



Rep. Jay Hoffman

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10400SB0025ham005

LRB104 07069 AAS 29445 a

1 AMENDMENT TO SENATE BILL 25

2 AMENDMENT NO. _____. Amend Senate Bill 25, AS AMENDED,
3 with reference to page and line numbers of House Amendment No.
4 4, by replacing line 1 on page 601 through line 10 on page 632
5 with the following:

6 "(220 ILCS 5/8-104)

7 Sec. 8-104. Natural gas energy efficiency programs.

8 (a) It is the policy of the State that natural gas
9 utilities and the Department of Commerce and Economic
10 Opportunity are required to use cost-effective energy
11 efficiency to reduce direct and indirect costs to consumers.
12 It serves the public interest to allow natural gas utilities
13 to recover costs for reasonably and prudently incurred
14 expenses for cost-effective energy efficiency measures.

15 (b) For purposes of this Section, "energy efficiency"
16 means measures that reduce the amount of energy required to
17 achieve a given end use. "Energy efficiency" also includes

1 measures that reduce the total Btus of electricity and natural
2 gas needed to meet the end use or uses. "Cost-effective" means
3 that the measures satisfy the total resource cost test which,
4 for purposes of this Section, means a standard that is met if,
5 for an investment in energy efficiency, the benefit-cost ratio
6 is greater than one. The benefit-cost ratio is the ratio of the
7 net present value of the total benefits of the measures to the
8 net present value of the total costs as calculated over the
9 lifetime of the measures. The total resource cost test
10 compares the sum of avoided natural gas utility costs,
11 representing the benefits that accrue to the system and the
12 participant in the delivery of those efficiency measures, as
13 well as other quantifiable societal benefits, including
14 avoided electric utility costs, to the sum of all incremental
15 costs of end use measures (including both utility and
16 participant contributions), plus costs to administer, deliver,
17 and evaluate each demand-side measure, to quantify the net
18 savings obtained by substituting demand-side measures for
19 supply resources. In calculating avoided costs, reasonable
20 estimates shall be included for financial costs likely to be
21 imposed by future regulation of emissions of greenhouse gases.
22 The low-income programs described in item (4) of subsection
23 (f) of this Section shall not be required to meet the total
24 resource cost test.

25 (c) Natural gas utilities shall implement cost-effective
26 energy efficiency measures to meet at least the following

1 natural gas savings requirements, which shall be based upon
2 the total amount of gas delivered to retail customers, other
3 than the customers described in subsection (m) of this
4 Section, during calendar year 2009 multiplied by the
5 applicable percentage. Natural gas utilities may comply with
6 this Section by meeting the annual incremental savings goal in
7 the applicable year or by showing that total cumulative annual
8 savings within a multi-year planning period associated with
9 measures implemented after May 31, 2011 were equal to the sum
10 of each annual incremental savings requirement from the first
11 day of the multi-year planning period through the last day of
12 the multi-year planning period:

13 (1) 0.2% by May 31, 2012;

14 (2) an additional 0.4% by May 31, 2013, increasing
15 total savings to .6%;

16 (3) an additional 0.6% by May 31, 2014, increasing
17 total savings to 1.2%;

18 (4) an additional 0.8% by May 31, 2015, increasing
19 total savings to 2.0%;

20 (5) an additional 1% by May 31, 2016, increasing total
21 savings to 3.0%;

22 (6) an additional 1.2% by May 31, 2017, increasing
23 total savings to 4.2%;

24 (7) an additional 1.4% in the year commencing January
25 1, 2018;

26 (8) an additional 1.5% in the year commencing January

1 1, 2019; and

2 (9) an additional 1.5% in each 12-month period
3 thereafter.

4 (d) Notwithstanding the requirements of subsection (c) of
5 this Section, a natural gas utility shall limit the amount of
6 energy efficiency implemented in any multi-year reporting
7 period established by subsection (f) of Section 8-104 of this
8 Act, by an amount necessary to limit the estimated average
9 increase in the amounts paid by retail customers in connection
10 with natural gas service to no more than 2% in the applicable
11 multi-year reporting period. The energy savings requirements
12 in subsection (c) of this Section may be reduced by the
13 Commission for the subject plan, if the utility demonstrates
14 by substantial evidence that it is highly unlikely that the
15 requirements could be achieved without exceeding the
16 applicable spending limits in any multi-year reporting period.
17 No later than September 1, 2013, the Commission shall review
18 the limitation on the amount of energy efficiency measures
19 implemented pursuant to this Section and report to the General
20 Assembly, in the report required by subsection (k) of this
21 Section, its findings as to whether that limitation unduly
22 constrains the procurement of energy efficiency measures.

