



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB2810

Introduced 2/6/2025, by Rep. Lawrence "Larry" Walsh, Jr.

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-75
65 ILCS 5/11-13-26
505 ILCS 147/1
505 ILCS 147/5
505 ILCS 147/10
505 ILCS 147/15

Amends the Renewable Energy Facilities Agricultural Impact Mitigation Act. Changes the short title of the Act to the Agricultural Impact Mitigation Act. Makes conforming changes in the Illinois Power Agency Act and the Illinois Municipal Code. Makes the Agricultural Impact Mitigation Act's agricultural impact mitigation agreement provisions applicable to commercial wind energy facilities, battery energy storage systems, pipelines, and electric lines. Describes information to be included in the agricultural impact mitigation agreements. Requires each construction or destruction project to undergo inspection by an agricultural inspector. Authorizes the Department of Agriculture to temporarily halt construction, deconstruction, or other activities on a project upon its finding of noncompliance with the provisions of an agricultural impact mitigation agreement. Defines terms. Effective immediately.

LRB104 08813 BDA 18868 b

1 AN ACT concerning agriculture.

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 Section 1-75 as follows:

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
15 on December 31, 2005 provided electric service to at least
16 100,000 customers in Illinois. Beginning with the delivery
17 year commencing on June 1, 2017, the Planning and Procurement
18 Bureau shall develop plans and processes for the procurement
19 of zero emission credits from zero emission facilities in
20 accordance with the requirements of subsection (d-5) of this
21 Section. Beginning on the effective date of this amendatory
22 Act of the 102nd General Assembly, the Planning and
23 Procurement Bureau shall develop plans and processes for the

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

18 Beginning with the plan or plans to be implemented in the
19 2017 delivery year, the Agency shall no longer include the
20 procurement of renewable energy resources in the annual
21 procurement plans required by this subsection (a), except as
22 provided in subsection (q) of Section 16-111.5 of the Public
23 Utilities Act, and shall instead develop a long-term renewable
24 resources procurement plan in accordance with subsection (c)
25 of this Section and Section 16-111.5 of the Public Utilities
26 Act.

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

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

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

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

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

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

1 organizations;

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

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

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

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

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

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

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

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

25 (E) expertise in credit and contract protocols;

26 (F) adequate resources to perform and fulfill the

1 required functions and responsibilities; and

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

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

20 (A) failure to satisfy qualification criteria;

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

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

24 The Agency shall remove experts or expert consulting
25 firms from the lists within 10 days if there is a
26 reasonable basis for an objection and provide the updated

1 lists to the affected utilities and other interested
2 parties. If the Agency fails to remove an expert or expert
3 consulting firm from a list, an objecting party may seek
4 review by the Commission within 5 days thereafter by
5 filing a petition, and the Commission shall render a
6 ruling on the petition within 10 days. There is no right of
7 appeal of the Commission's ruling.

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

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

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

25 (b) The experts or expert consulting firms retained by the
26 Agency shall, as appropriate, prepare procurement plans, and

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

13 (c) Renewable portfolio standard.

14 (1) (A) The Agency shall develop a long-term renewable
15 resources procurement plan that shall include procurement
16 programs and competitive procurement events necessary to
17 meet the goals set forth in this subsection (c). The
18 initial long-term renewable resources procurement plan
19 shall be released for comment no later than 160 days after
20 June 1, 2017 (the effective date of Public Act 99-906).
21 The Agency shall review, and may revise on an expedited
22 basis, the long-term renewable resources procurement plan
23 at least every 2 years, which shall be conducted in
24 conjunction with the procurement plan under Section
25 16-111.5 of the Public Utilities Act to the extent
26 practicable to minimize administrative expense. No later

1 than 120 days after the effective date of this amendatory
2 Act of the 103rd General Assembly, the Agency shall
3 release for comment a revision to the long-term renewable
4 resources procurement plan, updating elements of the most
5 recently approved plan as needed to comply with this
6 amendatory Act of the 103rd General Assembly, and any
7 long-term renewable resources procurement plan update
8 published by the Agency but not yet approved by the
9 Illinois Commerce Commission shall be withdrawn. No later
10 than 120 days after the effective date of this amendatory
11 Act of the 104th General Assembly, the Agency shall
12 release for comment a revision to the long-term renewable
13 resources procurement plan, updating elements of the most
14 recently approved plan as needed to comply with this
15 amendatory Act of the 104th General Assembly, and any
16 long-term renewable resources procurement plan update
17 published by the Agency but not yet approved by the
18 Illinois Commerce Commission shall be withdrawn. The
19 long-term renewable resources procurement plans shall be
20 subject to review and approval by the Commission under
21 Section 16-111.5 of the Public Utilities Act.

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

1 at least 1.5% each delivery year thereafter to at least
2 25% by the 2025 delivery year; increasing by at least 3%
3 each delivery year thereafter to at least 40% by the 2030
4 delivery year, and continuing at no less than 40% for each
5 delivery year thereafter. The Agency shall attempt to
6 procure 50% by delivery year 2040. The Agency shall
7 determine the annual increase between delivery year 2030
8 and delivery year 2040, if any, taking into account energy
9 demand, other energy resources, and other public policy
10 goals. In the event of a conflict between these goals and
11 the new wind, new photovoltaic, and hydropower procurement
12 requirements described in items (i) through (iii) of
13 subparagraph (C) of this paragraph (1), the long-term plan
14 shall prioritize compliance with the new wind, new
15 photovoltaic, and hydropower procurement requirements
16 described in items (i) through (iii) of subparagraph (C)
17 of this paragraph (1) over the annual percentage targets
18 described in this subparagraph (B). The Agency shall not
19 comply with the annual percentage targets described in
20 this subparagraph (B) by procuring renewable energy
21 credits that are unlikely to lead to the development of
22 new renewable resources or new, modernized, or retooled
23 hydropower facilities.

24 For the delivery year beginning June 1, 2017, the
25 procurement plan shall attempt to include, subject to the
26 prioritization outlined in this subparagraph (B),

1 cost-effective renewable energy resources equal to at
2 least 13% of each utility's load for eligible retail
3 customers and 13% of the applicable portion of each
4 utility's load for retail customers who are not eligible
5 retail customers, which applicable portion shall equal 50%
6 of the utility's load for retail customers who are not
7 eligible retail customers on February 28, 2017.

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

18 For the delivery year beginning June 1, 2019, and for
19 each year thereafter, the procurement plans shall attempt
20 to include, subject to the prioritization outlined in this
21 subparagraph (B), cost-effective renewable energy
22 resources equal to a minimum percentage of each utility's
23 load for all retail customers as follows: 16% by June 1,
24 2019; increasing by 1.5% each year thereafter to 25% by
25 June 1, 2025; and 25% by June 1, 2026; increasing by at
26 least 3% each delivery year thereafter to at least 40% by

1 the 2030 delivery year, and continuing at no less than 40%
2 for each delivery year thereafter. The Agency shall
3 attempt to procure 50% by delivery year 2040. The Agency
4 shall determine the annual increase between delivery year
5 2030 and delivery year 2040, if any, taking into account
6 energy demand, other energy resources, and other public
7 policy goals.

