



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5539

by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-70
20 ILCS 3855/1-75
20 ILCS 3855/1-80
20 ILCS 3855/1-125
30 ILCS 105/6z-75

Amends the Illinois Power Agency Act. Makes establishment of the Resource Development Bureau discretionary, and makes related changes. Moves language providing that each year the Illinois Power Agency shall prepare a public report for the General Assembly and the Illinois Commerce Commission that shall include certain criteria associated with the procurement of renewable energy resources from under a provision concerning the renewable portfolio standard to a provision concerning Agency annual reports within the Act. In a provision concerning Agency annual reports: provides that the Agency shall report annually each February 15 (currently December 15) on the operations and transactions of the Agency; removes a provision regarding reporting the quantity, price, and rate of all renewable resources purchased under the electricity procurement plans for electric utilities; and provides that average quantity (rather than total quantity) be used for certain reporting criteria. Makes other changes. Effective immediately.

LRB099 19598 EGJ 43993 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Illinois Power Agency Act is amended by
5 changing Sections 1-70, 1-75, 1-80, and 1-125 as follows:

6 (20 ILCS 3855/1-70)

7 Sec. 1-70. Agency officials.

8 (a) The Agency shall have a Director who meets the
9 qualifications specified in Section 5-222 of the Civil
10 Administrative Code of Illinois (20 ILCS 5/5-222).

11 (b) Within the Illinois Power Agency, the Agency shall
12 establish a Planning and Procurement Bureau and may establish a
13 Resource Development Bureau. Each Bureau shall report to the
14 Director.

15 (c) The Chief of the Planning and Procurement Bureau shall
16 be appointed by the Director, at the Director's sole
17 discretion, and (i) shall have at least 5 years of direct
18 experience in electricity supply planning and procurement and
19 (ii) shall also hold an advanced degree in risk management,
20 law, business, or a related field.

21 (d) The Chief of the Resource Development Bureau may ~~shall~~
22 be appointed by the Director and (i) shall have at least 5
23 years of direct experience in electric generating project

1 development and (ii) shall also hold an advanced degree in
2 economics, engineering, law, business, or a related field.

3 (e) The Director shall receive an annual salary of \$100,000
4 or as set by the Compensation Review Board, whichever is
5 higher. The Bureau Chiefs shall each receive an annual salary
6 of \$85,000 or as set by the Compensation Review Board,
7 whichever is higher.

8 (f) The Director and Bureau Chiefs shall not, for 2 years
9 prior to appointment or for 2 years after he or she leaves his
10 or her position, be employed by an electric utility,
11 independent power producer, power marketer, or alternative
12 retail electric supplier regulated by the Commission or the
13 Federal Energy Regulatory Commission.

14 (g) The Director and Bureau Chiefs are prohibited from: (i)
15 owning, directly or indirectly, 5% or more of the voting
16 capital stock of an electric utility, independent power
17 producer, power marketer, or alternative retail electric
18 supplier; (ii) being in any chain of successive ownership of 5%
19 or more of the voting capital stock of any electric utility,
20 independent power producer, power marketer, or alternative
21 retail electric supplier; (iii) receiving any form of
22 compensation, fee, payment, or other consideration from an
23 electric utility, independent power producer, power marketer,
24 or alternative retail electric supplier, including legal fees,
25 consulting fees, bonuses, or other sums. These limitations do
26 not apply to any compensation received pursuant to a defined

1 benefit plan or other form of deferred compensation, provided
2 that the individual has otherwise severed all ties to the
3 utility, power producer, power marketer, or alternative retail
4 electric supplier.

5 (Source: P.A. 97-618, eff. 10-26-11.)

6 (20 ILCS 3855/1-75)

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

10 (a) The Planning and Procurement Bureau shall each year,
11 beginning in 2008, develop procurement plans and conduct
12 competitive procurement processes in accordance with the
13 requirements of Section 16-111.5 of the Public Utilities Act
14 for the eligible retail customers of electric utilities that on
15 December 31, 2005 provided electric service to at least 100,000
16 customers in Illinois. The Planning and Procurement Bureau
17 shall also develop procurement plans and conduct competitive
18 procurement processes in accordance with the requirements of
19 Section 16-111.5 of the Public Utilities Act for the eligible
20 retail customers of small multi-jurisdictional electric
21 utilities that (i) on December 31, 2005 served less than
22 100,000 customers in Illinois and (ii) request a procurement
23 plan for their Illinois jurisdictional load. This Section shall
24 not apply to a small multi-jurisdictional utility until such
25 time as a small multi-jurisdictional utility requests the

1 Agency to prepare a procurement plan for their Illinois
2 jurisdictional load. For the purposes of this Section, the term
3 "eligible retail customers" has the same definition as found in
4 Section 16-111.5(a) of the Public Utilities Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (E) expertise in credit and contract protocols;

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

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

26 (3) The Agency shall provide affected utilities and

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

15 (A) failure to satisfy qualification criteria;

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

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

19 The Agency shall remove experts or expert consulting
20 firms from the lists within 10 days if there is a
21 reasonable basis for an objection and provide the updated
22 lists to the affected utilities and other interested
23 parties. If the Agency fails to remove an expert or expert
24 consulting firm from a list, an objecting party may seek
25 review by the Commission within 5 days thereafter by filing
26 a petition, and the Commission shall render a ruling on the

1 petition within 10 days. There is no right of appeal of the
2 Commission's ruling.

