HB3101

LRB10215747SPS21113 b

102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3101

Introduced 2/19/2021, by Rep. Delia C. Ramirez

SYNOPSIS AS INTRODUCED:

See Index

Creates the Building Energy Performance Standard Act. Provides that the purpose of the Illinois Building Energy Performance Standard is to decrease energy consumption, reduce greenhouse gas emissions from existing buildings, and increase economic growth and job creation. Provides that the Illinois Office of Energy shall establish a Building Energy Performance Standard Task Force to advise and provide technical assistance and recommendations relating to the Illinois Building Energy Performance Standard. Amends the Energy Efficient Building Act. Provides that the Capital Development Board, in consultation with the Department of Commerce and Economic Opportunity, shall create and adopt the Illinois Stretch Energy Code to allow municipalities and projects authorized or funded by the Board to achieve more energy efficiency in buildings than the Illinois Energy Conservation Code. Makes changes in provisions concerning definitions; applicability; enforcement; and home rule. Amends the Public Utilities Act. Provides that beginning in 2023, all gas distribution utilities in the State participating in certain energy efficiency programs shall achieve specified annual energy savings goals. Makes changes in provisions concerning energy efficiency and demand-response measures and qualified energy efficiency installers. Effective immediately.

LRB102 15747 SPS 21113 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

AN ACT concerning regulation.

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

Section 1. Short title. This Act may be cited as the Building Energy Performance Standard Act.

Section 5. Findings. The General Assembly finds that:

(a) The growing clean energy economy in Illinois can be a vehicle for expanding equitable access to public health, safety, a cleaner environment, quality jobs, economic opportunity, and wealth-building, particularly in economically disadvantaged communities and communities of black, indigenous, and people of color that have had to bear the disproportionate burden of dirty fossil fuel pollution.

(b) Energy efficiency should form the basis of any robust clean energy policy. It is the cheapest clean energy resource, and efficiency upgrades help customers manage their energy bills directly by reducing the energy they need, and indirectly by holding demand and prices down statewide.

Section 10. Building Energy Performance Standard.

(a) The purpose of the Illinois Building Energy Performance Standard is to decrease energy consumption, reduce greenhouse gas emissions from existing buildings, and increase economic growth and job creation by:

(1) creating a Building Energy Performance Standard through a stakeholder engagement process;

(2) implementing the Building Energy Performance Standard for all state-owned buildings; and

(3) creating a uniform Building Energy Performance Standard that may be adopted by local jurisdictions and may be applicable to publicly owned buildings or privately owned buildings, or both.

(b) Within 90 days after the effective date of this Act, the Illinois Office of Energy shall establish a Building Energy Performance Standard Task Force to advise and provide technical assistance and recommendations for the Illinois Building Energy Performance Standard, which shall:

(A) advise the Illinois Office of Energy on creation of an implementation plan for the Building Energy Performance Standard;

(B) recommend amendments to proposed regulations issued by the Illinois Office of Energy;

(C) recommend complementary programs or policies; and

(D) complete its tasks within one year of enactment.

The Task Force shall be composed of representatives, or their designees, from the following entities:

(i) the Director of the Illinois Environmental Protection Agency;

(ii) the Director of the Capital Development Board;

(iii) The Director of Central Management Services;

(iv) a minimum of one technical expert with extensive knowledge of energy use in multiple existing commercial building use types;

(v) a representative from the City of Chicago;

(vi) the Director of the Illinois Housing Development Authority;

(vii) the Director of Commerce and Economic Opportunity;

(viii) a representative from an environmental or sustainability nonprofit organization;

(ix) a representative from each of the investor-owned utilities in Illinois;

(x) a representative who is an affordable housing advocate;

(xi) a representative from a market-rate multifamily building;

(xii) a representative from a building owners and managers association;

(xiii) a representative from a public university system;

(xiv) a representative of a nonprofit or professional association advocating for energy efficient buildings or a low-carbon built environment;

(xvi) a representative of a business or entity that provides energy efficiency or renewable energy services to large buildings or affordable housing in the State; and

(xvii) other experts or organizations deemed necessary by the Illinois Office of Energy.