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

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

19 (i) At least 10,000,000 renewable energy credits
20 delivered annually by the end of the 2021 delivery
21 year, and increasing ratably to reach 45,000,000
22 renewable energy credits delivered annually from new
23 wind and solar projects by the end of delivery year
24 2030 such that the goals in subparagraph (B) of this
25 paragraph (1) are met entirely by procurements of
26 renewable energy credits from new wind and

1 photovoltaic projects. Of that amount, to the extent
2 possible, the Agency shall procure 45% from wind and
3 hydropower projects and 55% from photovoltaic
4 projects. Of the amount to be procured from
5 photovoltaic projects, the Agency shall procure: at
6 least 50% from solar photovoltaic projects using the
7 program outlined in subparagraph (K) of this paragraph
8 (1) from distributed renewable energy generation
9 devices or community renewable generation projects; at
10 least 47% from utility-scale solar projects; at least
11 3% from brownfield site photovoltaic projects that are
12 not community renewable generation projects.

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

1 existing hydropower facilities to support the
2 development and maintenance of these facilities. The
3 Agency shall explore options to convert existing dams
4 but shall not consider approaches to develop new dams
5 where they do not already exist.

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

12 (iii) For purposes of this Section:

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

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

22 For purposes of calculating whether the Agency has
23 procured enough new wind and solar renewable energy
24 credits required by this subparagraph (C), renewable
25 energy facilities that have a multi-year renewable
26 energy credit delivery contract with the utility

1 through at least delivery year 2030 shall be
2 considered new, however no renewable energy credits
3 from contracts entered into before June 1, 2021 shall
4 be used to calculate whether the Agency has procured
5 the correct proportion of new wind and new solar
6 contracts described in this subparagraph (C) for
7 delivery year 2021 and thereafter.

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

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

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

1 delivery year ending immediately prior to the procurement,
2 to all retail customers in its service territory. For
3 purposes of this subsection (c), the amount paid per
4 kilowatthour means the total amount paid for electric
5 service expressed on a per kilowatthour basis. For
6 purposes of this subsection (c), the total amount paid for
7 electric service includes without limitation amounts paid
8 for supply, transmission, capacity, distribution,
9 surcharges, and add-on taxes.

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

1 the electric utility in the delivery year immediately
2 prior to the procurement to all retail customers in its
3 service territory. The calculations required by this
4 subparagraph (E) shall be made only once for each delivery
5 year at the time that the renewable energy resources are
6 procured. Once the determination as to the amount of
7 renewable energy resources to procure is made based on the
8 calculations set forth in this subparagraph (E) and the
9 contracts procuring those amounts are executed, no
10 subsequent rate impact determinations shall be made and no
11 adjustments to those contract amounts shall be allowed.
12 All costs incurred under such contracts shall be fully
13 recoverable by the electric utility as provided in this
14 Section.

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

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

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

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

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

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

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

1 which case, not later than June 1, 2022. Payments to
2 suppliers of renewable energy credits shall commence
3 upon delivery. Renewable energy credits procured under
4 this initial procurement shall be included in the
5 Agency's long-term plan and shall apply to all
6 renewable energy goals in this subsection (c).

7 (ii) Notwithstanding whether a long-term renewable
8 resources procurement plan has been approved, the
9 Agency shall conduct an initial forward procurement
10 for renewable energy credits from new utility-scale
11 solar projects and brownfield site photovoltaic
12 projects within one year after June 1, 2017 (the
13 effective date of Public Act 99-906). For the purposes
14 of this initial forward procurement, the Agency shall
15 solicit 15-year contracts for delivery of 1,000,000
16 renewable energy credits delivered annually from new
17 utility-scale solar projects and brownfield site
18 photovoltaic projects to begin delivery on June 1,
19 2019, if available, but not later than June 1, 2021,
20 unless the project has delays in the establishment of
21 an operating interconnection with the applicable
22 transmission or distribution system as a result of the
23 actions or inactions of the transmission or
24 distribution provider, or other causes for force
25 majeure as outlined in the procurement contract, in
26 which case, not later than June 1, 2022. The Agency may

1 structure this initial procurement in one or more
2 discrete procurement events. Payments to suppliers of
3 renewable energy credits shall commence upon delivery.
4 Renewable energy credits procured under this initial
5 procurement shall be included in the Agency's
6 long-term plan and shall apply to all renewable energy
7 goals in this subsection (c).

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

21 (iv) Notwithstanding whether the Commission has
22 approved the periodic long-term renewable resources
23 procurement plan revision described in Section
24 16-111.5 of the Public Utilities Act, the Agency shall
25 open capacity for each category in the Adjustable
26 Block program within 90 days after the effective date

1 of this amendatory Act of the 102nd General Assembly
2 manner:

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

1 operation. Renewable energy credits generated by
2 the project thereafter shall not be transferred
3 under the renewable energy credit delivery
4 contract with the counterparty electric utility.

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

11 (A) The price of the renewable energy
12 credit for any project on a waitlist for this
13 category before the opening of this block
14 shall be 4% less than the price of the last
15 open block in this category. Projects on the
16 waitlist shall be awarded contracts first in
17 the order in which they appear on the
18 waitlist. Any projects that are less than or
19 equal to 25 kilowatts in size on the waitlist
20 for this capacity shall be moved to the
21 waitlist for paragraph (1) of this item (iv).
22 Notwithstanding anything to the contrary,
23 projects that were on the waitlist prior to
24 opening of this block shall not be required to
25 be in compliance with the requirements of
26 subparagraph (Q) of this paragraph (1) of this

1 subsection (c). Notwithstanding anything to
2 the contrary, for those renewable energy
3 credits procured from projects that were on
4 the waitlist for this category before the
5 opening of this block 20% of the renewable
6 energy credit delivery contract value, based
7 on the estimated generation during the first
8 15 years of operation, shall be paid by the
9 contracting utilities at the time that the
10 facility producing the renewable energy
11 credits is interconnected at the distribution
12 system level of the utility and verified as
13 energized by the Program Administrator. The
14 remaining portion shall be paid ratably over
15 the subsequent 4-year period. The electric
16 utility shall receive and retire all renewable
17 energy credits generated by the project during
18 the first 15 years of operation. Renewable
19 energy credits generated by the project
20 thereafter shall not be transferred under the
21 renewable energy credit delivery contract with
22 the counterparty electric utility.

23 (B) The price of renewable energy credits
24 for any project not on the waitlist for this
25 category before the opening of the block shall
26 be determined and published by the Agency.

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

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

23 The first 2 blocks of annual capacity for item
24 (iii) shall be for 250 megawatts of total
25 nameplate capacity, with both blocks opening
26 simultaneously under the schedule outlined in the

1 paragraphs below. Projects shall be selected as
2 follows:

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

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

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

22 (ii) Each applicant firm, upon
23 receiving an award of program capacity
24 proportionate to its waitlisted capacity,
25 may then determine which waitlisted
26 projects it chooses to be selected for a

1 contract award up to that capacity amount.

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

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

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

20 (D) Applicant firms shall submit their
21 portfolio of projects used to satisfy those
22 contract awards no less than 90 days after the
23 Agency's announcement. The total nameplate
24 capacity of all projects used to satisfy that
25 portfolio shall be no greater than the
26 Agency's nameplate capacity award amount

1 associated with that applicant firm. An
2 applicant firm may decline, in whole or in
3 part, its nameplate capacity award without
4 penalty, with such unmet capacity rolled over
5 to the next block opening for project
6 selection under item (iii) of subparagraph (K)
7 of this subsection (c). Any projects not
8 included in an applicant firm's portfolio may
9 reapply without prejudice upon the next block
10 reopening for project selection under item
11 (iii) of subparagraph (K) of this subsection
12 (c).

