residence" means a residence that is
21 located on nonparticipating property and that is existing and
22 occupied on the date that an application for a permit to
23 develop the commercial wind energy facility or the commercial
24 solar energy facility is filed with the county.

25 "Occupied community building" means any one or more of the
26 following buildings that is existing and occupied on the date

1 that the application for a permit to develop the commercial
2 wind energy facility or the commercial solar energy facility
3 is filed with the county: a school, place of worship, day care
4 facility, public library, or community center.

5 "Participating property" means real property that is the
6 subject of a written agreement between a facility owner and
7 the owner of the real property that provides the facility
8 owner an easement, option, lease, or license to use the real
9 property for the purpose of constructing a commercial wind
10 energy facility, a commercial solar energy facility, or
11 supporting facilities. "Participating property" also includes
12 real property that is owned by a facility owner for the purpose
13 of constructing a commercial wind energy facility, a
14 commercial solar energy facility, or supporting facilities.

15 "Participating residence" means a residence that is
16 located on participating property and that is existing and
17 occupied on the date that an application for a permit to
18 develop the commercial wind energy facility or the commercial
19 solar energy facility is filed with the county.

20 "Protected lands" means real property that is:

21 (1) subject to a permanent conservation right
22 consistent with the Real Property Conservation Rights Act;
23 or

24 (2) registered or designated as a nature preserve,
25 buffer, or land and water reserve under the Illinois
26 Natural Areas Preservation Act.

1 "Supporting facilities" means the transmission lines,
2 substations, access roads, meteorological towers, storage
3 containers, and equipment associated with the generation and
4 storage of electricity by the commercial wind energy facility
5 or commercial solar energy facility.

6 "Wind tower" includes the wind turbine tower, nacelle, and
7 blades.

8 (b) Notwithstanding any other provision of law or whether
9 the county has formed a zoning commission and adopted formal
10 zoning under Section 5-12007, a county may establish standards
11 for commercial wind energy facilities, commercial solar energy
12 facilities, or both. The standards may include all of the
13 requirements specified in this Section but may not include
14 requirements for commercial wind energy facilities or
15 commercial solar energy facilities that are more restrictive
16 than specified in this Section. A county may also regulate the
17 siting of commercial wind energy facilities with standards
18 that are not more restrictive than the requirements specified
19 in this Section in unincorporated areas of the county that are
20 outside the zoning jurisdiction of a municipality and that are
21 outside the 1.5-mile radius surrounding the zoning
22 jurisdiction of a municipality.

23 (c) If a county has elected to establish standards under
24 subsection (b), before the county grants siting approval or a
25 special use permit for a commercial wind energy facility or a
26 commercial solar energy facility, or modification of an

1 approved siting or special use permit, the county board of the
2 county in which the facility is to be sited or the zoning board
3 of appeals for the county shall hold at least one public
4 hearing. The public hearing shall be conducted in accordance
5 with the Open Meetings Act and shall be held not more than 60
6 ~~45~~ days after the filing of the application for the facility.
7 The county shall allow interested parties to a special use
8 permit an opportunity to present evidence and to cross-examine
9 witnesses at the hearing, but the county may impose reasonable
10 restrictions on the public hearing, including reasonable time
11 limitations on the presentation of evidence and the
12 cross-examination of witnesses. The county shall also allow
13 public comment at the public hearing in accordance with the
14 Open Meetings Act. The county shall make its siting and
15 permitting decisions not more than 30 days after the
16 conclusion of the public hearing. Notice of the hearing shall
17 be published in a newspaper of general circulation in the
18 county. A facility owner must enter into an agricultural
19 impact mitigation agreement with the Department of Agriculture
20 prior to the date of the required public hearing. A commercial
21 wind energy facility owner seeking an extension of a permit
22 granted by a county prior to July 24, 2015 (the effective date
23 of Public Act 99-132) must enter into an agricultural impact
24 mitigation agreement with the Department of Agriculture prior
25 to a decision by the county to grant the permit extension.
26 Counties may allow test wind towers or test solar energy

1 systems to be sited without formal approval by the county
 2 board.