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

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

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

20 (b) The experts or expert consulting firms retained by the
21 Agency shall, as appropriate, prepare procurement plans, and
22 conduct a competitive procurement process as prescribed in
23 Section 16-111.5 of the Public Utilities Act, to ensure
24 adequate, reliable, affordable, efficient, and environmentally
25 sustainable electric service at the lowest total cost over
26 time, taking into account any benefits of price stability, for

1 eligible retail customers of electric utilities that on
2 December 31, 2005 provided electric service to at least 100,000
3 customers in the State of Illinois, and for eligible Illinois
4 retail customers of small multi-jurisdictional electric
5 utilities that (i) on December 31, 2005 served less than
6 100,000 customers in Illinois and (ii) request a procurement
7 plan for their Illinois jurisdictional load.

8 (c) Renewable portfolio standard.

9 (1) The procurement plans shall include cost-effective
10 renewable energy resources. A minimum percentage of each
11 utility's total supply to serve the load of eligible retail
12 customers, as defined in Section 16-111.5(a) of the Public
13 Utilities Act, procured for each of the following years
14 shall be generated from cost-effective renewable energy
15 resources: at least 2% by June 1, 2008; at least 4% by June
16 1, 2009; at least 5% by June 1, 2010; at least 6% by June 1,
17 2011; at least 7% by June 1, 2012; at least 8% by June 1,
18 2013; at least 9% by June 1, 2014; at least 10% by June 1,
19 2015; and increasing by at least 1.5% each year thereafter
20 to at least 25% by June 1, 2025. To the extent that it is
21 available, at least 75% of the renewable energy resources
22 used to meet these standards shall come from wind
23 generation and, beginning on June 1, 2011, at least the
24 following percentages of the renewable energy resources
25 used to meet these standards shall come from photovoltaics
26 on the following schedule: 0.5% by June 1, 2012, 1.5% by

1 June 1, 2013; 3% by June 1, 2014; and 6% by June 1, 2015 and
2 thereafter. Of the renewable energy resources procured
3 pursuant to this Section, at least the following
4 percentages shall come from distributed renewable energy
5 generation devices: 0.5% by June 1, 2013, 0.75% by June 1,
6 2014, and 1% by June 1, 2015 and thereafter. To the extent
7 available, half of the renewable energy resources procured
8 from distributed renewable energy generation shall come
9 from devices of less than 25 kilowatts in nameplate
10 capacity. Renewable energy resources procured from
11 distributed generation devices may also count towards the
12 required percentages for wind and solar photovoltaics.
13 Procurement of renewable energy resources from distributed
14 renewable energy generation devices shall be done on an
15 annual basis through multi-year contracts of no less than 5
16 years, and shall consist solely of renewable energy
17 credits.

18 The Agency shall create credit requirements for
19 suppliers of distributed renewable energy. In order to
20 minimize the administrative burden on contracting
21 entities, the Agency shall solicit the use of third-party
22 organizations to aggregate distributed renewable energy
23 into groups of no less than one megawatt in installed
24 capacity. These third-party organizations shall administer
25 contracts with individual distributed renewable energy
26 generation device owners. An individual distributed

1 renewable energy generation device owner shall have the
2 ability to measure the output of his or her distributed
3 renewable energy generation device.

4 For purposes of this subsection (c), "cost-effective"
5 means that the costs of procuring renewable energy
6 resources do not cause the limit stated in paragraph (2) of
7 this subsection (c) to be exceeded and do not exceed
8 benchmarks based on market prices for renewable energy
9 resources in the region, which shall be developed by the
10 procurement administrator, in consultation with the
11 Commission staff, Agency staff, and the procurement
12 monitor and shall be subject to Commission review and
13 approval.

14 (2) For purposes of this subsection (c), the required
15 procurement of cost-effective renewable energy resources
16 for a particular year shall be measured as a percentage of
17 the actual amount of electricity (megawatt-hours) supplied
18 by the electric utility to eligible retail customers in the
19 planning year ending immediately prior to the procurement.
20 For purposes of this subsection (c), the amount paid per
21 kilowatthour means the total amount paid for electric
22 service expressed on a per kilowatthour basis. For purposes
23 of this subsection (c), the total amount paid for electric
24 service includes without limitation amounts paid for
25 supply, transmission, distribution, surcharges, and add-on
26 taxes.