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

20 (i) Renewable energy credit prices
21 shall be fixed, without further adjustment
22 under any other provision of this Act or
23 for any other reason, at 10% lower than
24 prices applicable to the last open block
25 for this category, inclusive of any adders
26 available for achieving a minimum of 50%

1 of subscribers to the project's nameplate
2 capacity being residential or small
3 commercial customers with subscriptions of
4 below 25 kilowatts in size;

5 (ii) A requirement that a minimum of
6 50% of subscribers to the project's
7 nameplate capacity be residential or small
8 commercial customers with subscriptions of
9 below 25 kilowatts in size;

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

25 The Agency shall publish a finalized
26 updated renewable energy credit delivery

1 contract developed consistent with these terms
2 and conditions no less than 30 days before
3 applicant firms must submit their portfolio of
4 projects pursuant to item (D).

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

12 (4) The Agency shall open the first block of
13 annual capacity for the category described in item
14 (iv) of subparagraph (K) of this paragraph (1).
15 The first block of annual capacity for item (iv)
16 shall be for at least 50 megawatts of total
17 nameplate capacity. Renewable energy credit prices
18 shall be fixed, without further adjustment under
19 any other provision of this Act or for any other
20 reason, at the price in the last open block in the
21 category described in item (ii) of subparagraph
22 (K) of this paragraph (1). Pricing for future
23 blocks of annual capacity for this category may be
24 adjusted in the Agency's second revision to its
25 Long-Term Renewable Resources Procurement Plan.
26 Projects in this category shall be subject to the

1 contract terms outlined in item (iv) of
2 subparagraph (L) of this paragraph (1).

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

22 (6) The Agency shall open the first blocks of
23 annual capacity for the category described in item
24 (vi) of subparagraph (K) of this paragraph (1),
25 with allocations of capacity within the block
26 generally matching the historical share of block

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

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

24 (1) The purchase price of the indexed
25 renewable energy credit payment shall be
26 calculated for each settlement period. That

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

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

16 (3) To ensure funding in the annual budget
17 established under subparagraph (E) for indexed
18 renewable energy credit procurements for each year
19 of the term of such contracts, which must have a
20 minimum tenure of 20 calendar years, the
21 procurement administrator, Agency, Commission
22 staff, and procurement monitor shall quantify the
23 annual cost of the contract by utilizing an
24 industry-standard, third-party forward price curve
25 for energy at the appropriate hub or load zone,
26 including the estimated magnitude and timing of

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

1 be updated by the procurement administrator, in
2 consultation with the Agency, Commission staff,
3 and procurement monitors, using then-currently
4 available price forecast data and additional
5 budget dollars shall be obligated or reobligated
6 as appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 credits shall be eligible to be counted toward the
2 renewable energy requirements of this subsection (c) if
3 they are generated from facilities located in this State.
4 The Agency may qualify renewable energy credits from
5 facilities located in states adjacent to Illinois or
6 renewable energy credits associated with the electricity
7 generated by a utility-scale wind energy facility or
8 utility-scale photovoltaic facility and transmitted by a
9 qualifying direct current project described in subsection
10 (b-5) of Section 8-406 of the Public Utilities Act to a
11 delivery point on the electric transmission grid located
12 in this State or a state adjacent to Illinois, if the
13 generator demonstrates and the Agency determines that the
14 operation of such facility or facilities will help promote
15 the State's interest in the health, safety, and welfare of
16 its residents based on the public interest criteria
17 described above. For the purposes of this Section,
18 renewable resources that are delivered via a high voltage
19 direct current converter station located in Illinois shall
20 be deemed generated in Illinois at the time and location
21 the energy is converted to alternating current by the high
22 voltage direct current converter station if the high
23 voltage direct current transmission line: (i) after the
24 effective date of this amendatory Act of the 102nd General
25 Assembly, was constructed with a project labor agreement;
26 (ii) is capable of transmitting electricity at 525kv;

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

11 (J) In order to promote the competitive development of
12 renewable energy resources in furtherance of the State's
13 interest in the health, safety, and welfare of its
14 residents, renewable energy credits shall not be eligible
15 to be counted toward the renewable energy requirements of
16 this subsection (c) if they are sourced from a generating
17 unit whose costs were being recovered through rates
18 regulated by this State or any other state or states on or
19 after January 1, 2017. Each contract executed to purchase
20 renewable energy credits under this subsection (c) shall
21 provide for the contract's termination if the costs of the
22 generating unit supplying the renewable energy credits
23 subsequently begin to be recovered through rates regulated
24 by this State or any other state or states; and each
25 contract shall further provide that, in that event, the
26 supplier of the credits must return 110% of all payments

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

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

24 (K) The long-term renewable resources procurement plan
25 developed by the Agency in accordance with subparagraph
26 (A) of this paragraph (1) shall include an Adjustable

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

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

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

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

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

1 more than 25 kilowatts.

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

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

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

26 (2) projects shall have subscriptions of 25 kW

1 or less for at least 50% of the facility's
2 nameplate capacity and the Agency shall price the
3 renewable energy credits with that as a factor;

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

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

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

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

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

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

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

24 (v) At least 5% from community-driven community
25 solar projects intended to provide more direct and
26 tangible connection and benefits to the communities

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

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

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

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

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

26 (5) whether a project is developed in response

1 to a site-specific RFP developed by community
2 members or a nonprofit organization or public
3 entity located in or serving the community.

4 Selection criteria may also prioritize projects
5 that:

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

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

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

19 (4) are not greenfield projects;

20 (5) serve only local subscribers;

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

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

25 (8) otherwise meaningfully advance the goals
26 of providing more direct and tangible connection

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

5 For the purposes of this item (v):

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

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

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

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

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

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

1 previous delivery years.

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

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

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

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

18 To the extent there is uncontracted capacity from any
19 block in any of categories (i) through (vi) at the end of a
20 delivery year, the Agency shall redistribute that capacity
21 to one or more other categories giving priority to
22 categories with projects on a waitlist. The redistributed
23 capacity shall be added to the annual capacity in the
24 subsequent delivery year, and the price for renewable
25 energy credits shall be the price for the new delivery
26 year. Redistributed capacity shall not be considered

1 redistributed when determining whether the goals in this
2 subsection (K) have been met.

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

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

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

19 (i) (Blank).

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

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

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

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

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

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

1 requirements placed on the projects, including, but
2 not limited to, labor standards.

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

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

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

22 (viii) Nothing in this Section shall require the
23 utility to advance any payment or pay any amounts that
24 exceed the actual amount of revenues anticipated to be
25 collected by the utility under paragraph (6) of this
26 subsection (c) and subsection (k) of Section 16-108 of

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

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

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

19 (M) The Agency shall be authorized to retain one or
20 more experts or expert consulting firms to develop,
21 administer, implement, operate, and evaluate the
22 Adjustable Block program described in subparagraph (K) of
23 this paragraph (1), and the Agency shall retain the
24 consultant or consultants in the same manner, to the
25 extent practicable, as the Agency retains others to
26 administer provisions of this Act, including, but not

1 limited to, the procurement administrator. The selection
2 of experts and expert consulting firms and the procurement
3 process described in this subparagraph (M) are exempt from
4 the requirements of Section 20-10 of the Illinois
5 Procurement Code, under Section 20-10 of that Code. The
6 Agency shall strive to minimize administrative expenses in
7 the implementation of the Adjustable Block program.