(c) In establishing specific performance standards and processes, the Illinois Office of Energy shall:

(1) require all buildings owned by the State of Illinois to comply with the Building Energy Performance Standard. State-owned buildings shall meet the following timeline for compliance with Building Energy Performance Standard:

(A) buildings over 50,000 gross square feet shall comply no later than January 1, 2024;

(B) buildings over 25,000 gross square feet shall comply no later than January 1, 2026;

(C) buildings over 10,000 gross square feet shall comply no later than January 1, 2028; and

(D) buildings below 10,000 gross square feet are not required to comply.

(2) require the property type energy use targets established by the Illinois Building Energy Performance Standard to be the minimum energy efficiency requirements for any jurisdiction adopting a building energy performance standard;

(3) with input from the Building Energy Performance Standard Task Force, establish property types and building energy performance standards for each property type, or an

equivalent metric for buildings that do not receive an ENERGY STAR score, no later than January 1, 2023; beginning every 5 years after January 1, 2023, the Illinois Office of Energy shall review and assess the need to update the energy performance standards for each property type;

(4) establish reporting and data verification requirements for buildings covered by Building Energy Performance Standard, and establish requirements for making reporting and data publicly available;

(5) establish that the Building Energy Performance Standard for buildings that are eligible for an ENERGY STAR score is no lower than the State median ENERGY STAR score for buildings of each property type;

(6) establish penalty guidelines for buildings failing to comply with the building energy performance requirements; and

(7) if needed, establish exemption criteria, in consultation with the Building Energy Performance Standard Task Force, including:

(A) for qualifying affordable housing buildings to delay compliance with the building energy performance requirements for no more than 3 years if the owner demonstrates, to the satisfaction of the Illinois Office of Energy, financial distress, change of ownership, vacancy, major renovation, pending demolition, or other acceptable circumstances as determined by the State of Illinois; and

(B) for qualifying buildings to delay compliance with the building energy performance requirements for up to 3 years if the owner demonstrates, to the satisfaction of the State of Illinois, financial distress, change of ownership, vacancy, major renovation, pending demolition, or other acceptable circumstances determined by the State of Illinois.

(d) In establishing specific performance standards, the Illinois Office of Energy may consider:

(1) the existence of any historic buildings and any restrictions related to the treatment of historic buildings;

(2) the diversity of building uses and requirements; and

(3) the impact on zoning regulations.

(e) The Illinois Office of Energy shall, no later than January 1, 2023, create, and make publicly available, a strategic implementation plan for State-owned buildings complying with the Illinois Building Energy Performance Standard.

(f) The Illinois Office of Energy shall post the strategic implementation plan on its website.

Section 90. The Energy Efficient Building Act is amended by changing Sections 10, 15, 20, 30, and 45 and by adding Section 55 as follows:

(20 ILCS 3125/10)

Sec. 10. Definitions.

"Board" means the Capital Development Board.

"Building" includes both residential buildings and commercial buildings.

"Code" means the latest published edition of the International Code Council's International Energy Conservation Code as adopted by the Board, including any published supplements adopted by the Board and any amendments and adaptations to the Code that are made by the Board.

"Commercial building" means any building except a building that is a residential building, as defined in this Section.

"Department" means the Department of Commerce and Economic Opportunity.

"Municipality" means any city, village, or incorporated town.

"Residential building" means (i) a detached one-family or 2-family dwelling or (ii) any building that is 3 stories or less in height above grade that contains multiple dwelling units, in which the occupants reside on a primarily permanent basis, such as a townhouse, a row house, an apartment house, a convent, a monastery, a rectory, a fraternity or sorority house, a dormitory, and a rooming house; provided, however, that when applied to a building located within the boundaries of a municipality having a population of 1,000,000 or more, the term "residential building" means a building containing one or more dwelling units, not exceeding 4 stories above grade, where occupants are primarily permanent.