3 (d) A county with an existing zoning ordinance in conflict
 4 with this Section shall amend that zoning ordinance to be in
 5 compliance with this Section within 120 days after January 27,
 6 2023 (the effective date of Public Act 102-1123) ~~this~~
 7 ~~amendatory Act of the 102nd General Assembly.~~

8 (e) A county may require:

9 (1) a wind tower of a commercial wind energy facility
 10 to be sited as follows, with setback distances measured
 11 from the center of the base of the wind tower:

12 Setback Description	Setback Distance
13 Occupied Community 14 Buildings	2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside 15 wall of the structure 16
17 Participating Residences	1.1 times the maximum blade tip 18 height of the wind tower to the 19 nearest point on the outside 20 wall of the structure
21 Nonparticipating Residences	2.1 times the maximum blade tip 22 height of the wind tower to the

1		nearest point on the outside
2		wall of the structure
3	Boundary Lines of	None
4	Participating Property	
5	Boundary Lines of	1.1 times the maximum blade tip
6	Nonparticipating Property	height of the wind tower to the
7		nearest point on the property
8		line of the nonparticipating
9		property
10	Public Road Rights-of-Way	1.1 times the maximum blade tip
11		height of the wind tower
12		to the center point of the
13		public road right-of-way
14	Overhead Communication and	1.1 times the maximum blade tip
15	Electric Transmission	height of the wind tower to the
16	and Distribution Facilities	nearest edge of the property
17	(Not Including Overhead	line, easement, or
18	Utility Service Lines to	<u>right-of-way</u> right-of-way
19	Individual Houses or	containing the overhead line
20	Outbuildings)	
21	Overhead Utility Service	None

1 Lines to Individual
 2 Houses or Outbuildings

3 Fish and Wildlife Areas 2.1 times the maximum blade
 4 and Illinois Nature tip height of the wind tower
 5 Preserve Commission to the nearest point on the
 6 Protected Lands property line of the fish and
 7 wildlife area or protected
 8 land

9 This Section does not exempt or excuse compliance with
 10 electric facility clearances approved or required by the
 11 National Electrical Code, The National Electrical Safety
 12 Code, Illinois Commerce Commission, Federal Energy
 13 Regulatory Commission, and their designees or successors.

14 (2) a wind tower of a commercial wind energy facility
 15 to be sited so that industry standard computer modeling
 16 indicates that any occupied community building or
 17 nonparticipating residence will not experience more than
 18 30 hours per year of shadow flicker under planned
 19 operating conditions;

20 (3) a commercial solar energy facility to be sited as
 21 follows, with setback distances measured from the nearest
 22 edge of any component of the facility:

23 Setback Description Setback Distance

1	Occupied Community	150 feet from the nearest
2	Buildings and Dwellings on	point on the outside wall
3	Nonparticipating Properties	of the structure
4	Boundary Lines of	None
5	Participating Property	
6	Public Road Rights-of-Way	50 feet from the nearest
7		edge
8	Boundary Lines of	50 feet to the nearest
9	Nonparticipating Property	point on the property
10		line of the nonparticipating
11		property

12 (4) a commercial solar energy facility to be sited so
13 that the facility's perimeter is enclosed by fencing
14 having a height of at least 6 feet and no more than 25
15 feet; and

16 (5) a commercial solar energy facility to be sited so
17 that no component of a solar panel has a height of more
18 than 20 feet above ground when the solar energy facility's
19 arrays are at full tilt.

20 The requirements set forth in this subsection (e) may be
21 waived subject to the written consent of the owner of each

1 affected nonparticipating property.