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

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

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

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

26 The Agency and its program administrators for both the

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

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

24 (ii) The Agency shall establish program
25 requirements and minimum contract terms to ensure
26 projects are properly installed and produce their

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

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

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

26 (v) Through a filing in the proceeding for the

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

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

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

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

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

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

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

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

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

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

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

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

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

26 The Agency shall develop a method to optimize

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

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

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

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

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

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

17 (iii) all new brownfield photovoltaic
18 projects;

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

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

25 (vi) all new photovoltaic projects on public
26 school land that qualify for item (iv) of

1 subparagraph (K) of this paragraph (1);

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

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

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

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

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

15 (3) It is the intent of this Section to ensure that
16 economic development occurs across Illinois
17 communities, that emerging businesses may grow, and
18 that there is improved access to the clean energy
19 economy by persons who have greater economic burdens
20 to success. The Agency shall take into consideration
21 the unique cost of compliance of this subparagraph (Q)
22 that might be borne by equity eligible contractors,
23 shall include such costs when determining the price of
24 renewable energy credits in the Adjustable Block
25 program, and shall take such costs into consideration
26 in a nondiscriminatory manner when comparing bids for

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

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

20 (1) For the purposes of this subparagraph:

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

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

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

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

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

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

1 into the applicable renewable energy credit
2 purchase agreement;

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

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

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

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

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

1 and (Q) of paragraph (1) of this subsection (c)
2 and subsection (c-10).

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

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

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

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

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

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

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

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

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

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

26 (v) proof that the contract is sufficient to

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

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

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

22 (2) (Blank).

23 (3) (Blank).

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

26 (5) Beginning with the 2010 delivery year and ending

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

25 (6) The electric utility shall be entitled to recover
26 all of its costs associated with the procurement of

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

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

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

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

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

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

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

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

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

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

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

6 (C) If participating in the first procurement
7 event, the applicant proposes and commits to construct
8 and operate, at the site, and if necessary for
9 sufficient space on property adjacent to the existing
10 property, at which the electric generating facility
11 identified in paragraph (A) is located: (i) a new
12 renewable energy facility of at least 20 megawatts but
13 no more than 100 megawatts of electric generating
14 capacity, and (ii) an energy storage facility having a
15 storage capacity equal to at least 2 megawatts and at
16 most 10 megawatts. If participating in the second
17 procurement event, the applicant proposes and commits
18 to construct and operate, at the site, and if
19 necessary for sufficient space on property adjacent to
20 the existing property, at which the electric
21 generating facility identified in paragraph (A) is
22 located: (i) a new renewable energy facility of at
23 least 5 megawatts but no more than 20 megawatts of
24 electric generating capacity, and (ii) an energy
25 storage facility having a storage capacity equal to at
26 least 0.5 megawatts and at most one megawatt.

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

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

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

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

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

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

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

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

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

25 (4) The Agency shall assess fees to each applicant to
26 recover the Agency's costs incurred in receiving and

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

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

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

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

26 (7) The Agency shall submit its proposed selection of

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

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

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

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

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

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

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

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

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

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

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

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

22 (C) The Department shall utilize up to
23 \$280,500,000 in the Coal to Solar and Energy Storage
24 Initiative Fund for grants, assuming sufficient
25 qualifying applicants, to support installation of
26 energy storage facilities at the sites of up to 3

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

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

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

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

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

26 (5) the electric generating facility located

1 at the site was at one time owned, in whole or in
2 part, by a public utility as defined in Section
3 3-105 of the Public Utilities Act;

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

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

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

24 (9) the owner agrees that the new energy
25 storage facility will be constructed or installed
26 by a qualified entity or entities consistent with

1 the requirements of subsection (g) of Section
2 16-128A of the Public Utilities Act and any rules
3 adopted under that Section;

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

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

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

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

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

1 facilities not to exceed \$28,050,000 in any year.

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

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

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

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

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

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

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

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

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

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

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

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

1 outcomes.

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

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

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

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

26 (C) At the end of each delivery year, each entity

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

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

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

24 (2) Equity accountability system within the Adjustable
25 Block program. The equity category described in item (vi)
26 of subparagraph (K) of subsection (c) is only available to

1 applicants that are equity eligible contractors.

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

25 (4) In the first revision to the long-term renewable
26 energy resources procurement plan and each revision

1 thereafter, the Agency shall include the following:

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

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

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

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

25 (E) An application for waiver of the minimum
26 equity standards of this subsection, which the Agency

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

1 database.

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

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

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

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

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

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

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

26 (A) Within one year after awarding contracts using

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

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

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

12 (c-20) Program data collection.

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

25 (2) Agency collection of program data. The Agency
26 shall collect demographic and geographic data for each

1 entity awarded contracts under any Agency-administered
2 program.

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

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

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

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

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

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

1 (c-25) Energy Workforce Equity Database.

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

12 (A) publicly accessible;

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

14 (C) organized by company specialty or field;

15 (D) region-specific; and

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

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

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

1 (B) job postings and recruiting opportunities;

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

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

9 (E) renewable energy company diversity reporting;

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

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

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

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

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

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

19 (d) Clean coal portfolio standard.

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

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

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

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

1 16-111.5 of the Public Utilities Act.

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

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

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

1 service to:

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

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

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

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

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

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

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

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

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

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

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

24 (ii) provide that all miscellaneous net
25 revenue, including but not limited to net revenue
26 from the sale of emission allowances, if any,

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

14 (B) power purchase provisions, which shall:

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

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

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

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

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

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

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

1 during such hour times a fraction, the numerator
2 of which is such utility's retail market sales of
3 electricity (expressed in kilowatthours sold) in
4 the utility's service territory 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 paid by the utility in
16 any year will be limited by paragraph (2) of this
17 subsection (d);

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

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

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

13 (D) general provisions, which shall:

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

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

25 (iii) provide that all costs associated with
26 the initial clean coal facility will be

1 periodically reported to the Federal Energy
2 Regulatory Commission and to purchasers in
3 accordance with applicable laws governing
4 cost-based wholesale power contracts;

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

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

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

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

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

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

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

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

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

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

25 (xi) append documentation showing that the
26 formula rate and contract, insofar as they relate

1 to the power purchase provisions, have been
2 approved by the Federal Energy Regulatory
3 Commission pursuant to Section 205 of the Federal
4 Power Act;

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

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

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

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

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

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

1 process of selecting such experts or consultants prior
2 to receipt of the facility cost report.

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

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

26 (A) The facility cost report shall be prepared by

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

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

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

26 The quoted construction costs shall be expressed

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

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

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

1 vendors under long-term service agreements and plant
2 operating agreements, or recognized third party plant
3 operator or operators.

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

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

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

24 (5) Re-powering and retrofitting coal-fired power
25 plants previously owned by Illinois utilities to qualify
26 as clean coal facilities. During the 2009 procurement

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

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

7 (d-5) Zero emission standard.

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

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

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

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

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

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

24 (ii) the amount of power generated annually
25 for each of the years 2005 through 2015, and the
26 projected zero emission credits to be generated

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

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

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

26 The information described in item (iii) of this

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

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

1 defined as follows:

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

14 (ii) Baseline market price index: The baseline
15 market price index for the consecutive 12-month
16 period ending May 31, 2016 is \$31.40 per
17 megawatthour, which is based on the sum of (aa)
18 the average day-ahead energy price across all
19 hours of such 12-month period at the PJM
20 Interconnection LLC Northern Illinois Hub, (bb)
21 50% multiplied by the Base Residual Auction, or
22 its successor, capacity price for the rest of the
23 RTO zone group determined by PJM Interconnection
24 LLC, divided by 24 hours per day, and (cc) 50%
25 multiplied by the Planning Resource Auction, or
26 its successor, capacity price for Zone 4

1 determined by the Midcontinent Independent System
2 Operator, Inc., divided by 24 hours per day.