"Site energy index" means a scalar published by the Pacific Northwest National Laboratories representing the ratio of the site energy performance of an evaluated code compared to the site energy performance of the 2006 International Energy Conservation Code. A site energy index includes only conservation measures and excludes net energy credit for any on-site or off-site energy production.

(Source: P.A. 101-144, eff. 7-26-19.)

(20 ILCS 3125/15)

Sec. 15. Energy Efficient Building Code. The Board, in consultation with the Department, shall adopt the Code as minimum requirements for commercial buildings, applying to the construction of, renovations to, and additions to all commercial buildings in the State. The Board, in consultation with the Department, shall also adopt the Code as ~~the~~ minimum and maximum requirements for residential buildings, applying to the construction of, renovations to, and additions to all residential buildings in the State, except as provided for in Section 45 of this Act. The Board may appropriately adapt the International Energy Conservation Code to apply to the particular economy, population distribution, geography, and climate of the State and construction therein, consistent with the public policy objectives of this Act.

(Source: P.A. 96-778, eff. 8-28-09.)

(20 ILCS 3125/20)

Sec. 20. Applicability.

(a) The Board shall review and adopt the Code within one year after its publication. The Code shall take effect within 6 months after it is adopted by the Board, except that, beginning January 1, 2012, the Code adopted in 2012 shall take effect on January 1, 2013. Except as otherwise provided in this Act, the Code shall apply to (i) any new building or structure in this State for which a building permit application is received by a municipality or county and (ii) beginning on the effective date of this amendatory Act of the 100th General Assembly, each State facility specified in Section 4.01 of the Capital Development Board Act. In the case of any addition, alteration, renovation, or repair to an existing <u>residential or</u> commercial structure, the Code adopted under this Act applies only to the portions of that structure that are being added, altered, renovated, or repaired. The changes made to this Section by this amendatory Act of the 97th General Assembly shall in no way invalidate or otherwise affect contracts entered into on or before the effective date of this amendatory Act of the 97th General Assembly.

(b) The following buildings shall be exempt from the Code:

(1) Buildings otherwise exempt from the provisions of a locally adopted building code and buildings that do not contain a conditioned space.

(2) Buildings that do not use either electricity or fossil fuel for comfort conditioning. For purposes of determining whether this exemption applies, a building will be presumed to be heated by electricity, even in the absence of equipment used for electric comfort heating, whenever the building is provided with electrical service in excess of 100 amps, unless the code enforcement official determines that this electrical service is necessary for purposes other than providing electric comfort heating.

(3) Historic buildings. This exemption shall apply to those buildings that are listed on the National Register of Historic Places or the Illinois Register of Historic Places, and to those buildings that have been designated as historically significant by a local governing body that is authorized to make such designations.

(4) (Blank).

(5) Other buildings specified as exempt by the International Energy Conservation Code.

(c) Additions, alterations, renovations, or repairs to an existing building, building system, or portion thereof shall conform to the provisions of the Code as they relate to new construction without requiring the unaltered portion of the existing building or building system to comply with the Code. The following need not comply with the Code, provided that the energy use of the building is not increased: (i) storm windows installed over existing fenestration, (ii) glass-only replacements in an existing sash and frame, (iii) existing ceiling, wall, or floor cavities exposed during construction, provided that these cavities are filled with insulation, and (iv) construction where the existing roof, wall, or floor is not exposed.

(d) A unit of local government that does not regulate energy efficient building standards is not required to adopt, enforce, or administer the Code; however, any energy efficient building standards adopted by a unit of local government must comply with this Act. If a unit of local government does not regulate energy efficient building standards, any construction, renovation, or addition to buildings or structures is subject to the provisions contained in this Act.

(Source: P.A. 100-729, eff. 8-3-18.)