1 Notwithstanding the requirements of this subsection
2 (c), the total of renewable energy resources procured
3 pursuant to the procurement plan for any single year shall
4 be reduced by an amount necessary to limit the annual
5 estimated average net increase due to the costs of these
6 resources included in the amounts paid by eligible retail
7 customers in connection with electric service to:

8 (A) in 2008, no more than 0.5% of the amount paid
9 per kilowatthour by those customers during the year
10 ending May 31, 2007;

11 (B) in 2009, the greater of an additional 0.5% of
12 the amount paid per kilowatthour by those customers
13 during the year ending May 31, 2008 or 1% of the amount
14 paid per kilowatthour by those customers during the
15 year ending May 31, 2007;

16 (C) in 2010, the greater of an additional 0.5% of
17 the amount paid per kilowatthour by those customers
18 during the year ending May 31, 2009 or 1.5% of the
19 amount paid per kilowatthour by those customers during
20 the year ending May 31, 2007;

21 (D) in 2011, the greater of an additional 0.5% of
22 the amount paid per kilowatthour by those customers
23 during the year ending May 31, 2010 or 2% of the amount
24 paid per kilowatthour by those customers during the
25 year ending May 31, 2007; and

26 (E) thereafter, the amount of renewable energy

1 resources procured pursuant to the procurement plan
2 for any single year shall be reduced by an amount
3 necessary to limit the estimated average net increase
4 due to the cost of these resources included in the
5 amounts paid by eligible retail customers in
6 connection with electric service to no more than the
7 greater of 2.015% of the amount paid per kilowatthour
8 by those customers during the year ending May 31, 2007
9 or the incremental amount per kilowatthour paid for
10 these resources in 2011.

11 No later than June 30, 2011, the Commission shall
12 review the limitation on the amount of renewable energy
13 resources procured pursuant to this subsection (c) and
14 report to the General Assembly its findings as to
15 whether that limitation unduly constrains the
16 procurement of cost-effective renewable energy
17 resources.

18 (3) Through June 1, 2011, renewable energy resources
19 shall be counted for the purpose of meeting the renewable
20 energy standards set forth in paragraph (1) of this
21 subsection (c) only if they are generated from facilities
22 located in the State, provided that cost-effective
23 renewable energy resources are available from those
24 facilities. If those cost-effective resources are not
25 available in Illinois, they shall be procured in states
26 that adjoin Illinois and may be counted towards compliance.

1 If those cost-effective resources are not available in
2 Illinois or in states that adjoin Illinois, they shall be
3 purchased elsewhere and shall be counted towards
4 compliance. After June 1, 2011, cost-effective renewable
5 energy resources located in Illinois and in states that
6 adjoin Illinois may be counted towards compliance with the
7 standards set forth in paragraph (1) of this subsection
8 (c). If those cost-effective resources are not available in
9 Illinois or in states that adjoin Illinois, they shall be
10 purchased elsewhere and shall be counted towards
11 compliance.

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

14 (5) Beginning with the year commencing June 1, 2010, an
15 electric utility subject to this subsection (c) shall apply
16 the lesser of the maximum alternative compliance payment
17 rate or the most recent estimated alternative compliance
18 payment rate for its service territory for the
19 corresponding compliance period, established pursuant to
20 subsection (d) of Section 16-115D of the Public Utilities
21 Act to its retail customers that take service pursuant to
22 the electric utility's hourly pricing tariff or tariffs.
23 The electric utility shall retain all amounts collected as
24 a result of the application of the alternative compliance
25 payment rate or rates to such customers, and, beginning in
26 2011, the utility shall include in the information provided

1 under item (1) of subsection (d) of Section 16-111.5 of the
2 Public Utilities Act the amounts collected under the
3 alternative compliance payment rate or rates for the prior
4 year ending May 31. Notwithstanding any limitation on the
5 procurement of renewable energy resources imposed by item
6 (2) of this subsection (c), the Agency shall increase its
7 spending on the purchase of renewable energy resources to
8 be procured by the electric utility for the next plan year
9 by an amount equal to the amounts collected by the utility
10 under the alternative compliance payment rate or rates in
11 the prior year ending May 31. ~~Beginning April 1, 2012, and~~
12 ~~each year thereafter, the Agency shall prepare a public~~
13 ~~report for the General Assembly and Illinois Commerce~~
14 ~~Commission that shall include, but not necessarily be~~
15 ~~limited to:~~

16 ~~(A) a comparison of the costs associated with the~~
17 ~~Agency's procurement of renewable energy resources to~~
18 ~~(1) the Agency's costs associated with electricity~~
19 ~~generated by other types of generation facilities and~~
20 ~~(2) the benefits associated with the Agency's~~
21 ~~procurement of renewable energy resources; and~~