2 (f) A county may not set a sound limitation for wind towers
3 in commercial wind energy facilities or any components in
4 commercial solar energy facilities ~~facility~~ that is more
5 restrictive than the sound limitations established by the
6 Illinois Pollution Control Board under 35 Ill. Adm. Code Parts
7 900, 901, and 910.

8 (g) A county may not place any restriction on the
9 installation or use of a commercial wind energy facility or a
10 commercial solar energy facility unless it adopts an ordinance
11 that complies with this Section. A county may not establish
12 siting standards for supporting facilities that preclude
13 development of commercial wind energy facilities or commercial
14 solar energy facilities.

15 A request for siting approval or a special use permit for a
16 commercial wind energy facility or a commercial solar energy
17 facility, or modification of an approved siting or special use
18 permit, shall be approved if the request is in compliance with
19 the standards and conditions imposed in this Act, the zoning
20 ordinance adopted consistent with this Code, and the
21 conditions imposed under State and federal statutes and
22 regulations.

23 (h) A county may not adopt zoning regulations that
24 disallow, permanently or temporarily, commercial wind energy
25 facilities or commercial solar energy facilities from being
26 developed or operated in any district zoned to allow

1 agricultural or industrial uses.

2 (i) A county may not require permit application fees for a
3 commercial wind energy facility or commercial solar energy
4 facility that are unreasonable. All application fees imposed
5 by the county shall be consistent with fees for projects in the
6 county with similar capital value and cost.

7 (j) Except as otherwise provided in this Section, a county
8 shall not require standards for construction, decommissioning,
9 or deconstruction of a commercial wind energy facility or
10 commercial solar energy facility or related financial
11 assurances that are more restrictive than those included in
12 the Department of Agriculture's standard wind farm
13 agricultural impact mitigation agreement, template 81818, or
14 standard solar agricultural impact mitigation agreement,
15 version 8.19.19, as applicable and in effect on December 31,
16 2022. The amount of any decommissioning payment shall be in
17 accordance with the financial assurance ~~limited to the cost~~
18 ~~identified in the decommissioning or deconstruction plan, as~~
19 ~~required by those agricultural impact mitigation agreements,~~
20 ~~minus the salvage value of the project.~~

21 (j-5) A commercial wind energy facility or a commercial
22 solar energy facility shall file a farmland drainage plan with
23 the county and impacted drainage districts outlining how
24 surface and subsurface drainage of farmland will be restored
25 during and following construction or deconstruction of the
26 facility. The plan is to be created independently by the

1 facility developer and shall include the location of any
2 potentially impacted drainage district facilities to the
3 extent this information is publicly available from the county
4 or the drainage district, plans to repair any subsurface
5 drainage affected during construction or deconstruction using
6 procedures outlined in the agricultural impact mitigation
7 agreement entered into by the commercial wind energy facility
8 owner or commercial solar energy facility owner, and
9 procedures for the repair and restoration of surface drainage
10 affected during construction or deconstruction. All surface
11 and subsurface damage shall be repaired as soon as reasonably
12 practicable.

13 (k) A county may not condition approval of a commercial
14 wind energy facility or commercial solar energy facility on a
15 property value guarantee and may not require a facility owner
16 to pay into a neighboring property devaluation escrow account.

17 (l) A county may require certain vegetative screening
18 surrounding a commercial wind energy facility or commercial
19 solar energy facility but may not require earthen berms or
20 similar structures.

21 (m) A county may set blade tip height limitations for wind
22 towers in commercial wind energy facilities but may not set a
23 blade tip height limitation that is more restrictive than the
24 height allowed under a Determination of No Hazard to Air
25 Navigation by the Federal Aviation Administration under 14 CFR
26 Part 77.