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

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

22 (bb) Projected capacity prices:

23 (I) For the delivery years commencing
24 June 1, 2017, June 1, 2018, and June 1,
25 2019, the projected capacity price shall
26 be equal to the sum of (1) 50% multiplied

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

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

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

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

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

10 "RTO" means regional transmission
11 organization.

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

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

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

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

1 received and file its zero emission standard
2 procurement plan with the Commission.

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

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

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

25 (ii) specifically address how the selection of
26 winning bids takes into account the incremental

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

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

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

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

26 (I) the price, or if there is more

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

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

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

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

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

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

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

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

23 (ii) A zero emission facility shall be
24 permitted to terminate the contract if legislation
25 is enacted into law by the General Assembly that
26 imposes or authorizes a new tax, special

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

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

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

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

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

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

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

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

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

1 cost-effective zero emission credits.

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

26 For purposes of this Section, the Average ZEC Payment

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

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

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

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

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

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

25 (6) Electric utilities shall be entitled to recover
26 all of the costs associated with the procurement of zero

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

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

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

13 (1) The General Assembly finds:

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

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

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

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

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

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

26 (G) Nuclear plants provide carbon-free energy, which

1 helps to avoid many health-related negative impacts for
2 Illinois residents.

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

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

17 (2) As used in this subsection:

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

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

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

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

13 (3) Procurement.

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

26 (B) Each carbon-free energy resource that intends to

1 participate in a procurement shall be required to submit
2 to the Agency the following information for the resource
3 on or before the date established by the Agency:

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

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

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

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

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

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

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

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

1 General Act.

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

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

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

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

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

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

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

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

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

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

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

25 (iv) To ensure that retail customers in Northern
26 Illinois do not pay more for carbon mitigation credits

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

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

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

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

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

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

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

23 An Environmental Protection Agency consultant
24 forecast, included in a report issued April 14, 2021,
25 projects that a carbon-free energy resource has the
26 opportunity to earn on average approximately \$30.28

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

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

20 (D) No later than 7 days after the effective date of
21 this amendatory Act of the 102nd General Assembly, the
22 Agency shall publish its proposed carbon mitigation credit
23 procurement plan. The Plan shall provide that winning bids
24 shall be selected by taking into consideration which
25 resources best match public interest criteria that
26 include, but are not limited to, minimizing carbon dioxide

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

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

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

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

1 adversely affect the citizens of this State;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (i) A renewable energy credit, carbon emission credit,
24 zero emission credit, or carbon mitigation credit can only be
25 used once to comply with a single portfolio or other standard
26 as set forth in subsection (c), subsection (d), or subsection

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

10 (Source: P.A. 102-662, eff. 9-15-21; 103-380, eff. 1-1-24;
11 103-580, eff. 12-8-23.)

12 Section 10. The Illinois Municipal Code is amended by
13 changing Section 11-13-26 as follows:

14 (65 ILCS 5/11-13-26)

15 Sec. 11-13-26. Wind farms. Notwithstanding any other
16 provision of law:

17 (a) A municipality may regulate wind farms and
18 electric-generating wind devices within its zoning
19 jurisdiction and within the 1.5 mile radius surrounding
20 its zoning jurisdiction. There shall be at least one
21 public hearing not more than 30 days prior to a siting
22 decision by the corporate authorities of a municipality.
23 Notice of the hearing shall be published in a newspaper of
24 general circulation in the municipality. A commercial wind

1 energy facility owner, as defined in the ~~Renewable Energy~~
2 ~~Facilities~~ Agricultural Impact Mitigation Act, must enter
3 into an agricultural impact mitigation agreement with the
4 Department of Agriculture prior to the date of the
5 required public hearing. A commercial wind energy facility
6 owner seeking an extension of a permit granted by a
7 municipality prior to July 24, 2015 (the effective date of
8 Public Act 99-132) must enter into an agricultural impact
9 mitigation agreement with the Department of Agriculture
10 prior to a decision by the municipality to grant the
11 permit extension. A municipality may allow test wind
12 towers to be sited without formal approval by the
13 corporate authorities of the municipality. Test wind
14 towers must be dismantled within 3 years of installation.
15 For the purposes of this Section, "test wind towers" are
16 wind towers that are designed solely to collect wind
17 generation data.

18 (b) A municipality may not require a wind tower or
19 other renewable energy system that is used exclusively by
20 an end user to be setback more than 1.1 times the height of
21 the renewable energy system from the end user's property
22 line. A setback requirement imposed by a municipality on a
23 renewable energy system may not be more restrictive than
24 as provided under this subsection. This subsection is a
25 limitation of home rule powers and functions under
26 subsection (i) of Section 6 of Article VII of the Illinois

1 Constitution on the concurrent exercise by home rule units
2 of powers and functions exercised by the State.

3 (Source: P.A. 99-123, eff. 1-1-16; 99-132, eff. 7-24-15;
4 99-642, eff. 7-28-16; 100-598, eff. 6-29-18.)

5 Section 15. The is amended by changing Sections 1, 5, 10,
6 and 15 as follows:

7 (505 ILCS 147/1)

8 Sec. 1. Short title. This Act may be cited as the ~~Renewable~~
9 ~~Energy Facilities~~ Agricultural Impact Mitigation Act.

10 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)

11 (505 ILCS 147/5)

12 Sec. 5. Purpose. The primary purpose of this Act is to
13 promote the State's welfare by protecting landowners during
14 the construction and deconstruction of commercial renewable
15 energy facilities, pipelines, electric lines, and battery
16 energy storage systems to ensure that land affected by these
17 projects is restored to its pre-construction condition and
18 function.

19 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)

20 (505 ILCS 147/10)

21 Sec. 10. Definitions. As used in this Act:

22 "Abandonment of a commercial wind energy facility" means

1 when deconstruction has not been completed within 18 months
2 after the commercial wind energy facility reaches the end of
3 its useful life. For purposes of this definition, a commercial
4 wind energy facility will be presumed to have reached the end
5 of its useful life if (1) no electricity is generated for a
6 continuous period of 12 months and (2) the commercial wind
7 energy facility owner fails, for a period of 6 consecutive
8 months, to pay the landowner amounts owed in accordance with
9 the underlying agreement.

10 "Abandonment of a commercial solar energy facility" means
11 when deconstruction has not been completed within 12 months
12 after the commercial solar energy facility reaches the end of
13 its useful life. For purposes of this definition, a commercial
14 solar energy facility shall be presumed to have reached the
15 end of its useful life if the commercial solar energy facility
16 owner fails, for a period of 6 consecutive months, to pay the
17 landowner amounts owed in accordance with the underlying
18 agreement.

19 "Agricultural impact mitigation agreement" means an
20 agreement between the pipeline owner, battery energy storage
21 system owner, electric line owner, commercial wind energy
22 facility owner, or the commercial solar energy facility owner
23 and the Department of Agriculture described in Section 15 of
24 this Act.

25 "Agricultural inspector" means a person hired by a
26 pipeline, electric line owner, battery energy storage system,

1 or commercial solar or wind energy facility and approved by
2 the Department who will work with the facility throughout the
3 construction and deconstruction phases to ensure compliance
4 with the provisions of the agricultural impact mitigation
5 agreement.