22 ~~(B) an analysis of the rate impacts associated with~~
23 ~~the Illinois Power Agency's procurement of renewable~~
24 ~~resources, including, but not limited to, any~~
25 ~~long-term contracts, on the eligible retail customers~~
26 ~~of electric utilities.~~

1 ~~The analysis shall include the Agency's estimate of the~~
2 ~~total dollar impact that the Agency's procurement of~~
3 ~~renewable resources has had on the annual electricity bills~~
4 ~~of the customer classes that comprise each eligible retail~~
5 ~~customer class taking service from an electric utility. The~~
6 ~~Agency's report shall also analyze how the operation of the~~
7 ~~alternative compliance payment mechanism, any long term~~
8 ~~contracts, or other aspects of the applicable renewable~~
9 ~~portfolio standards impacts the rates of customers of~~
10 ~~alternative retail electric suppliers.~~

11 (d) Clean coal portfolio standard.

12 (1) The procurement plans shall include electricity
13 generated using clean coal. Each utility shall enter into
14 one or more sourcing agreements with the initial clean coal
15 facility, as provided in paragraph (3) of this subsection
16 (d), covering electricity generated by the initial clean
17 coal facility representing at least 5% of each utility's
18 total supply to serve the load of eligible retail customers
19 in 2015 and each year thereafter, as described in paragraph
20 (3) of this subsection (d), subject to the limits specified
21 in paragraph (2) of this subsection (d). It is the goal of
22 the State that by January 1, 2025, 25% of the electricity
23 used in the State shall be generated by cost-effective
24 clean coal facilities. For purposes of this subsection (d),
25 "cost-effective" means that the expenditures pursuant to
26 such sourcing agreements do not cause the limit stated in

1 paragraph (2) of this subsection (d) to be exceeded and do
2 not exceed cost-based benchmarks, which shall be developed
3 to assess all expenditures pursuant to such sourcing
4 agreements covering electricity generated by clean coal
5 facilities, other than the initial clean coal facility, by
6 the procurement administrator, in consultation with the
7 Commission staff, Agency staff, and the procurement
8 monitor and shall be subject to Commission review and
9 approval.

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

13 Utilities shall maintain adequate records documenting
14 the purchases under the sourcing agreement to comply with
15 this subsection (d) and shall file an accounting with the
16 load forecast that must be filed with the Agency by July 15
17 of each year, in accordance with subsection (d) of Section
18 16-111.5 of the Public Utilities Act.

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

23 (2) For purposes of this subsection (d), the required
24 execution of sourcing agreements with the initial clean
25 coal facility for a particular year shall be measured as a
26 percentage of the actual amount of electricity

1 (megawatt-hours) supplied by the electric utility to
2 eligible retail customers in the planning year ending
3 immediately prior to the agreement's execution. For
4 purposes of this subsection (d), the amount paid per
5 kilowatthour means the total amount paid for electric
6 service expressed on a per kilowatthour basis. For purposes
7 of this subsection (d), the total amount paid for electric
8 service includes without limitation amounts paid for
9 supply, transmission, distribution, surcharges and add-on
10 taxes.

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

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

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

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

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

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

24 No later than June 30, 2015, the Commission shall
25 review the limitation on the total amount paid under
26 sourcing agreements, if any, with clean coal facilities

1 pursuant to this subsection (d) and report to the General
2 Assembly its findings as to whether that limitation unduly
3 constrains the amount of electricity generated by
4 cost-effective clean coal facilities that is covered by
5 sourcing agreements.

6 (3) Initial clean coal facility. In order to promote
7 development of clean coal facilities in Illinois, each
8 electric utility subject to this Section shall execute a
9 sourcing agreement to source electricity from a proposed
10 clean coal facility in Illinois (the "initial clean coal
11 facility") that will have a nameplate capacity of at least
12 500 MW when commercial operation commences, that has a
13 final Clean Air Act permit on the effective date of this
14 amendatory Act of the 95th General Assembly, and that will
15 meet the definition of clean coal facility in Section 1-10
16 of this Act when commercial operation commences. The
17 sourcing agreements with this initial clean coal facility
18 shall be subject to both approval of the initial clean coal
19 facility by the General Assembly and satisfaction of the
20 requirements of paragraph (4) of this subsection (d) and
21 shall be executed within 90 days after any such approval by
22 the General Assembly. The Agency and the Commission shall
23 have authority to inspect all books and records associated
24 with the initial clean coal facility during the term of
25 such a sourcing agreement. A utility's sourcing agreement
26 for electricity produced by the initial clean coal facility

1 shall include:

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

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

15 (ii) provide that all miscellaneous net
16 revenue, including but not limited to net revenue
17 from the sale of emission allowances, if any,
18 substitute natural gas, if any, grants or other
19 support provided by the State of Illinois or the
20 United States Government, firm transmission
21 rights, if any, by-products produced by the
22 facility, energy or capacity derived from the
23 facility and not covered by a sourcing agreement
24 pursuant to paragraph (3) of this subsection (d) or
25 item (5) of subsection (d) of Section 16-115 of the
26 Public Utilities Act, whether generated from the