1 (n) A county may require that a commercial wind energy
2 facility owner or commercial solar energy facility owner
3 provide:

4 (1) the results and recommendations from consultation
5 with the Illinois Department of Natural Resources that are
6 obtained through the Ecological Compliance Assessment Tool
7 (EcoCAT) or a comparable successor tool; and

8 (2) the results of the United States Fish and Wildlife
9 Service's Information for Planning and Consulting
10 environmental review or a comparable successor tool that
11 is consistent with (i) the "U.S. Fish and Wildlife
12 Service's Land-Based Wind Energy Guidelines" and (ii) any
13 applicable United States Fish and Wildlife Service solar
14 wildlife guidelines that have been subject to public
15 review.

16 (o) A county may require a commercial wind energy facility
17 or commercial solar energy facility to adhere to the
18 recommendations provided by the Illinois Department of Natural
19 Resources in an EcoCAT natural resource review report under 17
20 Ill. ~~Adm. Admin.~~ Code Part 1075.

21 (p) A county may require a facility owner to:

22 (1) demonstrate avoidance of protected lands as
23 identified by the Illinois Department of Natural Resources
24 and the Illinois Nature Preserve Commission; or

25 (2) consider the recommendations of the Illinois
26 Department of Natural Resources for setbacks from

1 protected lands, including areas identified by the
2 Illinois Nature Preserve Commission.

3 (q) A county may require that a facility owner provide
4 evidence of consultation with the Illinois State Historic
5 Preservation Office to assess potential impacts on
6 State-registered historic sites under the Illinois State
7 Agency Historic Resources Preservation Act.

8 (r) To maximize community benefits, including, but not
9 limited to, reduced stormwater runoff, flooding, and erosion
10 at the ground mounted solar energy system, improved soil
11 health, and increased foraging habitat for game birds,
12 songbirds, and pollinators, a county may (1) require a
13 commercial solar energy facility owner to plant, establish,
14 and maintain for the life of the facility vegetative ground
15 cover, consistent with the goals of the Pollinator-Friendly
16 Solar Site Act and (2) require the submittal of a vegetation
17 management plan that is in compliance with the agricultural
18 impact mitigation agreement in the application to construct
19 and operate a commercial solar energy facility in the county
20 if the vegetative ground cover and vegetation management plan
21 comply with the requirements of the underlying agreement with
22 the landowner or landowners where the facility will be
23 constructed.

24 No later than 90 days after January 27, 2023 (the
25 effective date of Public Act 102-1123) ~~this amendatory Act of~~
26 ~~the 102nd General Assembly~~, the Illinois Department of Natural

1 Resources shall develop guidelines for vegetation management
2 plans that may be required under this subsection for
3 commercial solar energy facilities. The guidelines must
4 include guidance for short-term and long-term property
5 management practices that provide and maintain native and
6 non-invasive naturalized perennial vegetation to protect the
7 health and well-being of pollinators.

8 (s) If a facility owner enters into a road use agreement
9 with the Illinois Department of Transportation, a road
10 district, or other unit of local government relating to a
11 commercial wind energy facility or a commercial solar energy
12 facility, the road use agreement shall require the facility
13 owner to be responsible for (i) the reasonable cost of
14 improving roads used by the facility owner to construct the
15 commercial wind energy facility or the commercial solar energy
16 facility and (ii) the reasonable cost of repairing roads used
17 by the facility owner during construction of the commercial
18 wind energy facility or the commercial solar energy facility
19 so that those roads are in a condition that is safe for the
20 driving public after the completion of the facility's
21 construction. Roadways improved in preparation for and during
22 the construction of the commercial wind energy facility or
23 commercial solar energy facility shall be repaired and
24 restored to the improved condition at the reasonable cost of
25 the developer if the roadways have degraded or were damaged as
26 a result of construction-related activities.

1 The road use agreement shall not require the facility
2 owner to pay costs, fees, or charges for road work that is not
3 specifically and uniquely attributable to the construction of
4 the commercial wind energy facility or the commercial solar
5 energy facility. Road-related fees, permit fees, or other
6 charges imposed by the Illinois Department of Transportation,
7 a road district, or other unit of local government under a road
8 use agreement with the facility owner shall be reasonably
9 related to the cost of administration of the road use
10 agreement.