23 (e) The provisions of this subsection (e) apply to those
24 multi-year plans that commence prior to January 1, 2018. The
25 utility shall utilize 75% of the available funding associated
26 with energy efficiency programs approved by the Commission,

1 and may outsource various aspects of program development and
2 implementation. The remaining 25% of available funding shall
3 be used by the Department of Commerce and Economic Opportunity
4 to implement energy efficiency measures that achieve no less
5 than 20% of the requirements of subsection (c) of this
6 Section. Such measures shall be designed in conjunction with
7 the utility and approved by the Commission. The Department may
8 outsource development and implementation of energy efficiency
9 measures. A minimum of 10% of the entire portfolio of
10 cost-effective energy efficiency measures shall be procured
11 from local government, municipal corporations, school
12 districts, public institutions of higher education, and
13 community college districts. Five percent of the entire
14 portfolio of cost-effective energy efficiency measures may be
15 granted to local government and municipal corporations for
16 market transformation initiatives. The Department shall
17 coordinate the implementation of these measures and shall
18 integrate delivery of natural gas efficiency programs with
19 electric efficiency programs delivered pursuant to Section
20 8-103 of this Act, unless the Department can show that
21 integration is not feasible.

22 The apportionment of the dollars to cover the costs to
23 implement the Department's share of the portfolio of energy
24 efficiency measures shall be made to the Department once the
25 Department has executed rebate agreements, grants, or
26 contracts for energy efficiency measures and provided

1 supporting documentation for those rebate agreements, grants,
2 and contracts to the utility. The Department is authorized to
3 adopt any rules necessary and prescribe procedures in order to
4 ensure compliance by applicants in carrying out the purposes
5 of rebate agreements for energy efficiency measures
6 implemented by the Department made under this Section.

7 The details of the measures implemented by the Department
8 shall be submitted by the Department to the Commission in
9 connection with the utility's filing regarding the energy
10 efficiency measures that the utility implements.

11 The portfolio of measures, administered by both the
12 utilities and the Department, shall, in combination, be
13 designed to achieve the annual energy savings requirements set
14 forth in subsection (c) of this Section, as modified by
15 subsection (d) of this Section.

16 The utility and the Department shall agree upon a
17 reasonable portfolio of measures and determine the measurable
18 corresponding percentage of the savings goals associated with
19 measures implemented by the Department.

20 No utility shall be assessed a penalty under subsection
21 (f) of this Section for failure to make a timely filing if that
22 failure is the result of a lack of agreement with the
23 Department with respect to the allocation of responsibilities
24 or related costs or target assignments. In that case, the
25 Department and the utility shall file their respective plans
26 with the Commission and the Commission shall determine an

1 appropriate division of measures and programs that meets the
2 requirements of this Section.

3 (e-5) The provisions of this subsection (e-5) shall be
4 applicable to those multi-year plans that commence after
5 December 31, 2017. Natural gas utilities shall be responsible
6 for overseeing the design, development, and filing of their
7 efficiency plans with the Commission and may outsource
8 development and implementation of energy efficiency measures.
9 A minimum of 10% of the entire portfolio of cost-effective
10 energy efficiency measures shall be procured from local
11 government, municipal corporations, school districts, public
12 institutions of higher education, and community college
13 districts; unless a utility files a plan or amended plan under
14 the provisions of subsection (e-20), in which case the minimum
15 spend for measures from such public customers shall be equal
16 to at least 30% of non-residential spending. Five percent of
17 the entire portfolio of cost-effective energy efficiency
18 measures may be granted to local government and municipal
19 corporations for market transformation initiatives.

20 Through calendar year 2026, the ~~The~~ utilities shall also
21 present a portfolio of energy efficiency measures
22 proportionate to the share of total annual utility revenues in
23 Illinois from households at or below 150% of the poverty
24 level. Such programs shall be targeted to households with
25 incomes at or below 80% of area median income.

26 (e-7) Beginning January 1, 2027, the following

1 requirements shall be in effect for efficiency programs
2 targeted to low-income households. For the purposes of this
3 Section, "low-income households" means households with incomes
4 at or below 80% of the area median income. Utilities shall
5 leverage existing State and federal low-income weatherization
6 programs and delivery capacity to the extent practicable.
7 Utilities shall also prioritize contracting with
8 organizations, government agencies, and businesses with a
9 track record of delivering weatherization services in
10 low-income communities in this State to deliver any low-income
11 programs that are not integrated with State and federal
12 low-income weatherization programs.

13 (e-8) Beginning January 1, 2027, the following
14 requirements shall be in effect for efficiency programs
15 targeted to low-income households, except for single-fuel gas
16 utilities with less than 1,000,000 customers:

17 (1) The portion of the entire budget for efficiency
18 programs that is spent on efficiency programs for
19 low-income households shall be no less than the greater
20 of: (A) 25% or (B) five percentage points more than the
21 proportion of total annual gas sales to non-opt-out retail
22 customers that are consumed by low-income households.

23 (2) The portion of spending on efficiency measures
24 that are targeted to low-income households that is
25 delivered through whole building weatherization programs
26 that comprehensively address building envelope efficiency

1 upgrade opportunities as well as other efficiency measures
2 shall be at least 80%.

3 (3) Utilities shall invest in health and safety
4 measures that are appropriate and necessary for
5 comprehensively weatherizing the single-family and
6 multi-family buildings of low-income households, with up
7 to 15% of income-qualified program spending made available
8 for such purposes.