1 synthesis gas derived from coal, from SNG, or from
2 natural gas, shall be credited against the revenue
3 requirement for this initial clean coal facility;

4 (B) power purchase provisions, which shall:

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

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

12 (iii) require the utility party to such
13 sourcing agreement to buy from the initial clean
14 coal facility in each hour an amount of energy
15 equal to all clean coal energy made available from
16 the initial clean coal facility during such hour
17 times a fraction, the numerator of which is such
18 utility's retail market sales of electricity
19 (expressed in kilowatthours sold) in the State
20 during the prior calendar month and the
21 denominator of which is the total retail market
22 sales of electricity (expressed in kilowatthours
23 sold) in the State by utilities during such prior
24 month and the sales of electricity (expressed in
25 kilowatthours sold) in the State by alternative
26 retail electric suppliers during such prior month

1 that are subject to the requirements of this
2 subsection (d) and paragraph (5) of subsection (d)
3 of Section 16-115 of the Public Utilities Act,
4 provided that the amount purchased by the utility
5 in any year will be limited by paragraph (2) of
6 this subsection (d); and

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

10 (C) contract for differences provisions, which
11 shall:

12 (i) require the utility party to such sourcing
13 agreement to contract with the initial clean coal
14 facility in each hour with respect to an amount of
15 energy equal to all clean coal energy made
16 available from the initial clean coal facility
17 during such hour times a fraction, the numerator of
18 which is such utility's retail market sales of
19 electricity (expressed in kilowatthours sold) in
20 the utility's service territory in the State
21 during the prior calendar month and the
22 denominator of which is the total retail market
23 sales of electricity (expressed in kilowatthours
24 sold) in the State by utilities during such prior
25 month and the sales of electricity (expressed in
26 kilowatthours sold) in the State by alternative

1 retail electric suppliers during such prior month
2 that are subject to the requirements of this
3 subsection (d) and paragraph (5) of subsection (d)
4 of Section 16-115 of the Public Utilities Act,
5 provided that the amount paid by the utility in any
6 year will be limited by paragraph (2) of this
7 subsection (d);

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

26 (iii) not require the utility to take physical

1 delivery of the electricity produced by the
2 facility;

3 (D) general provisions, which shall:

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

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

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

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

1 (v) require the owner of the initial clean coal
2 facility to provide documentation to the
3 Commission each year, starting in the facility's
4 first year of commercial operation, accurately
5 reporting the quantity of carbon emissions from
6 the facility that have been captured and
7 sequestered and report any quantities of carbon
8 released from the site or sites at which carbon
9 emissions were sequestered in prior years, based
10 on continuous monitoring of such sites. If, in any
11 year after the first year of commercial operation,
12 the owner of the facility fails to demonstrate that
13 the initial clean coal facility captured and
14 sequestered at least 50% of the total carbon
15 emissions that the facility would otherwise emit
16 or that sequestration of emissions from prior
17 years has failed, resulting in the release of
18 carbon dioxide into the atmosphere, the owner of
19 the facility must offset excess emissions. Any
20 such carbon offsets must be permanent, additional,
21 verifiable, real, located within the State of
22 Illinois, and legally and practicably enforceable.
23 The cost of such offsets for the facility that are
24 not recoverable shall not exceed \$15 million in any
25 given year. No costs of any such purchases of
26 carbon offsets may be recovered from a utility or

1 its customers. All carbon offsets purchased for
2 this purpose and any carbon emission credits
3 associated with sequestration of carbon from the
4 facility must be permanently retired. The initial
5 clean coal facility shall not forfeit its
6 designation as a clean coal facility if the
7 facility fails to fully comply with the applicable
8 carbon sequestration requirements in any given
9 year, provided the requisite offsets are
10 purchased. However, the Attorney General, on
11 behalf of the People of the State of Illinois, may
12 specifically enforce the facility's sequestration
13 requirement and the other terms of this contract
14 provision. Compliance with the sequestration
15 requirements and offset purchase requirements
16 specified in paragraph (3) of this subsection (d)
17 shall be reviewed annually by an independent
18 expert retained by the owner of the initial clean
19 coal facility, with the advance written approval
20 of the Attorney General. The Commission may, in the
21 course of the review specified in item (vii),
22 reduce the allowable return on equity for the
23 facility if the facility wilfully fails to comply
24 with the carbon capture and sequestration
25 requirements set forth in this item (v);

26 (vi) include limits on, and accordingly

1 provide for modification of, the amount the
2 utility is required to source under the sourcing
3 agreement consistent with paragraph (2) of this
4 subsection (d);

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

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

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

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

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

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

26 (xiii) conform with customary lender

1 requirements in power purchase agreements used as
2 the basis for financing non-utility generators.