11 (s-5) The facility owner shall also compensate landowners
12 for crop losses or other agricultural damages resulting from
13 damage to the drainage system caused by the construction of
14 the commercial wind energy facility or the commercial solar
15 energy facility. The commercial wind energy facility owner or
16 commercial solar energy facility owner shall repair or pay for
17 the repair of all damage to the subsurface drainage system
18 caused by the construction of the commercial wind energy
19 facility or the commercial solar energy facility in accordance
20 with the agriculture impact mitigation agreement requirements
21 for repair of drainage. The commercial wind energy facility
22 owner or commercial solar energy facility owner shall repair
23 or pay for the repair and restoration of surface drainage
24 caused by the construction or deconstruction of the commercial
25 wind energy facility or the commercial solar energy facility
26 as soon as reasonably practicable.

1 (t) Notwithstanding any other provision of law, a facility
2 owner with siting approval from a county to construct a
3 commercial wind energy facility or a commercial solar energy
4 facility is authorized to cross or impact a drainage system,
5 including, but not limited to, drainage tiles, open drainage
6 ditches ~~districts~~, culverts, and water gathering vaults, owned
7 or under the control of a drainage district under the Illinois
8 Drainage Code without obtaining prior agreement or approval
9 from the drainage district in accordance with the farmland
10 drainage plan required by subsection (j-5), ~~except that the~~
11 ~~facility owner shall repair or pay for the repair of all damage~~
12 ~~to the drainage system caused by the construction of the~~
13 ~~commercial wind energy facility or the commercial solar energy~~
14 ~~facility within a reasonable time after construction of the~~
15 ~~commercial wind energy facility or the commercial solar energy~~
16 ~~facility is complete.~~

17 (u) The amendments to this Section adopted in Public Act
18 102-1123 ~~this amendatory Act of the 102nd General Assembly~~ do
19 not apply to (1) an application for siting approval or for a
20 special use permit for a commercial wind energy facility or
21 commercial solar energy facility if the application was
22 submitted to a unit of local government before January 27,
23 2023 (the effective date of Public Act 102-1123) ~~this~~
24 ~~amendatory Act of the 102nd General Assembly~~ or (2) a
25 commercial wind energy facility or a commercial solar energy
26 facility if the facility owner has submitted an agricultural

1 impact mitigation agreement to the Department of Agriculture
2 before January 27, 2023 (the effective date of Public Act
3 102-1123) ~~this amendatory Act of the 102nd General Assembly.~~
4 (Source: P.A. 101-4, eff. 4-19-19; 102-1123, eff. 1-27-23;
5 revised 4-5-23.)

6 Section 25. The Public Utilities Act is amended by adding
7 Section 4-610 and Article XXIII as follows:

8 (220 ILCS 5/4-610 new)

9 Sec. 4-610. Thermal energy networks.

10 (a) The General Assembly finds that:

11 (1) the State has an interest in decarbonizing
12 buildings in a manner that is affordable and accessible,
13 preserves and creates living-wage jobs, and retains the
14 knowledge and experience of the existing utility
15 workforce;

16 (2) thermal energy networks have the potential to
17 affordably decarbonize buildings at the community-scale
18 and utility-scale and help achieve the goals of the
19 Climate and Equitable Jobs Act (Public Act 102-662);

20 (3) the construction industry is highly skilled and
21 labor intensive, and the installation of modern thermal
22 energy networks involves particularly complex work,
23 therefore effective qualification standards for craft
24 labor personnel employed on these projects are critically

1 needed to promote successful project delivery; and

2 (4) it is the intent of the General Assembly to
3 establish a stakeholder workshop within the Commission to
4 promote the successful planning and delivery of thermal
5 energy networks in an equitable manner that reduces
6 emissions, offers affordable building decarbonization, and
7 provides opportunities for employment with fair labor
8 standards and preapprenticeship and apprenticeship
9 programs.