9 (e-10) A utility providing approved energy efficiency
10 measures in this State shall be permitted to recover costs of
11 those measures through an automatic adjustment clause tariff
12 filed with and approved by the Commission. The tariff shall be
13 established outside the context of a general rate case and
14 shall be applicable to the utility's customers other than the
15 customers described in subsection (m) of this Section. Each
16 year the Commission shall initiate a review to reconcile any
17 amounts collected with the actual costs and to determine the
18 required adjustment to the annual tariff factor to match
19 annual expenditures.

20 (e-15) For those multi-year plans that commence prior to
21 January 1, 2018, each utility shall include, in its recovery
22 of costs, the costs estimated for both the utility's and the
23 Department's implementation of energy efficiency measures.
24 Costs collected by the utility for measures implemented by the
25 Department shall be submitted to the Department pursuant to
26 Section 605-323 of the Civil Administrative Code of Illinois,

1 shall be deposited into the Energy Efficiency Portfolio
2 Standards Fund, and shall be used by the Department solely for
3 the purpose of implementing these measures. A utility shall
4 not be required to advance any moneys to the Department but
5 only to forward such funds as it has collected. The Department
6 shall report to the Commission on an annual basis regarding
7 the costs actually incurred by the Department in the
8 implementation of the measures. Any changes to the costs of
9 energy efficiency measures as a result of plan modifications
10 shall be appropriately reflected in amounts recovered by the
11 utility and turned over to the Department.

12 (e-20) The provisions of this Section shall be applicable
13 to multi-year plans that commence after the effective date of
14 this amendatory Act of the 104th General Assembly and are
15 submitted by single fuel service utilities on or before the
16 effective date of this amendatory Act of the 104th General
17 Assembly. A natural gas utility may propose, as part of its
18 submission of a multi-year plan, to increase the amount of
19 energy efficiency implemented in any multi-year planning
20 period above the level that can be achieved under the spending
21 cap set forth in subsection (d) of this Section. The first plan
22 to increase energy efficiency may be submitted as an amendment
23 to the utility's plan for calendar years 2027 through 2029,
24 but any amended plans must be filed with the Commission by
25 March 1, 2026 or the effective date of this amendatory Act of
26 the 104th General Assembly, whichever is later. In addition to

1 the policy goals established in subsection (f), the Commission
2 shall consider, in determining the appropriateness of a
3 proposal, whether the multi-year plan at a minimum:

4 (1) identifies a cost-effective portfolio of measures
5 and specifies the natural gas savings that are reasonably
6 likely to be achieved by the utility;

7 (2) demonstrates that the plan or modified plan, at a
8 minimum, will result in a portfolio of energy efficiency
9 measures that will provide more natural gas savings than
10 would have been achieved in a plan subject to subsection
11 (c);

12 (3) demonstrates that the plan reflects efforts to
13 coordinate delivery of electric utility efficiency
14 programs where such coordination can reduce costs,
15 increase effectiveness of outreach to customers, and
16 increase savings. A gas utility may count electricity
17 savings toward its gas efficiency savings goals subject to
18 the following limitations:

19 (A) only electricity savings produced as a result
20 of the installation of a gas efficiency measure, such
21 as reductions in electricity consumption by gas
22 furnace fans and electric air conditioners that
23 results from the installation of insulation measures
24 that reduce gas used for space heating, may be
25 counted;

26 (B) such electricity savings may only be counted

1 when they are generated in service territories not
2 served by electric utilities subject to Section
3 8-103B;

4 (C) no more than 5% of the total savings claimed
5 toward a gas utility's savings goal may be from such
6 electricity savings. For the purposes of this Section,
7 a kilowatt-hour of savings is equal to 0.03412 gas
8 therms;

9 (4) demonstrates whether an increase in funding is
10 necessary to meet the proposed increase in the amount of
11 energy efficiency;

12 (5) prioritizes income-qualified measures and
13 weatherization measures; and

14 (6) demonstrates that the multi-year plan strikes a
15 reasonable balance between the goals of the following:

16 (A) increasing cost-effective efficiency savings
17 and related greenhouse gas emission reductions;

18 (B) reducing overall gas system costs, recognizing
19 that efficiency investments reduce usage and, in turn,
20 the potential need for system investments over the
21 long-term;

22 (C) increasing energy affordability, especially
23 for low-income customers;

24 (D) within the residential sector, prioritizing
25 investment in weatherization and other measures that
26 reduce heating loads over gas equipment measures; and

1 (E) providing a diverse cross-section of
2 opportunities for customers of all rate classes to
3 participate in efficiency programs.

4 For single-fuel gas utilities with less than 1,000,000
5 customers, the following requirements shall be in effect for
6 efficiency programs targeted to low-income households:

7 (1) For gas utilities with greater than 300,000
8 customers, the portion of the entire budget for efficiency
9 programs that is spent on efficiency programs for
10 low-income households shall be no less than the greater of
11 (A) 25% or (B) five percentage points more than the
12 proportion of total annual gas sales to non-opt-out retail
13 customers that are consumed by low-income households. For
14 gas utilities with 300,000 or fewer customers, the portion
15 of the entire budget for efficiency programs that is spent
16 on efficiency programs for low-income households shall be
17 no less than the greater of (A) 15% or (B) five percentage
18 points more than the proportion of total annual gas sales
19 to non-opt-out retail customers that are consumed by
20 low-income households.