3 (4) Effective date of sourcing agreements with the
4 initial clean coal facility.

5 Any proposed sourcing agreement with the initial clean
6 coal facility shall not become effective unless the
7 following reports are prepared and submitted and
8 authorizations and approvals obtained:

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

22 (ii) Commission report. Within 6 months following
23 receipt of the facility cost report, the Commission, in
24 consultation with the Agency, shall submit a report to
25 the General Assembly setting forth its analysis of the
26 facility cost report. Such report shall include, but

1 not be limited to, a comparison of the costs associated
2 with electricity generated by the initial clean coal
3 facility to the costs associated with electricity
4 generated by other types of generation facilities, an
5 analysis of the rate impacts on residential and small
6 business customers over the life of the sourcing
7 agreements, and an analysis of the likelihood that the
8 initial clean coal facility will commence commercial
9 operation by and be delivering power to the facility's
10 busbar by 2016. To assist in the preparation of its
11 report, the Commission, in consultation with the
12 Agency, may hire one or more experts or consultants,
13 the costs of which shall be paid for by the owner of
14 the initial clean coal facility. The Commission and
15 Agency may begin the process of selecting such experts
16 or consultants prior to receipt of the facility cost
17 report.

18 (iii) General Assembly approval. The proposed
19 sourcing agreements shall not take effect unless,
20 based on the facility cost report and the Commission's
21 report, the General Assembly enacts authorizing
22 legislation approving (A) the projected price, stated
23 in cents per kilowatthour, to be charged for
24 electricity generated by the initial clean coal
25 facility, (B) the projected impact on residential and
26 small business customers' bills over the life of the

1 sourcing agreements, and (C) the maximum allowable
2 return on equity for the project; and

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

14 The facility cost report shall be prepared as follows:

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

23 (i) an estimate of the capital cost of the core
24 plant based on one or more front end engineering
25 and design studies for the gasification island and
26 related facilities. The core plant shall include

1 all civil, structural, mechanical, electrical,
2 control, and safety systems.

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

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

21 (B) The front end engineering and design study for
22 the gasification island and the cost study for the
23 balance of plant shall include sufficient design work
24 to permit quantification of major categories of
25 materials, commodities and labor hours, and receipt of
26 quotes from vendors of major equipment required to

1 construct and operate the clean coal facility.

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

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

26 (D) The facility cost report shall also include an

1 analysis of the initial clean coal facility's ability
2 to deliver power and energy into the applicable
3 regional transmission organization markets and an
4 analysis of the expected capacity factor for the
5 initial clean coal facility.

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

12 (5) Re-powering and retrofitting coal-fired power
13 plants previously owned by Illinois utilities to qualify as
14 clean coal facilities. During the 2009 procurement
15 planning process and thereafter, the Agency and the
16 Commission shall consider sourcing agreements covering
17 electricity generated by power plants that were previously
18 owned by Illinois utilities and that have been or will be
19 converted into clean coal facilities, as defined by Section
20 1-10 of this Act. Pursuant to such procurement planning
21 process, the owners of such facilities may propose to the
22 Agency sourcing agreements with utilities and alternative
23 retail electric suppliers required to comply with
24 subsection (d) of this Section and item (5) of subsection
25 (d) of Section 16-115 of the Public Utilities Act, covering
26 electricity generated by such facilities. In the case of

1 sourcing agreements that are power purchase agreements,
2 the contract price for electricity sales shall be
3 established on a cost of service basis. In the case of
4 sourcing agreements that are contracts for differences,
5 the contract price from which the reference price is
6 subtracted shall be established on a cost of service basis.
7 The Agency and the Commission may approve any such utility
8 sourcing agreements that do not exceed cost-based
9 benchmarks developed by the procurement administrator, in
10 consultation with the Commission staff, Agency staff and
11 the procurement monitor, subject to Commission review and
12 approval. The Commission shall have authority to inspect
13 all books and records associated with these clean coal
14 facilities during the term of any such contract.

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

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

24 (f) The Agency shall submit the final procurement plan to
25 the Commission. The Agency shall revise a procurement plan if
26 the Commission determines that it does not meet the standards

1 set forth in Section 16-111.5 of the Public Utilities Act.

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

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

8 (Source: P.A. 97-325, eff. 8-12-11; 97-616, eff. 10-26-11;
9 97-618, eff. 10-26-11; 97-658, eff. 1-13-12; 97-813, eff.
10 7-13-12; 98-463, eff. 8-16-13.)