6 "Agricultural land" means real property or land used for
7 cropland, hay land, pasture, managed woodlands, truck gardens,
8 farm-to-market operations, garden-to-market operations,
9 farmsteads, commercial agriculture-related facilities,
10 feedlots, livestock confinement systems, land on which farm
11 buildings are located, and land in government set-aside
12 programs.

13 "Battery energy storage system" means a facility or
14 devices that enable energy from renewable energy facilities,
15 like solar and wind energy, to be stored and discharged when
16 needed. "Battery energy storage system" includes all
17 components of the system necessary to receive, store, and
18 discharge energy.

19 "Battery energy storage system owner" means a private
20 commercial enterprise that owns a battery energy storage
21 system.

22 "Commercial renewable energy facility " means a commercial
23 wind energy facility or commercial solar energy facility as
24 defined in this Act.

25 "Commercial solar energy facility" means a commercial
26 solar energy system, as defined in Section 10-720 of the

1 ~~Property Tax Code solar energy conversion facility equal to or~~
2 ~~greater than 500 kilowatts in total nameplate capacity,~~
3 including a solar energy conversion facility seeking an
4 extension of a permit to construct granted by a county or
5 municipality before the effective date of this amendatory Act
6 of the 100th General Assembly. "Commercial solar energy
7 facility" does not include a utility-scale solar energy
8 facility being constructed at a site that was eligible to
9 participate in a procurement event conducted by the Illinois
10 Power Agency under subsection (c-5) of Section 1-75 of the
11 Illinois Power Agency Act include a solar energy conversion
12 facility: (1) for which a permit to construct has been issued
13 before the effective date of this amendatory Act of the 100th
14 General Assembly; (2) that is located on land owned by the
15 commercial solar energy facility owner; (3) that was
16 constructed before the effective date of this amendatory Act
17 of the 100th General Assembly; or (4) that is located on the
18 customer side of the customer's electric meter and is
19 primarily used to offset that customer's electricity load and
20 is limited in nameplate capacity to less than or equal to 2,000
21 kilowatts.

22 "Commercial solar energy facility owner" means a private
23 commercial enterprise that owns a commercial solar energy
24 facility. A commercial solar energy facility owner is not nor
25 shall it be deemed to be a public utility as defined in the
26 Public Utilities Act.

1 "Commercial wind energy facility" means a wind energy
2 conversion facility of equal or greater than 500 kilowatts in
3 total nameplate generating capacity. "Commercial wind energy
4 facility" includes a wind energy conversion facility seeking
5 an extension of a permit to construct granted by a county or
6 municipality before the effective date of this Act.
7 "Commercial wind energy facility" does not include a wind
8 energy conversion facility: (1) that has submitted a complete
9 permit application to a county or municipality and for which
10 the hearing on the completed application has commenced on the
11 date provided in the public hearing notice, which must be
12 before the effective date of this Act; (2) for which a permit
13 to construct has been issued before the effective date of this
14 Act; or (3) that was constructed before the effective date of
15 this Act.

16 "Commercial wind energy facility owner" means a private
17 commercial enterprise that owns or operates a commercial wind
18 energy facility. A commercial wind energy facility owner is
19 not nor shall it be deemed to be a public utility as defined in
20 the Public Utilities Act.

21 "Construction" means the installation, preparation for
22 installation, or repair of a pipeline, battery energy storage
23 system, electric line, or commercial renewable energy
24 facility.

25 "County" means the county where the pipeline, battery
26 energy storage system, electric line, or commercial renewable

1 energy facility is located.

2 "Deconstruction" means the removal of a battery energy
3 storage system or commercial renewable energy facility from
4 the property of a landowner and the restoration of that
5 property as provided in the agricultural impact mitigation
6 agreement.

7 "Department" means the Department of Agriculture.

8 "Electric line" means any part of electric power
9 facilities used to transmit or supply electricity that
10 requires a certificate issued by the Illinois Commerce
11 Commission and includes substations, switching stations,
12 poles, towers, and associated appurtenances.

13 "Electric line owner" means a private commercial
14 enterprise that owns an electric line.

15 "Landowner" means any person, company, or entity who owns
16 agricultural land in the State of Illinois ~~(1) with an~~
17 ~~ownership interest in property that is~~ and from whom the owner
18 of a pipeline, electric line, battery energy storage system,
19 or commercial renewable energy facility is seeking, or has
20 obtained, a temporary or permanent easement. "Landowner"
21 includes any person, company, or entity legally authorized by
22 a landowner to make decisions regarding such property ~~used for~~
23 ~~agricultural purposes and (2) that is a party to an underlying~~
24 ~~agreement.~~

25 "Pipeline" means any pipe or appurtenance that crosses or
26 is located in Illinois that is associated with the conveyance

1 of oil, natural gas, propane, carbon dioxide, or other medium
2 that requires a certificate issued by the Federal Regulatory
3 Commission, the Pipeline and Hazardous Materials Safety
4 Administration, or a certificate issued by the Illinois
5 Commerce Commission.

6 "Pipeline owner" means a private commercial enterprise or
7 any public utility that owns a pipeline.

8 "Project" means any planned enterprise or undertaking
9 under this Act that requires an agricultural impact mitigation
10 agreement.

11 "Project area" means the geographic footprint or property
12 boundary of the project within which construction, operation,
13 and maintenance will occur, and includes setback zones as
14 required by local, State, or federal regulations.

15 "Project owner" means any owner of the project, including
16 a pipeline owner, a battery energy storage system owner, an
17 electric line owner, or a commercial renewable energy facility
18 owner of a commercial wind energy facility or a commercial
19 solar energy facility.

20 "Underlying agreement" means the written agreement with a
21 landowner, including, but not limited to, an easement, option,
22 lease, or license, under the terms of which another person has
23 constructed, constructs, or intends to construct a pipeline,
24 battery energy storage system, electric line, or commercial
25 wind energy facility or commercial solar energy facility on
26 the property of the landowner.

1 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)

2 (505 ILCS 147/15)

3 Sec. 15. Agricultural impact mitigation agreement.

4 (a) A pipeline owner, a battery energy storage system
5 owner, an electric line owner, a commercial renewable energy
6 facility owner of a commercial wind energy facility, or a
7 commercial solar energy facility that is located on landowner
8 property shall enter into an agricultural impact mitigation
9 agreement with the Department. The agricultural impact
10 agreement shall outline ~~outlining construction and~~
11 ~~deconstruction~~ standards and policies designed to preserve the
12 integrity of any agricultural land that is impacted by the
13 construction or deconstruction of a pipeline, battery energy
14 storage system, electric line, or commercial renewable energy
15 facility ~~construction and deconstruction~~. The construction and
16 deconstruction of any pipeline, battery energy storage system,
17 electric line, or commercial renewable ~~solar~~ energy facility
18 shall be in conformance with the Department's standard
19 agricultural impact mitigation agreement referenced in
20 subsection (g) ~~(f)~~ of this Section. Except as provided in
21 subsections ~~subsection~~ (a-5), (a-10), and (a-15) of this
22 Section, the terms and conditions of the Department's standard
23 agricultural impact mitigation agreement are subject to and
24 may be modified by an underlying agreement between the
25 landowner and the project owner ~~commercial solar energy~~

1 ~~facility owner.~~

2 (a-5) Prior to the commencement of construction, a
3 commercial solar energy facility owner shall submit to the
4 county in which the commercial solar facility is to be located
5 a deconstruction plan. A commercial solar energy facility
6 owner shall provide the county with an appropriate financial
7 assurance mechanism consistent with the Department's standard
8 agricultural impact mitigation agreement for and to assure
9 deconstruction in the event of an abandonment of a commercial
10 solar energy facility.