(20 ILCS 3125/30)

Sec. 30. Enforcement. The Board, in consultation with the Department, shall determine procedures for compliance with the Code. These procedures may include but need not be limited to certification by a national, State, or local accredited energy conservation program or inspections from private

Code-certified inspectors using the Code. For purposes of the Illinois Stretch Energy Code under Section 55 of this Act, the Board shall allow and encourage, as an alternative compliance mechanism, project certification by a nationally recognized nonprofit certification organization specializing in high-performance passive buildings and offering climate-specific building energy standards that require equal or better energy performance than the Illinois Stretch Energy Code.

(Source: P.A. 93-936, eff. 8-13-04.)

(20 ILCS 3125/45)

Sec. 45. Home rule.

(a) (Blank) ~~No unit of local government, including any home rule unit, may regulate energy efficient building standards for commercial buildings in a manner that is less stringent than the provisions contained in this Act~~.

(b) No unit of local government, including any home rule unit, may regulate energy efficient building standards for residential or commercial buildings in a manner that is either less or more stringent than the standards established pursuant to this Act; provided, however, that the following entities may regulate energy efficient building standards for residential or commercial buildings in a manner that is more stringent than the provisions contained in this Act: (i) a unit of local government, including a home rule unit, that has, on or before May 15, 2009, adopted or incorporated by reference energy efficient building standards for residential buildings that are equivalent to or more stringent than the 2006 International Energy Conservation Code, (ii) a unit of local government, including a home rule unit, that has, on or before May 15, 2009, provided to the Capital Development Board, as required by Section 10.18 of the Capital Development Board Act, an identification of an energy efficient building code or amendment that is equivalent to or more stringent than the 2006 International Energy Conservation Code, (iii) a municipality that has adopted the Illinois Stretch Energy Code, and (iv) ~~(iii)~~ a municipality with a population of 1,000,000 or more.

(c) No unit of local government, including any home rule unit or unit of local government that is subject to State regulation under the Code as provided in Section 15 of this Act, may hereafter enact any annexation ordinance or resolution, or require or enter into any annexation agreement, that imposes energy efficient building standards for residential or commercial buildings that are either less or more stringent than the energy efficiency standards in effect, at the time of construction, throughout the unit of local government, except for the Illinois Stretch Energy Code.

(d) This Section is a denial and limitation of home rule powers and functions under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State. Nothing in this Section, however, prevents a unit of local government from adopting an energy efficiency code or standards for commercial buildings that are more stringent than the Code under this Act.

(Source: P.A. 99-639, eff. 7-28-16.)

(20 ILCS 3125/55 new)

Sec. 55. Illinois Stretch Energy Code.

(a) The Board, in consultation with the Department, shall create and adopt the Illinois Stretch Energy Code, to allow municipalities and projects authorized or funded by the Board to achieve more energy efficiency in buildings than the Illinois Energy Conservation Code through a consistent pathway across the State. The Illinois Stretch Energy Code shall be available for adoption by any municipality and shall set minimum energy efficiency requirements, taking the place of the Illinois Energy Conservation Code within any municipality that adopts the Illinois Stretch Energy Code.

(b) The Illinois Stretch Energy Code shall have separate components for commercial and residential buildings, which may be adopted by the municipality jointly or separately.

(c) The Illinois Stretch Energy Code shall apply to all projects to which an energy conservation code is applicable that are authorized or funded in any part by the Board after January 1, 2023.

(d) Development of the Illinois Stretch Energy Code shall be completed and available for adoption by municipalities by December 31, 2022.

(e) Consistent with the requirements under paragraph (2.5) of subsection (g) of Section 8-103B of the Public Utilities Act and under paragraph (2) of subsection (j) of Section 8-104.1 of the Public Utilities Act, municipalities that adopt the Illinois Stretch Energy Code may use utility programs to support compliance with the Illinois Stretch Energy Code. The amount of savings from such utility efforts that may be counted toward achievement of their cumulative persisting annual savings goals shall be based on reasonable estimates of the increase in savings resulting from the utility efforts, relative to reasonable approximations of what would have occurred absent the utility involvement.