11 (20 ILCS 3855/1-80)

12 Sec. 1-80. Resource Development Bureau. Upon its
13 establishment by the Agency, the ~~The~~ Resource Development
14 Bureau has the following duties and responsibilities:

15 (a) At the Agency's discretion, conduct feasibility
16 studies on the construction of any facility. Funding for a
17 study shall come from either:

18 (i) fees assessed by the Agency on municipal
19 electric systems, governmental aggregators, unit or
20 units of local government, or rural electric
21 cooperatives requesting the feasibility study; or

22 (ii) an appropriation from the General Assembly.

23 (b) If the Agency undertakes the construction of a
24 facility, moneys generated from the sale of revenue bonds
25 by the Authority for the facility shall be used to

1 reimburse the source of the money used for the facility's
2 feasibility study.

3 (c) The Agency may develop, finance, construct, or
4 operate electric generation and co-generation facilities
5 that use indigenous coal or renewable resources, or both,
6 financed with bonds issued by the Authority on behalf of
7 the Agency. Any such facility that uses coal must be a
8 clean coal facility and must be constructed in a location
9 where the geology is suitable for carbon sequestration. The
10 Agency may also develop, finance, construct, or operate a
11 carbon sequestration facility.

12 (1) The Agency may enter into contractual
13 arrangements with private and public entities,
14 including but not limited to municipal electric
15 systems, governmental aggregators, and rural electric
16 cooperatives, to plan, site, construct, improve,
17 rehabilitate, and operate those electric generation
18 and co-generation facilities. No contract shall be
19 entered into by the Agency that would jeopardize the
20 tax-exempt status of any bond issued in connection with
21 a project for which the Agency entered into the
22 contract.

23 (2) The Agency shall hold at least one public
24 hearing before entering into any such contractual
25 arrangements. At least 30-days' notice of the hearing
26 shall be given by publication once in each week during

1 that period in 6 newspapers within the State, at least
2 one of which has a circulation area that includes the
3 location of the proposed facility.

4 (3) The first facility that the Agency develops,
5 finances, or constructs shall be a facility that uses
6 coal produced in Illinois. The Agency may, however,
7 also develop, finance, or construct renewable energy
8 facilities after work on the first facility has
9 commenced.

10 (4) The Agency may not develop, finance, or
11 construct a nuclear power plant.

12 (5) The Agency shall assess fees to applicants
13 seeking to partner with the Agency on projects.

14 (d) Use of electricity generated by the Agency's
15 facilities. The Agency may supply electricity produced by
16 the Agency's facilities to municipal electric systems,
17 governmental aggregators, or rural electric cooperatives
18 in Illinois. The electricity shall be supplied at cost.

19 (1) Contracts to supply power and energy from the
20 Agency's facilities shall provide for the effectuation
21 of the policies set forth in this Act.

22 (2) The contracts shall also provide that,
23 notwithstanding any provision in the Public Utilities
24 Act, entities supplied with power and energy from an
25 Agency facility shall supply the power and energy to
26 retail customers at the same price paid to purchase

1 power and energy from the Agency.

2 (e) Electric utilities shall not be required to purchase
3 electricity directly or indirectly from facilities developed
4 or sponsored by the Agency.

5 (f) The Agency may sell excess capacity and excess energy
6 into the wholesale electric market at prevailing market rates;
7 provided, however, the Agency may not sell excess capacity or
8 excess energy through the procurement process described in
9 Section 16-111.5 of the Public Utilities Act.

10 (g) The Agency shall not directly sell electric power and
11 energy to retail customers. Nothing in this paragraph shall be
12 construed to prohibit sales to municipal electric systems,
13 governmental aggregators, or rural electric cooperatives.

14 (Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09.)

15 (20 ILCS 3855/1-125)

16 Sec. 1-125. Agency annual reports. By February 15 of each
17 year ~~December 1, 2011 and each December 1 thereafter~~, the
18 Agency shall report annually to the Governor and the General
19 Assembly on the operations and transactions of the Agency. The
20 annual report shall include, but not be limited to, each of the
21 following:

22 (1) The average quantity, price, and term of all
23 contracts for electricity procured under the procurement
24 plans for electric utilities.

25 (2) (Blank). ~~The quantity, price, and rate impact of~~

1 ~~all renewable resources purchased under the electricity~~
2 ~~procurement plans for electric utilities.~~

3 (3) The quantity, price, and rate impact of all energy
4 efficiency and demand response measures purchased for
5 electric utilities, and any measures included in the
6 procurement plan pursuant to Section 16-111.5B of the
7 Public Utilities Act.

8 (4) The amount of power and energy produced by each
9 Agency facility.

10 (5) The quantity of electricity supplied by each Agency
11 facility to municipal electric systems, governmental
12 aggregators, or rural electric cooperatives in Illinois.

13 (6) The revenues as allocated by the Agency to each
14 facility.

15 (7) The costs as allocated by the Agency to each
16 facility.

17 (8) The accumulated depreciation for each facility.

18 (9) The status of any projects under development.