21 (2) The portion of spending on efficiency measures
22 targeted to low-income households that shall be delivered
23 through whole building weatherization programs that
24 comprehensively address building envelope efficiency
25 upgrade opportunities as well as other efficiency measures
26 shall be at least 80%.

1 (3) Utilities shall invest in health and safety
2 measures appropriate and necessary for comprehensively
3 weatherizing the single-family and multi-family buildings
4 of low-income households, with up to 15% of
5 income-qualified program spending made available for such
6 purposes.

7 As part of its order approving the plan or modified plan,
8 the Commission is authorized to:

9 (1) adjust the limitation on the amount of energy
10 efficiency measures implemented pursuant to subsection (d)
11 to the extent necessary to meet the increase in the amount
12 of energy efficiency approved by the Commission pursuant
13 to this subsection (e-20);

14 (2) adjust the public sector spending requirements
15 pursuant to subsection (e-5);

16 (3) adopt an incentive mechanism for the utility to
17 meet or exceed the goals associated with its proposed
18 multi-year plan if the utility meets or exceeds the
19 following minimum requirements:

20 (A) the utility proposes a plan budget over the
21 applicable multi-year period that is equal to or
22 greater than 5% of the amounts paid by non-opt-out
23 retail customers in connection with natural gas
24 service in the applicable multi-year period;

25 (B) for efficiency program years 2027 through
26 2029, the utility achieves average incremental annual

1 savings of at least 0.7% of total average annual gas
2 sales to non-opt-out retail customers over the years
3 2023 through 2025. For multi-year efficiency program
4 plans beginning after 2029, achieving average
5 incremental annual savings of at least 0.8% of total
6 average annual gas sales to non-opt-out retail
7 customers during the 3-year period ending 2 years
8 prior to the first year of the plan. In all multi-year
9 periods, the minimum incremental annual savings
10 requirement shall be reduced by 0.01 percentage points
11 for every 1 percentage point increase in low-income or
12 moderate-income spending above the minimum levels
13 required by subsection (e-5). In no event shall the
14 minimum incremental annual savings requirement be
15 reduced by more than 0.10 percentage points even if
16 low-income or moderate-income spending is increased by
17 more than 10 percentage points above the minimum
18 levels required by subsection (e-5). The Commission
19 may reduce the magnitude of the minimum savings
20 requirements under this subparagraph (B) if the
21 utility can demonstrate that it is not possible to
22 achieve them with a budget equal to 5% of revenues from
23 eligible customers while meeting other minimum
24 requirements. If a utility attempts to demonstrate
25 that it cannot meet the minimum savings requirements
26 in this paragraph with a budget equal to 5% of revenues

1 from eligible customers, and the Commission finds that
2 the utility has not made a sufficiently compelling
3 demonstration, the utility may withdraw its plan and
4 file a revised plan;

5 (C) the utility achieves an average savings life
6 of at least 12 years. Average savings lives may be
7 shorter than the average operational lives of measures
8 if the measures do not produce savings in every year in
9 which they operate or if the savings that measures
10 produce decline during their operational lives; and

11 (D) the utility spends at least 67% of all
12 financial incentive dollars on efficiency measures
13 that (1) reduce the space heating loads of buildings
14 through improvements such as to building envelopes,
15 ventilation systems, space heating distribution
16 systems, and space heating system controls; (2) reduce
17 the water heating loads of buildings such as through
18 insulation of hot water pipes, recovery and reuse of
19 heat from waste water and reductions in the amount of
20 hot water required to meet customer needs; or (3)
21 reduce the process heat loads of industrial
22 facilities. Any spending on health and safety measures
23 shall count toward this requirement. No financial
24 incentive spending on furnaces, boilers, water
25 heaters, and other gas-consuming equipment may be
26 counted toward this requirement; and

1 (4) for modified plans, require a compliance filing
2 from the utility to adjust budgets and natural gas savings
3 targets, if necessary, to reflect the final level of
4 customers opting out under subsection (m-1).

5 For the purposes of this subsection (e-20):

6 "Average savings life" means (i) the savings that will be
7 realized as a result of a utility's efficiency programs over
8 the lives of all efficiency measures divided by (ii) the
9 savings that will be produced in the first year after such
10 measures are installed.

11 "Moderate-income" means income between 80% of area median
12 income and 300% of the federal poverty limit.