(f) The Illinois Stretch Energy Code's residential components shall:

(1) apply to residential buildings as defined under Section 10;

(2) set performance targets using a site energy index with reductions relative to the 2006 International Energy Conservation Code; and

(3) include stretch energy codes with site energy index standards and adoption dates as follows: by no later than December 31, 2022, the Board shall create and adopt a stretch energy code with a site energy index no greater

than 0.50 of the 2006 International Energy Conservation Code; by no later than December 31, 2025, the Board shall create and adopt a stretch energy code with a site energy index no greater than 0.40 of the 2006 International Energy Conservation Code, unless the Board identifies unanticipated burdens associated with the stretch energy code adopted in 2022, in which case the Board may adopt a stretch energy code with a site energy index no greater than 0.42 of the 2006 International Energy Conservation Code, provided that the more relaxed standard has a site energy index that is at least 0.05 more restrictive than the 2024 International Energy Conservation Code; by no later than December 31, 2028, the Board shall create and adopt a stretch energy code with a site energy index no greater than 0.33 of the 2006 International Energy Conservation Code, unless the Board identifies unanticipated burdens associated with the stretch energy code adopted in 2025, in which case the Board may adopt a stretch energy code with a site energy index no greater than 0.35 of the 2006 International Energy Conservation Code, but only if that more relaxed standard has a site energy index that is at least 0.05 more restrictive than the 2027 International Energy Conservation Code; and by no later than December 31, 2031, the Board shall create and adopt a stretch energy code with a site energy index no greater than 0.25 of the 2006 International Energy

Conservation Code.

(g) The Illinois Stretch Energy Code's commercial components shall:

(1) apply to commercial buildings as defined under Section 10;

(2) set performance targets using a site energy index with reductions relative to the 2006 International Energy Conservation Code; and

(3) include stretch energy codes with site energy index standards and adoption dates as follows: by no later than December 31, 2022, the Board shall create and adopt a stretch energy code with a site energy index no greater than 0.60 of the 2006 International Energy Conservation Code; by no later than December 31, 2025, the Board shall create and adopt a stretch energy code with a site energy index no greater than 0.50 of the 2006 International Energy Conservation Code; by no later than December 31, 2028, the Board shall create and adopt a stretch energy code with a site energy index no greater than 0.44 of the 2006 International Energy Conservation Code; and by no later than December 31, 2031, the Board shall create and adopt a stretch energy code with a site energy index no greater than 0.39 of the 2006 International Energy Conservation Code.

(h) The process for the creation of the Illinois Stretch Energy Code includes:

(1) within 60 days after the effective date of this amendatory Act of the 102nd General Assembly, the Capital Development Board shall establish an Illinois Stretch Energy Code Task Force to advise and provide technical assistance and recommendations to the Capital Development Board for the Illinois Stretch Energy Code, which shall:

(A) advise the Capital Development Board on creation of interim performance targets, code requirements, and an implementation plan for the Illinois Stretch Energy Code;

(B) recommend amendments to proposed rules issued by the Capital Development Board;

(C) recommend complementary programs or policies;

(D) complete recommendations and development for the Illinois Stretch Energy Code elements and requirements by July 31, 2022;

(E) be composed of, but not limited to, representatives, or their designees, from the following entities:

(i) a representative from a group that represents environmental justice;

(ii) a representative of a nonprofit or professional association advocating for the environment;

(iii) a representative of an organization representing local governments in the metropolitan

Chicago region;

(iv) a representative of the City of Chicago;

(v) a representative of an organization representing local governments outside the metropolitan Chicago region;

(vi) a representative for the investor-owned utilities of Illinois;

(vii) an energy-efficiency advocate with technical expertise in single-family residential buildings;

(viii) an energy-efficiency advocate with technical expertise in commercial buildings;

(ix) an energy-efficiency advocate with technical expertise in multifamily buildings, such as an affordable housing developer;

(x) a representative from the architecture or engineering industry;

(xi) a representative from a home builders association;

(xii) a representative from the commercial building industry;

(xiii) a representative of the enforcement industry, such as a code official or energy rater;

(xiv) a representative of organized labor; and

(xv) other experts or organizations deemed necessary by the Capital Development Board; and

(F) be co-chaired by:

(i) a representative of the environmental community;

(ii) a representative of the environmental justice community; and

(iii) a municipal representative.