19 (10) Basic financial and operating information
20 specifically detailed for the reporting year and
21 including, but not limited to, income and expense
22 statements, balance sheets, and changes in financial
23 position, all in accordance with generally accepted
24 accounting principles, debt structure, and a summary of
25 funds on a cash basis.

26 (11) The average quantity, price, contract type and

1 term, and rate impact of all renewable resources purchased
2 ~~pursuant to long-term contracts~~ under the electricity
3 procurement plans for electric utilities.

4 (12) A comparison of the costs associated with the
5 Agency's procurement of renewable energy resources to (A)
6 the Agency's costs associated with electricity generated
7 by other types of generation facilities and (B) the
8 benefits associated with the Agency's procurement of
9 renewable energy resources.

10 (13) An analysis of the rate impacts associated with
11 the Illinois Power Agency's procurement of renewable
12 resources, including, but not limited to, any long-term
13 contracts, on the eligible retail customers of electric
14 utilities. The analysis shall include the Agency's
15 estimate of the total dollar impact that the Agency's
16 procurement of renewable resources has had on the annual
17 electricity bills of the customer classes that comprise
18 each eligible retail customer class taking service from an
19 electric utility.

20 (14) An analysis of how the operation of the
21 alternative compliance payment mechanism, any long-term
22 contracts, or other aspects of the applicable renewable
23 portfolio standards impacts the rates of customers of
24 alternative retail electric suppliers.

25 (Source: P.A. 97-658, eff. 1-13-12.)

1 Section 10. The State Finance Act is amended by changing
2 Section 6z-75 as follows:

3 (30 ILCS 105/6z-75)

4 Sec. 6z-75. The Illinois Power Agency Trust Fund.

5 (a) Creation. The Illinois Power Agency Trust Fund is
6 created as a special fund in the State treasury. The State
7 Treasurer shall be the custodian of the Fund. Amounts in the
8 Fund, both principal and interest not appropriated, shall be
9 invested as provided by law.

10 (b) Funding and investment.

11 (1) The Illinois Power Agency Trust Fund may accept,
12 receive, and administer any grants, loans, or other funds
13 made available to it by any source. Any such funds received
14 by the Fund shall not be considered income, but shall be
15 added to the principal of the Fund.

16 (2) The investments of the Fund shall be managed by the
17 Illinois State Board of Investment, for the purpose of
18 obtaining a total return on investments for the long term,
19 as provided for under Article 22A of the Illinois Pension
20 Code.

21 (c) Investment proceeds. Subject to the provisions of
22 subsection (d) of this Section, the General Assembly may
23 annually appropriate from the Illinois Power Agency Trust Fund
24 to the Illinois Power Agency Operations Fund an amount
25 calculated not to exceed 90% of the prior fiscal year's annual

1 investment income earned by the Fund to the Illinois Power
2 Agency. Any investment income not appropriated by the General
3 Assembly in a given fiscal year shall be added to the principal
4 of the Fund, and thereafter considered a part thereof and not
5 subject to appropriation as income earned by the Fund.

6 (d) Expenditures.

7 (1) During Fiscal Year 2008 and Fiscal Year 2009, the
8 General Assembly shall not appropriate any of the
9 investment income earned by the Illinois Power Agency Trust
10 Fund to the Illinois Power Agency.

11 (2) During Fiscal Year 2010 and Fiscal Year 2011, the
12 General Assembly shall appropriate a portion of the
13 investment income earned by the Illinois Power Agency Trust
14 Fund to repay to the General Revenue Fund of the State of
15 Illinois those amounts, if any, appropriated from the
16 General Revenue Fund for the operation of the Illinois
17 Power Agency during Fiscal Year 2008 and Fiscal Year 2009,
18 so that at the end of Fiscal Year 2011, the entire amount,
19 if any, appropriated from the General Revenue Fund for the
20 operation of the Illinois Power Agency during Fiscal Year
21 2008 and Fiscal Year 2009 will be repaid in full to the
22 General Revenue Fund.

23 (3) In Fiscal Year 2012 and thereafter, the General
24 Assembly shall consider the need to balance its
25 appropriations from the investment income earned by the
26 Fund with the need to provide for the growth of the

1 principal of the Illinois Power Agency Trust Fund in order
2 to ensure that the Fund is able to produce sufficient
3 investment income to fund the operations of the Illinois
4 Power Agency in future years.

5 (4) If the Illinois Power Agency shall cease
6 operations, then, unless otherwise provided for by law or
7 appropriation, the principal and any investment income
8 earned by the Fund shall be transferred into the
9 Supplemental Low-Income Energy Assistance Program (LIHEAP)
10 Fund under Section 13 of the Energy Assistance Act of 1989.

11 (e) Implementation. The provisions of this Section shall
12 not be operative until the Illinois Power Agency Trust Fund has
13 accumulated a principal balance of \$25,000,000.

14 (Source: P.A. 95-481, eff. 8-28-07.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.