13 (f) No later than October 1, 2010, each gas utility shall
14 file an energy efficiency plan with the Commission to meet the
15 energy efficiency standards through May 31, 2014. No later
16 than October 1, 2013, each gas utility shall file an energy
17 efficiency plan with the Commission to meet the energy
18 efficiency standards through May 31, 2017. Beginning in 2017
19 and every 4 years thereafter, each utility shall file an
20 energy efficiency plan with the Commission to meet the energy
21 efficiency standards for the next applicable 4-year period
22 beginning January 1 of the year following the filing. For
23 those multi-year plans commencing on January 1, 2018, each
24 utility shall file its proposed energy efficiency plan no
25 later than 30 days after the effective date of this amendatory
26 Act of the 99th General Assembly or May 1, 2017, whichever is

1 later. Beginning in 2021 and every 4 years thereafter, each
2 utility shall file its energy efficiency plan no later than
3 March 1. If a utility does not file such a plan on or before
4 the applicable filing deadline for the plan, then it shall
5 face a penalty of \$100,000 per day until the plan is filed.

6 Each utility's plan shall set forth the utility's
7 proposals to meet the utility's portion of the energy
8 efficiency standards identified in subsection (c) of this
9 Section, as modified by subsection (d) of this Section, taking
10 into account the unique circumstances of the utility's service
11 territory. For those plans commencing after December 31, 2021,
12 the Commission shall seek public comment on the utility's plan
13 and shall issue an order approving or disapproving each plan
14 within 6 months after its submission. For those plans
15 commencing on January 1, 2018, the Commission shall seek
16 public comment on the utility's plan and shall issue an order
17 approving or disapproving each plan no later than August 31,
18 2017, or 105 days after the effective date of this amendatory
19 Act of the 99th General Assembly, whichever is later. If the
20 Commission disapproves a plan, the Commission shall, within 30
21 days, describe in detail the reasons for the disapproval and
22 describe a path by which the utility may file a revised draft
23 of the plan to address the Commission's concerns
24 satisfactorily. If the utility does not refile with the
25 Commission within 60 days after the disapproval, the utility
26 shall be subject to penalties at a rate of \$100,000 per day

1 until the plan is filed. This process shall continue, and
2 penalties shall accrue, until the utility has successfully
3 filed a portfolio of energy efficiency measures. Penalties
4 shall be deposited into the Energy Efficiency Trust Fund and
5 the cost of any such penalties may not be recovered from
6 ratepayers. In submitting proposed energy efficiency plans and
7 funding levels to meet the savings goals adopted by this Act
8 the utility shall:

9 (1) Demonstrate that its proposed energy efficiency
10 measures will achieve the requirements that are identified
11 in subsection (c) of this Section, as modified by
12 subsection (d) of this Section.

13 (2) Present specific proposals to implement new
14 building and appliance standards that have been placed
15 into effect.

16 (3) Present estimates of the total amount paid for gas
17 service expressed on a per therm basis associated with the
18 proposed portfolio of measures designed to meet the
19 requirements that are identified in subsection (c) of this
20 Section, as modified by subsection (d) of this Section.

21 (4) For those multi-year plans that commence prior to
22 January 1, 2018, coordinate with the Department to present
23 a portfolio of energy efficiency measures proportionate to
24 the share of total annual utility revenues in Illinois
25 from households at or below 150% of the poverty level.
26 Such programs shall be targeted to households with incomes

1 at or below 80% of area median income.

2 (5) Demonstrate that its overall portfolio of energy
3 efficiency measures, not including low-income programs
4 described in item (4) of this subsection (f) and
5 subsection (e-5) of this Section, are cost-effective using
6 the total resource cost test and represent a diverse cross
7 section of opportunities for customers of all rate classes
8 to participate in the programs.

9 (6) Demonstrate that a gas utility affiliated with an
10 electric utility that is required to comply with Section
11 8-103 or 8-103B of this Act has integrated gas and
12 electric efficiency measures into a single program that
13 reduces program or participant costs and appropriately
14 allocates costs to gas and electric ratepayers. For those
15 multi-year plans that commence prior to January 1, 2018,
16 the Department shall integrate all gas and electric
17 programs it delivers in any such utilities' service
18 territories, unless the Department can show that
19 integration is not feasible or appropriate.

20 (7) Include a proposed cost recovery tariff mechanism
21 to fund the proposed energy efficiency measures and to
22 ensure the recovery of the prudently and reasonably
23 incurred costs of Commission-approved programs.

24 (8) Provide for quarterly status reports tracking
25 implementation of and expenditures for the utility's
26 portfolio of measures and, if applicable, the Department's

1 portfolio of measures, an annual independent review, and a
2 full independent evaluation of the multi-year results of
3 the performance and the cost-effectiveness of the
4 utility's and, if applicable, Department's portfolios of
5 measures and broader net program impacts and, to the
6 extent practical, for adjustment of the measures on a
7 going forward basis as a result of the evaluations. The
8 resources dedicated to evaluation shall not exceed 3% of
9 portfolio resources in any given multi-year period.

10 (g) No more than 3% of expenditures on energy efficiency
11 measures may be allocated for demonstration of breakthrough
12 equipment and devices.

13 (h) Illinois natural gas utilities that are affiliated by
14 virtue of a common parent company may, at the utilities'
15 request, be considered a single natural gas utility for
16 purposes of complying with this Section.