11 (a-10) Prior to the commencement of construction, a
12 commercial wind energy facility owner shall submit to the
13 county in which the commercial wind energy facility is to be
14 located a deconstruction plan. A commercial wind energy
15 facility owner shall provide the county with an appropriate
16 financial assurance mechanism consistent with the Department's
17 standard agricultural impact mitigation agreement to assure
18 deconstruction in the event of an abandonment of a commercial
19 wind energy facility.

20 (a-15) Prior to the commencement of construction, a
21 battery energy storage system owner shall submit to the county
22 in which the battery energy storage system is to be located a
23 deconstruction plan. A battery energy storage system owner
24 shall provide the county with an appropriate financial
25 assurance mechanism consistent with the Department's standard
26 agricultural impact mitigation agreement to assure

1 deconstruction in the event of an abandonment of a battery
2 energy storage system.

3 (a-20) Prior to the commencement of construction, a
4 pipeline owner shall submit an executed agricultural impact
5 mitigation agreement to the Federal Energy Regulatory
6 Commission or to the Pipeline and Hazardous Material Safety
7 Administration of the federal Department of Transportation.
8 The executed agricultural impact mitigation agreement shall be
9 included as part of the pipeline's submissions to the Federal
10 Energy Regulatory Commission or the Pipeline and Hazardous
11 Material Safety Administration, and the pipeline shall request
12 the Federal Energy Regulatory Commission or the Pipeline and
13 Hazardous Material Safety Administration to include a
14 statement affirming the pipeline's adherence to the
15 agricultural impact mitigation agreement's construction
16 standards and policies in any environmental assessment or
17 environmental impact statement that may be prepared on the
18 pipeline.

19 (a-25) Prior to the commencement of construction, an
20 electric line owner shall submit to the Illinois Commerce
21 Commission an executed agricultural impact mitigation
22 agreement. The electric line owner shall include a statement
23 affirming the electric line's adherence to the agricultural
24 impact mitigation agreement's construction standards and
25 policies in any environmental assessment or environmental
26 impact statement that may be prepared on the electric line.

1 (a-30) A battery energy storage system owner shall include
2 a statement affirming the battery energy storage system's
3 adherence to the agricultural impact mitigation agreement's
4 construction standards and policies in any environmental
5 assessment or environmental impact statement that may be
6 prepared on the battery energy storage system. A battery
7 energy storage system owner shall comply with all applicable
8 local, State, and federal regulations.

9 (b) The agricultural impact mitigation agreement for a
10 commercial wind energy facility shall include, but is not
11 limited to, such items as restoration of agricultural land
12 affected by construction, deconstruction (including upon
13 abandonment of a commercial wind energy facility),
14 construction staging, and storage areas; support structures;
15 aboveground facilities; guy wires and anchors; underground
16 cabling depth; topsoil replacement; protection and repair of
17 agricultural drainage tiles; rock removal; repair of
18 compaction and rutting; construction during wet weather; land
19 leveling; prevention of soil erosion; repair of damaged soil
20 conservation practices; compensation for damages to private
21 property; clearing of trees and brush; interference with
22 irrigation systems; access roads; weed control; pumping of
23 water from open excavations; advance notice of access to
24 private property; indemnification of landowners; and
25 deconstruction plans and financial assurance for
26 deconstruction (including upon abandonment of a commercial

1 wind energy facility).

2 (b-5) The agricultural impact mitigation agreement for a
3 commercial solar energy facility shall include, but is not
4 limited to, such items as restoration of agricultural land
5 affected by construction, deconstruction (including upon
6 abandonment of a commercial solar energy facility); support
7 structures; aboveground facilities; guy wires and anchors;
8 underground cabling depth; topsoil removal and replacement;
9 rerouting and permanent repair of agricultural drainage tiles;
10 rock removal; repair of compaction and rutting; construction
11 during wet weather; land leveling; prevention of soil erosion;
12 repair of damaged soil conservation practices; compensation
13 for damages to private property; clearing of trees and brush;
14 access roads; weed control; advance notice of access to
15 private property; indemnification of landowners; and
16 deconstruction plans and financial assurance for
17 deconstruction (including upon abandonment of a commercial
18 solar energy facility). The commercial solar energy facility
19 owner shall enter into one agricultural impact mitigation
20 agreement for each commercial solar energy facility.

21 (b-10) The agricultural impact mitigation agreement for a
22 battery energy storage system shall include, but is not
23 limited to, such items as restoration of agricultural land
24 affected by construction; deconstruction (including upon
25 abandonment of a battery energy storage system); support
26 structures and components; aboveground facilities; underground

1 cabling depth; topsoil removal and replacement; rerouting and
2 permanent repair of agricultural drainage tile; rock removal;
3 repair of compaction and rutting; construction during wet
4 weather; land leveling; prevention of soil erosion; repair of
5 damaged soil conservation practices; compensation for damages
6 to private property; clearing of trees and brush; access
7 roads; weed control; advance notice of access to private
8 property; indemnification of landowners; and deconstruction
9 plans and financial assurance for deconstruction (including
10 upon abandonment of a battery storage facility). The battery
11 energy storage system owner shall enter into one agricultural
12 impact mitigation agreement for each battery energy storage
13 system.

14 (b-15) The agricultural impact mitigation agreement of a
15 pipeline shall include, but is not limited to, such items as
16 restoration of agricultural land affected by construction and
17 repair of the pipeline; aboveground facilities; underground
18 pipeline depth; topsoil removal and replacement; rerouting and
19 permanent repair of agricultural drainage tiles; interference
20 with irrigation systems; weed control; rock removal; repair of
21 compaction and rutting; construction during wet weather; land
22 leveling; prevention of soil erosion; repair of damaged soil
23 conservation practices; compensation for damages to private
24 property; clearing of trees and brush; access roads; advance
25 notice to access to private property; and indemnification of
26 landowners. The pipeline owner shall enter into one

1 agricultural impact mitigation agreement for each pipeline.

2 (b-20) The agricultural impact mitigation agreement for an
3 electric line shall include, but is not limited to, such items
4 as restoration of agricultural land affected by construction
5 and repair of an electric line; support structures;
6 aboveground facilities; rerouting and permanent repair of
7 agricultural drainage tiles; interference with irrigation
8 systems; weed control; rock removal; repair of compaction and
9 rutting; construction during wet weather; land leveling;
10 prevention of soil erosion; repair of damaged soil
11 conservation practices; compensation for damages to private
12 property; clearing of trees and brush; access roads; advance
13 notice to access to private property; and indemnification of
14 landowners. The electric line owner shall enter into one
15 agricultural impact mitigation agreement for each electric
16 line.

17 (c) For commercial wind energy facility owners seeking a
18 permit from a county or municipality for the construction of a
19 commercial wind energy facility, the agricultural impact
20 mitigation agreement shall be entered into prior to the public
21 hearing required prior to a siting decision of a county or
22 municipality regarding the commercial wind energy facility.
23 The agricultural impact mitigation agreement is binding on any
24 subsequent commercial wind energy facility owner that takes
25 ownership of the commercial wind energy facility that is the
26 subject of the agreement.