(2) As part of its deliberations, the Illinois Stretch Energy Code Task Force shall actively solicit input from other energy code stakeholders and interested parties.

Section 95. The Public Utilities Act is amended by changing Sections 8-103B and 16-128B and by adding Section 8-104.1 as follows:

(220 ILCS 5/8-103B)

Sec. 8-103B. Energy efficiency and demand-response measures.

(a) It is the policy of the State that electric utilities are required to use cost-effective energy efficiency and demand-response measures to reduce delivery load. Requiring investment in cost-effective energy efficiency and demand-response measures will reduce direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure. It serves the public interest to allow electric utilities to recover costs for reasonably and prudently incurred expenditures for energy efficiency and demand-response measures. As used in this Section, "cost-effective" means that the measures satisfy the total resource cost test. The low-income measures described in subsection (c) of this Section shall not be required to meet the total resource cost test. For purposes of this Section, the terms "energy-efficiency", "demand-response", "electric utility", and "total resource cost test" have the meanings set forth in the Illinois Power Agency Act. "Black, indigenous, and people of color" and "BIPOC" means people who are members of the groups described in subparagraphs (a) through (e) of paragraph (A) of subsection (1) of Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

(a-5) This Section applies to electric utilities serving more than 500,000 retail customers in the State for those multi-year plans commencing after December 31, 2017.

(b) For purposes of this Section, electric utilities subject to this Section that serve more than 3,000,000 retail customers in the State shall be deemed to have achieved a cumulative persisting annual savings of 6.6% from energy efficiency measures and programs implemented during the period beginning January 1, 2012 and ending December 31, 2017, which percent is based on the deemed average weather normalized sales of electric power and energy during calendar years 2014, 2015, and 2016 of 88,000,000 MWhs. ~~For the purposes of this~~

~~subsection (b) and subsection (b-5), the 88,000,000 MWhs of deemed electric power and energy sales shall be reduced by the number of MWhs equal to the sum of the annual consumption of customers that are exempt from subsections (a) through (j) of this Section under subsection (l) of this Section, as averaged across the calendar years 2014, 2015, and 2016.~~ After 2017, the deemed value of cumulative persisting annual savings from energy efficiency measures and programs implemented during the period beginning January 1, 2012 and ending December 31, 2017, shall be reduced each year, as follows, and the applicable value shall be applied to and count toward the utility's achievement of the cumulative persisting annual savings goals set forth in subsection (b-5):

(1) 5.8% deemed cumulative persisting annual savings for the year ending December 31, 2018;

(2) 5.2% deemed cumulative persisting annual savings for the year ending December 31, 2019;

(3) 4.5% deemed cumulative persisting annual savings for the year ending December 31, 2020;

(4) 4.0% deemed cumulative persisting annual savings for the year ending December 31, 2021;

(5) 3.5% deemed cumulative persisting annual savings for the year ending December 31, 2022;

(6) 3.1% deemed cumulative persisting annual savings for the year ending December 31, 2023;

(7) 2.8% deemed cumulative persisting annual savings

for the year ending December 31, 2024;

(8) 2.5% deemed cumulative persisting annual savings for the year ending December 31, 2025;

(9) 2.3% deemed cumulative persisting annual savings for the year ending December 31, 2026;

(10) 2.1% deemed cumulative persisting annual savings for the year ending December 31, 2027;

(11) 1.8% deemed cumulative persisting annual savings for the year ending December 31, 2028;

(12) 1.7% deemed cumulative persisting annual savings for the year ending December 31, 2029; ~~and~~

(13) 1.5% deemed cumulative persisting annual savings for the year ending December 31, 2030;~~.~~

(14) 1.3% deemed cumulative persisting annual savings for the year ending December 31, 2031;

(15) 1.1% deemed cumulative persisting annual savings for the year ending December 31, 2032;