17 (i) If, after 3 years, a gas utility fails to meet the
18 efficiency standard specified in subsection (c) of this
19 Section as modified by subsection (d), then it shall make a
20 contribution to the Low-Income Home Energy Assistance Program.
21 The total liability for failure to meet the goal shall be
22 assessed as follows:

23 (1) a large gas utility shall pay \$600,000;

24 (2) a medium gas utility shall pay \$400,000; and

25 (3) a small gas utility shall pay \$200,000.

26 For purposes of this Section, (i) a "large gas utility" is

1 a gas utility that on December 31, 2008, served more than
2 1,500,000 gas customers in Illinois; (ii) a "medium gas
3 utility" is a gas utility that on December 31, 2008, served
4 fewer than 1,500,000, but more than 500,000 gas customers in
5 Illinois; and (iii) a "small gas utility" is a gas utility that
6 on December 31, 2008, served fewer than 500,000 and more than
7 100,000 gas customers in Illinois. The costs of this
8 contribution may not be recovered from ratepayers.

9 If a gas utility fails to meet the efficiency standard
10 specified in subsection (c) of this Section, as modified by
11 subsection (d) of this Section, in any 2 consecutive
12 multi-year planning periods, then the responsibility for
13 implementing the utility's energy efficiency measures shall be
14 transferred to an independent program administrator selected
15 by the Commission. Reasonable and prudent costs incurred by
16 the independent program administrator to meet the efficiency
17 standard specified in subsection (c) of this Section, as
18 modified by subsection (d) of this Section, may be recovered
19 from the customers of the affected gas utilities, other than
20 customers described in subsection (m) of this Section. The
21 utility shall provide the independent program administrator
22 with all information and assistance necessary to perform the
23 program administrator's duties including but not limited to
24 customer, account, and energy usage data, and shall allow the
25 program administrator to include inserts in customer bills.
26 The utility may recover reasonable costs associated with any

1 such assistance.

2 (j) No utility shall be deemed to have failed to meet the
3 energy efficiency standards to the extent any such failure is
4 due to a failure of the Department.

5 (k) Not later than January 1, 2012, the Commission shall
6 develop and solicit public comment on a plan to foster
7 statewide coordination and consistency between statutorily
8 mandated natural gas and electric energy efficiency programs
9 to reduce program or participant costs or to improve program
10 performance. Not later than September 1, 2013, the Commission
11 shall issue a report to the General Assembly containing its
12 findings and recommendations.

13 (l) This Section does not apply to a gas utility that on
14 January 1, 2009, provided gas service to fewer than 100,000
15 customers in Illinois.

16 (m) Subsections (a) through (k) of this Section do not
17 apply to customers of a natural gas utility that have a North
18 American Industry Classification System code number that is
19 22111 or any such code number beginning with the digits 31, 32,
20 or 33 and (i) annual usage in the aggregate of 4 million therms
21 or more within the service territory of the affected gas
22 utility or with aggregate usage of 8 million therms or more in
23 this State and complying with the provisions of item (l) of
24 this subsection (m); or (ii) using natural gas as feedstock
25 and meeting the usage requirements described in item (i) of
26 this subsection (m), to the extent such annual feedstock usage

1 is greater than 60% of the customer's total annual usage of
2 natural gas.

3 (1) Customers described in this subsection (m) of this
4 Section shall apply, on a form approved on or before
5 October 1, 2009 by the Department, to the Department to be
6 designated as a self-directing customer ("SDC") or as an
7 exempt customer using natural gas as a feedstock from
8 which other products are made, including, but not limited
9 to, feedstock for a hydrogen plant, on or before the 1st
10 day of February, 2010. Thereafter, application may be made
11 not less than 6 months before the filing date of the gas
12 utility energy efficiency plan described in subsection (f)
13 of this Section; however, a new customer that commences
14 taking service from a natural gas utility after February
15 1, 2010 may apply to become a SDC or exempt customer up to
16 30 days after beginning service. Customers described in
17 this subsection (m) that have not already been approved by
18 the Department may apply to be designated a self-directing
19 customer or exempt customer, on a form approved by the
20 Department, between September 1, 2013 and September 30,
21 2013. Customer applications that are approved by the
22 Department under this amendatory Act of the 98th General
23 Assembly shall be considered to be a self-directing
24 customer or exempt customer, as applicable, for the
25 current 3-year planning period effective December 1, 2013.
26 Such application shall contain the following:

1 (A) the customer's certification that, at the time
2 of its application, it qualifies to be a SDC or exempt
3 customer described in this subsection (m) of this
4 Section;

5 (B) in the case of a SDC, the customer's
6 certification that it has established or will
7 establish by the beginning of the utility's multi-year
8 planning period commencing subsequent to the
9 application, and will maintain for accounting
10 purposes, an energy efficiency reserve account and
11 that the customer will accrue funds in said account to
12 be held for the purpose of funding, in whole or in
13 part, energy efficiency measures of the customer's
14 choosing, which may include, but are not limited to,
15 projects involving combined heat and power systems
16 that use the same energy source both for the
17 generation of electrical or mechanical power and the
18 production of steam or another form of useful thermal
19 energy or the use of combustible gas produced from
20 biomass, or both;