10 (b) As used in this Section:

11 "Thermal energy" means piped noncombustible fluids used
12 for transferring heat into and out of buildings for the
13 purpose of reducing any resultant onsite greenhouse gas
14 emissions of all types of heating and cooling processes,
15 including, but not limited to, comfort heating and cooling,
16 domestic hot water, and refrigeration.

17 "Thermal energy network" means all real estate, fixtures,
18 and personal property operated, owned, used, or to be used
19 for, in connection with, or to facilitate a utility-scale
20 distribution infrastructure project that supplies thermal
21 energy.

22 (c) The Commission, in order to develop a regulatory
23 structure for utility thermal energy networks that scale with
24 affordable and accessible building electrification, protect
25 utility customers, and promote the successful planning and
26 delivery of thermal energy networks, shall convene a workshop

1 process for the purpose of establishing an open, inclusive,
2 and cooperative forum regarding such thermal energy networks.
3 The workshops may be facilitated by an independent,
4 third-party facilitator selected by the Commission. The series
5 of workshops shall include no fewer than 3 workshops. After
6 the conclusion of the workshops, the Commission shall open a
7 comment period that allows interested and diverse stakeholders
8 to submit comments and recommendations regarding the thermal
9 energy networks. Based on the workshop process and stakeholder
10 comments and recommendations offered verbally or in writing
11 during the workshops and in writing during the comment period
12 following the workshops, the Commission or, if applicable, the
13 independent third-party facilitator, shall prepare a report,
14 to be submitted to the Governor and the General Assembly no
15 later than March 1, 2024, describing the stakeholders,
16 discussions, proposals, and areas of consensus and
17 disagreement from the workshop process, and making
18 recommendations regarding thermal energy networks.

19 (d) The workshop shall be designed to achieve the
20 following objectives:

21 (1) determine appropriate ownership, market, and rate
22 structures for thermal energy networks and whether the
23 provision of thermal energy services by thermal network
24 energy providers is in the public interest;

25 (2) consider project designs that could maximize the
26 value of existing State energy efficiency and

1 weatherization programs and maximize federal funding
2 opportunities to the extent practicable;

3 (3) determine whether thermal energy network projects
4 further climate justice and emissions reductions and
5 benefits to utility customers and society at large,
6 including but not limited to public health benefits in
7 areas with disproportionate environmental burdens, job
8 retention and creation, reliability, and increased
9 affordability of renewable thermal energy options;

10 (4) consider approaches to thermal energy network
11 projects that advance financial and technical approaches
12 to equitable and affordable building electrification,
13 including access to thermal energy network benefits by low
14 and moderate income households; and

15 (5) consider approaches to promote the training and
16 transition of utility workers to work on thermal energy
17 networks.

18 (220 ILCS 5/Art. XXIII heading new)

19 ARTICLE XXIII. TRANSMISSION EFFICIENCY AND COOPERATION LAW

20 (220 ILCS 5/23-100 new)

21 Sec. 23-100. Short title. This Article may be cited as the
22 Transmission Efficiency and Cooperation Law.

23 (220 ILCS 5/23-105 new)

1 Sec. 23-105. Incumbent transmission line owner rights.

2 (a) As used in this Section:

3 "Electric transmission line" means a transmission line
4 that is designed and constructed with the capability of being
5 safely and reliably energized at 100 kilovolts or more and its
6 associated transmission facilities, including transmission
7 substations. "Electric transmission line" does not include
8 electric transmission lines located on an electric generating
9 facility's side of the facility's point of interconnection
10 with an incumbent electric transmission line owner.

11 "Incumbent electric transmission owner" means any public
12 utility, municipal corporation, or electric cooperative that
13 owns, operates, and maintains at least one electric
14 transmission line in this State.