1 (c-5) A commercial solar energy facility owner shall, not
2 less than 45 days prior to commencement of actual
3 construction, submit to the Department a standard agricultural
4 impact mitigation agreement as referenced in subsection (f) of
5 this Section signed by the commercial solar energy facility
6 owner and including all information required by the
7 Department. The commercial solar energy facility owner shall
8 provide either a copy of that submitted agreement or a copy of
9 the fully executed project-specific agricultural impact
10 mitigation agreement to the landowner not less than 30 days
11 prior to the commencement of construction. The agricultural
12 impact mitigation agreement is binding on any subsequent
13 commercial solar energy facility owner that takes ownership of
14 the commercial solar energy facility that is the subject of
15 the agreement.

16 (c-10) An electric line owner shall incorporate by
17 reference the terms of the agricultural impact mitigation
18 agreement in underlying agreements executed with landowners on
19 privately owned agricultural land in Illinois and, not less
20 than 45 days prior to the commencement of construction,
21 provide the Department with a current list of affected
22 landowners and tenants.

23 (c-15) A pipeline owner shall incorporate by reference the
24 terms of the agricultural impact mitigation agreement in
25 underlying agreements executed with landowners on privately
26 owned agricultural land in Illinois and, not less than 45 days

1 prior to the commencement of construction, provide the
2 Department with a current list of affected landowners and
3 tenants.

4 (c-20) A battery energy storage system owner shall
5 incorporate by reference the terms of the agricultural impact
6 mitigation agreement in underlying agreements executed with
7 landowners on privately owned agricultural land in Illinois
8 and, not less than 45 days prior to the commencement of
9 construction, provide the Department with a current list of
10 affected landowners and tenants.

11 (d) If a commercial renewable energy facility owner seeks
12 an extension of a permit granted by a county or municipality
13 for the construction of a commercial wind energy facility
14 prior to the effective date of this Act, the agricultural
15 impact mitigation agreement shall be entered into prior to a
16 decision by the county or municipality to grant the permit
17 extension.

18 (e) Each project shall have agricultural inspectors. The
19 Department shall establish, by rule, the number of
20 agricultural inspectors each project shall require.

21 (e-5) Prior to commencement of construction of a project,
22 the project owner shall submit the names, qualifications, and
23 other relevant information of the project owner's chosen
24 agricultural inspectors to the Department for approval. No
25 construction on a project may commence until the Department
26 has approved the requisite number of agricultural inspectors

1 for the project. The Department shall establish, by rule, the
2 minimum qualifications of an agricultural inspector.

3 (e-10) The project owner shall be responsible for the cost
4 of work performed by an agricultural inspector, including, but
5 not limited to, salary, wages, bonuses, benefits, and any
6 other compensation. Upon approval by the Department of an
7 agricultural inspector, the project owner shall submit to the
8 Department the estimated salary or wages to be paid to the
9 agricultural inspector for work on the project.

10 (e-15) Agricultural inspectors shall monitor the project
11 owner's compliance with all provisions of the agricultural
12 impact mitigation agreement throughout all phases of the
13 project, including, but not limited to, construction and
14 deconstruction phases and shall report all instances of
15 noncompliance to the Department. Upon a finding of
16 noncompliance with any provision of the agricultural impact
17 mitigation agreement, an agricultural inspector may
18 temporarily halt construction, deconstruction, or any other
19 activities on a project. The Department shall have the sole
20 authority to lift any such temporary halt implemented by an
21 agricultural inspector when, in the Department's discretion,
22 the noncompliance is deemed resolved.

23 (e-20) The Department may temporarily halt construction,
24 deconstruction, or any other activities on a project upon its
25 own finding of noncompliance by the project owner with any
26 provision of the agricultural impact mitigation agreement. Any

1 such temporary halt implemented by the Department shall remain
2 in place until, in the Department's discretion, the
3 noncompliance is deemed resolved.

4 (e-25) Agricultural inspectors shall train all related
5 contractors and subcontractors on the terms of the
6 agricultural impact mitigation agreement and provide a copy of
7 the agricultural impact mitigation agreement to them; maintain
8 contact with the affected landowners and farm tenants in
9 conjunction with the project owner's right-of-way agents and
10 contractors, as well as local soil and water conservation
11 district personnel concerning farm resources and management
12 matters pertinent to the agricultural operations and the
13 site-specific implementation of the agricultural impact
14 mitigation agreement; and conduct inspections on the project
15 to monitor for compliance.

16 (e-30) A project owner may not remove an agricultural
17 inspector from a project without just cause. Just cause shall
18 not include an agricultural inspector's good faith efforts to
19 comply with this Act or good faith implementation of a
20 temporary halt as described in subsection (e-15).

21 (e-35) The Department may remove an agricultural inspector
22 from a project for just cause, including, but not limited to,
23 failure to report noncompliance by the project owner with the
24 agricultural impact mitigation agreement. If an agricultural
25 inspector is removed from a project under either this
26 subsection or subsection (e-30), the project owner shall

1 submit to the Department for approval a qualified replacement
2 within 45 days of the previous individual being removed.

3 (f) ~~(e)~~ The Department shall have the authority to adopt
4 rules, in accordance with the Illinois Administrative
5 Procedure Act, that are necessary and appropriate ~~may adopt~~
6 ~~rules that are necessary and appropriate~~ for the
7 implementation and administration of ~~agricultural impact~~
8 ~~mitigation agreements as required under~~ this Act.

9 (g) ~~(f)~~ The Department shall make available on its website
10 a standard agricultural impact mitigation agreement applicable
11 to all commercial solar energy facilities within 60 days after
12 the effective date of this amendatory Act of the 100th General
13 Assembly. The Department shall make available on its website a
14 standard agricultural impact mitigation agreement applicable
15 to all pipeline, electric line, battery energy storage system,
16 and commercial solar and wind energy facilities within 60 days
17 after the effective date of this amendatory Act of the 104th
18 General Assembly. The Department may revise its standard
19 agricultural impact mitigation agreement as it deems
20 necessary. The Department may require additional
21 project-specific provisions in any agricultural impact
22 mitigation agreement as it deems necessary to preserve the
23 integrity of any agricultural land that is impacted by the
24 project.

25 (h) If a project owner fails or refuses to enter into the
26 agricultural impact mitigation as required by subsection (a)

1 and construction on the project has commenced, the Department
2 may temporarily halt construction on the project until the
3 required agricultural impact mitigation agreement is executed
4 between the project owner and the Department.

5 (i) In the absence of an underlying agreement, such as
6 instances when a project is authorized to proceed by court
7 order, the Department's standard agricultural impact
8 mitigation agreement and its terms are not negotiable and may
9 not be altered without written landowner consent, approved
10 compensation, or both. The agricultural impact mitigation
11 agreement shall be used in its entirety for all phases of the
12 project if no mutually agreeable underlying agreement is in
13 place.

14 (j) ~~(g)~~ Nothing in this amendatory Act of the 100th
15 General Assembly and nothing in an agricultural impact
16 mitigation agreement shall be construed to apply to or
17 otherwise impair an underlying agreement for a commercial
18 solar energy facility entered into prior to the effective date
19 of this amendatory Act of the 100th General Assembly. Nothing
20 in this amendatory Act of the 104th General Assembly and
21 nothing in an agricultural impact mitigation agreement shall
22 be construed to apply to or otherwise impair an underlying
23 agreement for a pipeline, electric line, battery energy
24 storage system, or commercial solar or wind energy facility
25 entered into prior to the effective date of this amendatory
26 Act of the 104th General Assembly.

1 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.