21 (C) in the case of a SDC, the customer's
22 certification that annual funding levels for the
23 energy efficiency reserve account will be equal to 2%
24 of the customer's cost of natural gas, composed of the
25 customer's commodity cost and the delivery service
26 charges paid to the gas utility, or \$150,000,

1 whichever is less;

2 (D) in the case of a SDC, the customer's
3 certification that the required reserve account
4 balance will be capped at 3 years' worth of accruals
5 and that the customer may, at its option, make further
6 deposits to the account to the extent such deposit
7 would increase the reserve account balance above the
8 designated cap level;

9 (E) in the case of a SDC, the customer's
10 certification that by October 1 of each year,
11 beginning no sooner than October 1, 2012, the customer
12 will report to the Department information, for the
13 12-month period ending May 31 of the same year, on all
14 deposits and reductions, if any, to the reserve
15 account during the reporting year, and to the extent
16 deposits to the reserve account in any year are in an
17 amount less than \$150,000, the basis for such reduced
18 deposits; reserve account balances by month; a
19 description of energy efficiency measures undertaken
20 by the customer and paid for in whole or in part with
21 funds from the reserve account; an estimate of the
22 energy saved, or to be saved, by the measure; and that
23 the report shall include a verification by an officer
24 or plant manager of the customer or by a registered
25 professional engineer or certified energy efficiency
26 trade professional that the funds withdrawn from the

1 reserve account were used for the energy efficiency
2 measures;

3 (F) in the case of an exempt customer, the
4 customer's certification of the level of gas usage as
5 feedstock in the customer's operation in a typical
6 year and that it will provide information establishing
7 this level, upon request of the Department;

8 (G) in the case of either an exempt customer or a
9 SDC, the customer's certification that it has provided
10 the gas utility or utilities serving the customer with
11 a copy of the application as filed with the
12 Department;

13 (H) in the case of either an exempt customer or a
14 SDC, certification of the natural gas utility or
15 utilities serving the customer in Illinois including
16 the natural gas utility accounts that are the subject
17 of the application; and

18 (I) in the case of either an exempt customer or a
19 SDC, a verification signed by a plant manager or an
20 authorized corporate officer attesting to the
21 truthfulness and accuracy of the information contained
22 in the application.

23 (2) The Department shall review the application to
24 determine that it contains the information described in
25 provisions (A) through (I) of item (1) of this subsection
26 (m), as applicable. The review shall be completed within

1 30 days after the date the application is filed with the
2 Department. Absent a determination by the Department
3 within the 30-day period, the applicant shall be
4 considered to be a SDC or exempt customer, as applicable,
5 for all subsequent multi-year planning periods, as of the
6 date of filing the application described in this
7 subsection (m). If the Department determines that the
8 application does not contain the applicable information
9 described in provisions (A) through (I) of item (1) of
10 this subsection (m), it shall notify the customer, in
11 writing, of its determination that the application does
12 not contain the required information and identify the
13 information that is missing, and the customer shall
14 provide the missing information within 15 working days
15 after the date of receipt of the Department's
16 notification.

17 (3) The Department shall have the right to audit the
18 information provided in the customer's application and
19 annual reports to ensure continued compliance with the
20 requirements of this subsection. Based on the audit, if
21 the Department determines the customer is no longer in
22 compliance with the requirements of items (A) through (I)
23 of item (1) of this subsection (m), as applicable, the
24 Department shall notify the customer in writing of the
25 noncompliance. The customer shall have 30 days to
26 establish its compliance, and failing to do so, may have

1 its status as a SDC or exempt customer revoked by the
2 Department. The Department shall treat all information
3 provided by any customer seeking SDC status or exemption
4 from the provisions of this Section as strictly
5 confidential.

6 (4) Upon request, or on its own motion, the Commission
7 may open an investigation, no more than once every 3 years
8 and not before October 1, 2014, to evaluate the
9 effectiveness of the self-directing program described in
10 this subsection (m).

11 Customers described in this subsection (m) that applied to
12 the Department on January 3, 2013, were approved by the
13 Department on February 13, 2013 to be a self-directing
14 customer or exempt customer, and receive natural gas from a
15 utility that provides gas service to at least 500,000 retail
16 customers in Illinois and electric service to at least
17 1,000,000 retail customers in Illinois shall be considered to
18 be a self-directing customer or exempt customer, as
19 applicable, for the current 3-year planning period effective
20 December 1, 2013.

21 (m-1) For utilities that file an amended plan for the
22 period covering calendar years 2027 through 2029, and for all
23 utilities for all calendar years covered by a multi-year plan
24 commencing on or after January 1, 2030, subsections (a)
25 through (k) of this Section do not apply to eligible customers
26 of a natural gas utility that have chosen to opt out of

1 multi-year plans.