15 "Regional transmission operator" means a regional
16 transmission organization, independent system operator, or
17 equivalent entity approved by the Federal Energy Regulatory
18 Commission, or its successor agency, that exercises functional
19 control over electric transmission lines located in this
20 State.

21 "Transmission affiliate" means any company that has been
22 issued a certificate of public convenience and necessity in
23 Illinois authorizing it to own and operate an electric
24 transmission line, and is an Illinois electric utility as
25 defined in Section 16-102 or an affiliate thereof through a
26 common ownership structure.

1 "Transmission plan" means a transmission plan adopted by
2 the Midcontinent Independent System Operator between January
3 1, 2022 and December 31, 2024.

4 (b) An incumbent electric transmission owner has the right
5 to construct, own, and maintain an electric transmission line
6 that has been approved for construction in a transmission plan
7 and that will connect to facilities that are owned by that
8 incumbent electric transmission owner and are or will be under
9 the functional control of the Midcontinent Independent System
10 Operator. The right to construct, own, and maintain any such
11 electric transmission line that will connect to facilities
12 located in the Midcontinent Independent System Operator region
13 of the State and owned by 2 or more incumbent electric
14 transmission owners belongs individually and proportionally to
15 each incumbent electric transmission owner, unless otherwise
16 agreed upon in writing. An incumbent electric transmission
17 owner shall be permitted to assign its right to construct,
18 own, and maintain an electric transmission line to a
19 transmission affiliate.

20 (c) Nothing in this Section limits the right of any
21 incumbent electric transmission owner to construct, own, and
22 maintain any transmission equipment or facilities that have a
23 capacity of less than 100 kilovolts or of any entity otherwise
24 qualified under this Act to own, operate, and maintain
25 electric transmission facilities that are not approved for
26 construction in a transmission plan or that will not connect

1 to facilities under the functional control of a regional
2 transmission operator.

3 (d) Nothing in this Section shall be construed to impair,
4 abridge, or diminish in any way the powers, rights, and
5 privileges of municipal corporations that are not incumbent
6 electric transmission owners to partner with an incumbent
7 electric transmission owner on the development and ownership
8 of an electric transmission line included in a transmission
9 plan or to develop, construct, own, operate, maintain,
10 upgrade, and renew facilities that are not included in a
11 transmission plan but that are necessary or convenient in the
12 provision of electric service, directly or indirectly, to
13 citizens and businesses located in the service areas of
14 municipal systems as that term is defined in Section 17-100,
15 including the rights of such municipal systems and of
16 municipal power agencies as defined in Section 11-119.1-3 of
17 the Illinois Municipal Code to develop, construct, own,
18 operate, maintain, upgrade, and renew such electric
19 transmission lines and related facilities.

20 (e) Nothing in this Section shall relieve an incumbent
21 electric transmission owner asserting its right to construct
22 an electric transmission line, or its transmission affiliate
23 as applicable, of the requirement to file an application for a
24 certificate of convenience and necessity to the extent
25 otherwise required by this Act.

26 (f) Within 90 days after the later of the effective date of

1 this amendatory Act of the 103rd General Assembly or approval
2 of the construction of an electric transmission line by a
3 regional transmission operator, an incumbent electric
4 transmission owner otherwise authorized to engage in the
5 construction under this Section may provide notice to the
6 Commission and the applicable regional transmission operator
7 indicating it will not construct any or all of the electric
8 transmission line so approved, or it will assign any or all of
9 the construction to a transmission affiliate. If the notice is
10 given and indicates the notifying incumbent electric
11 transmission owner or its transmission affiliate will not
12 construct any or all of the electric transmission line so
13 approved, the incumbent electric transmission owner shall
14 indicate the reason for that election, and the Commission may
15 grant permission and approval for such construction to another
16 entity otherwise qualified to own and operate the electric
17 transmission line pursuant to this Act.

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.