(16) 0.9% deemed cumulative persisting annual savings for the year ending December 31, 2033;

(17) 0.7% deemed cumulative persisting annual savings for the year ending December 31, 2034;

(18) 0.5% deemed cumulative persisting annual savings for the year ending December 31, 2035;

(19) 0.4% deemed cumulative persisting annual savings for the year ending December 31, 2036;

(20) 0.3% deemed cumulative persisting annual savings

for the year ending December 31, 2037;

(21) 0.2% deemed cumulative persisting annual savings for the year ending December 31, 2038;

(22) 0.1% deemed cumulative persisting annual savings for the year ending December 31, 2039; and

(23) 0.0% deemed cumulative persisting annual savings for the year ending December 31, 2040 and all subsequent years.

For purposes of this Section, "cumulative persisting annual savings" means the total electric energy savings in a given year from measures installed in that year or in previous years, but no earlier than January 1, 2012, that are still operational and providing savings in that year because the measures have not yet reached the end of their useful lives.

(b-5) Beginning in 2018, electric utilities subject to this Section that serve more than 3,000,000 retail customers in the State shall achieve the following cumulative persisting annual savings goals, as modified by subsection (f) of this Section and as compared to the deemed baseline of 88,000,000 MWhs of electric power and energy sales set forth in subsection (b), ~~as reduced by the number of MWhs equal to the sum of the annual consumption of customers that are exempt from subsections (a) through (j) of this Section under subsection (l) of this Section as averaged across the calendar years 2014, 2015, and 2016,~~ through the implementation of energy efficiency measures during the applicable year and in prior years, but no earlier than January 1, 2012:

(1) 7.8% cumulative persisting annual savings for the year ending December 31, 2018;

(2) 9.1% cumulative persisting annual savings for the year ending December 31, 2019;

(3) 10.4% cumulative persisting annual savings for the year ending December 31, 2020;

(4) 11.8% cumulative persisting annual savings for the year ending December 31, 2021;

(5) 13.1% cumulative persisting annual savings for the year ending December 31, 2022;

(6) 14.4% cumulative persisting annual savings for the year ending December 31, 2023;

(7) 15.7% cumulative persisting annual savings for the year ending December 31, 2024;

(8) 17% cumulative persisting annual savings for the year ending December 31, 2025;

(9) 17.9% cumulative persisting annual savings for the year ending December 31, 2026;

(10) 18.8% cumulative persisting annual savings for the year ending December 31, 2027;

(11) 19.7% cumulative persisting annual savings for the year ending December 31, 2028;

(12) 20.6% cumulative persisting annual savings for the year ending December 31, 2029; and

(13) 21.5% cumulative persisting annual savings for

the year ending December 31, 2030.

No later than December 31, 2021, the Illinois Commerce Commission shall establish additional cumulative persisting annual savings goals for the years 2031 through 2035. No later than December 31, 2024, the Illinois Commerce Commission shall establish additional cumulative persisting annual savings goals for the years 2036 through 2040. The Commission shall also establish additional cumulative persisting annual savings goals every 5 years thereafter to ensure utilities always have goals that extend at least 11 years into the future. The cumulative persisting annual savings goals beyond the year 2030 shall increase by 0.9 percentage points per year, absent a Commission decision to initiate a proceeding to consider establishing goals that increase by more or less than that amount. Such a proceeding must be conducted in accordance with the procedures described in subsection (f) of this Section. If such a proceeding is initiated, the cumulative persisting annual savings goals established by the Commission through that proceeding shall reflect the Commission's best estimate of the maximum amount of additional savings that are forecast to be cost-effectively achievable unless such best estimates would result in goals that represent less than 0.5 percentage point annual increases in total cumulative persisting annual savings. The Commission may only establish goals that represent less than 0.5 percentage point annual increases in cumulative persisting annual savings if it can demonstrate, based on clear and convincing evidence and through independent analysis, that 0.5 percentage point increases are not cost-effectively achievable. The Commission shall inform its decision based on an energy efficiency potential study that conforms to the requirements of subsection (f-5) of this Section.