2 (1) For purposes of this subsection (m-1), "eligible
3 customer" means any retail customer of a natural gas
4 utility, except for federal, State, municipal and other
5 public customers, with a North American Industry
6 Classification System code number that is 22111 or any
7 such code number beginning with the digits 31, 32, or 33
8 and (i) annual usage in the aggregate of 4,000,000 therms
9 or more within the service territory of the affected gas
10 utility or with aggregate usage of 8,000,000 therms or
11 more in this State; or (ii) using natural gas as feedstock
12 and meeting the usage requirements described in item (i)
13 of this paragraph (1), to the extent such annual feedstock
14 usage is greater than 60% of the customer's total annual
15 usage of natural gas. A determination of whether this
16 subsection is applicable to a customer shall be made for
17 each multi-year plan beginning after January 1, 2026. The
18 criteria for determining whether this subsection is
19 applicable shall be the 12 consecutive billing periods
20 prior to the start of the first year of each such
21 multi-year plan.

22 (2) Within 45 days after the effective date of this
23 amendatory Act of the 104th General Assembly, the
24 Commission shall prescribe the form for notice required
25 for opting out of energy efficiency programs. Within 120
26 days after the Commission's initial issuance of the form

1 for notice, customers described in paragraph (1) of this
2 subsection (m-1) may submit completed forms to the natural
3 gas utility. Thereafter, forms must be submitted to the
4 natural gas utility not less than 6 months before the
5 filing date of the gas utility energy efficiency plan
6 described in subsection (f) of this Section; however, a
7 new customer that commences taking service from a natural
8 gas utility after January 1, 2026 may submit a form up to
9 30 days after beginning service. The form for notice for
10 opting out of natural gas energy efficiency programs shall
11 contain the following:

12 (A) a statement indicating that the customer has
13 elected to opt-out;

14 (B) the account numbers for the customer accounts
15 to which the opt out shall apply;

16 (C) the mailing address associated with each
17 customer account identified under subparagraph (B);

18 (D) the customer's certification that, at the time
19 its form was submitted, it qualifies as an eligible
20 customer, as described in paragraph (1) of this
21 subsection (m-1);

22 (E) an American Society of Heating, Refrigerating,
23 and Air Conditioning Engineers (ASHRAE) level 2 or
24 higher audit report conducted by an independent
25 third-party expert identifying cost-effective energy
26 efficiency project opportunities that could be

1 invested in over the next 10 years. A customer with a
2 specialized process may use a self-audit process in
3 lieu of an ASHRAE audit;

4 (F) a description of the customer's plans to
5 reallocate funds toward internal energy efficiency
6 efforts identified in the subparagraph (E) report,
7 including, but not limited to: (i) strategic energy
8 management or other programs, including descriptions
9 of targeted buildings, equipment and operations; (ii)
10 eligible energy efficiency measures; and (iii)
11 expected energy savings, itemized by technology. If
12 the subparagraph (E) audit report identifies that the
13 customer currently utilizes the best available energy
14 efficient technology, equipment, programs, and
15 operations, the customer may provide a statement that
16 more efficient technology, equipment, programs, and
17 operations are not reasonably available as a means of
18 satisfying this subparagraph (F); and

19 (G) a verification signed by a plant manager or an
20 authorized corporate officer attesting to the
21 truthfulness and accuracy of the information contained
22 in the application.

23 (3) Upon receipt of a properly and timely noticed
24 request for opt out submitted by an eligible large private
25 energy customer, the natural gas utility shall grant the
26 request and file the request with the Commission, and,

1 beginning January 1 of the first year of the next
2 multi-year energy efficiency plan cycle, the opted out
3 customer shall no longer be assessed the costs of the plan
4 and shall be prohibited from participating in that
5 multi-year plan cycle to give the natural gas utility the
6 certainty to design program plan proposals.

7 (4) The request to opt out is only valid for the
8 requested plan cycle. An eligible large private energy
9 customer must also request to opt out for future energy
10 efficiency plan cycles, otherwise the customer will be
11 included in the future energy efficiency plan cycle.

12 (n) The applicability of this Section to customers
13 described in subsection (m) of this Section is conditioned on
14 the existence of the SDC program. In no event will any
15 provision of this Section apply to such customers after
16 January 1, 2020.

17 (o) Utilities' 3-year energy efficiency plans approved by
18 the Commission on or before the effective date of this
19 amendatory Act of the 99th General Assembly for the period
20 June 1, 2014 through May 31, 2017 shall continue to be in force
21 and effect through December 31, 2017 so that the energy
22 efficiency programs set forth in those plans continue to be
23 offered during the period June 1, 2017 through December 31,
24 2017. Each utility is authorized to increase, on a pro rata
25 basis, the energy savings goals and budgets approved in its
26 plan to reflect the additional 7 months of the plan's

1 operation.

2 (Source: P.A. 103-613, eff. 7-1-24.); and

3 on page 721, by replacing lines 1 through 4 with the following:

4 "(1) has a nameplate generating capacity no greater
5 than 5,000 kilowatts and is primarily used to offset a
6 customer's electricity load, or as otherwise as defined
7 for community renewable generation projects in Section
8 1-10 of the Illinois Power Agency Act;"; and

9 on page 810, line 20, after "attributes", by inserting "to
10 ensure customers are not double-billed for the same service";
11 and

12 on page 846, by replacing lines 15 through 19 with the
13 following:

14 "made pursuant to subsection (b-10) of Section 16-111.5."