(b-10) For purposes of this Section, electric utilities subject to this Section that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State shall be deemed to have achieved a cumulative persisting annual savings of 6.6% from energy efficiency measures and programs implemented during the period beginning January 1, 2012 and ending December 31, 2017, which is based on the deemed average weather normalized sales of electric power and energy during calendar years 2014, 2015, and 2016 of 36,900,000 MWhs. ~~For the purposes of this subsection (b-10) and subsection (b-15), the 36,900,000 MWhs of deemed electric power and energy sales shall be reduced by the number of MWhs equal to the sum of the annual consumption of customers that are exempt from subsections (a) through (j) of this Section under subsection (l) of this Section, as averaged across the calendar years 2014, 2015, and 2016.~~ After 2017, the deemed value of cumulative persisting annual savings from energy efficiency measures and programs implemented during the period beginning January 1, 2012 and ending December 31, 2017, shall be reduced each year, as follows, and the applicable value shall be applied to and count toward the utility's achievement of the cumulative persisting annual savings goals set forth in subsection (b-15):

(1) 5.8% deemed cumulative persisting annual savings for the year ending December 31, 2018;

(2) 5.2% deemed cumulative persisting annual savings for the year ending December 31, 2019;

(3) 4.5% deemed cumulative persisting annual savings for the year ending December 31, 2020;

(4) 4.0% deemed cumulative persisting annual savings for the year ending December 31, 2021;

(5) 3.5% deemed cumulative persisting annual savings for the year ending December 31, 2022;

(6) 3.1% deemed cumulative persisting annual savings for the year ending December 31, 2023;

(7) 2.8% deemed cumulative persisting annual savings for the year ending December 31, 2024;

(8) 2.5% deemed cumulative persisting annual savings for the year ending December 31, 2025;

(9) 2.3% deemed cumulative persisting annual savings for the year ending December 31, 2026;

(10) 2.1% deemed cumulative persisting annual savings for the year ending December 31, 2027;

(11) 1.8% deemed cumulative persisting annual savings for the year ending December 31, 2028;

(12) 1.7% deemed cumulative persisting annual savings

for the year ending December 31, 2029; ~~and~~

(13) 1.5% deemed cumulative persisting annual savings for the year ending December 31, 2030;~~.~~

(14) 1.3% deemed cumulative persisting annual savings for the year ending December 31, 2031;

(15) 1.1% deemed cumulative persisting annual savings for the year ending December 31, 2032;

(16) 0.9% deemed cumulative persisting annual savings for the year ending December 31, 2033;

(17) 0.7% deemed cumulative persisting annual savings for the year ending December 31, 2034;

(18) 0.5% deemed cumulative persisting annual savings for the year ending December 31, 2035;

(19) 0.4% deemed cumulative persisting annual savings for the year ending December 31, 2036;

(20) 0.3% deemed cumulative persisting annual savings for the year ending December 31, 2037;

(21) 0.2% deemed cumulative persisting annual savings for the year ending December 31, 2038;

(22) 0.1% deemed cumulative persisting annual savings for the year ending December 31, 2039; and

(23) 0.0% deemed cumulative persisting annual savings for the year ending December 31, 2040 and all subsequent years.

(b-15) Beginning in 2018, electric utilities subject to this Section that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State shall achieve the following cumulative persisting annual savings goals~~, as modified by subsection (b-20) and subsection (f) of this Section and as compared to the deemed baseline as reduced by the number of MWhs equal to the sum of the annual consumption of customers that are exempt from subsections (a) through (j) of this Section under subsection (l) of this Section as averaged across the calendar years 2014, 2015, and 2016,~~ through the implementation of energy efficiency measures during the applicable year and in prior years, but no earlier than January 1, 2012:

(1) 7.4% cumulative persisting annual savings for the year ending December 31, 2018;

(2) 8.2% cumulative persisting annual savings for the year ending December 31, 2019;

(3) 9.0% cumulative persisting annual savings for the year ending December 31, 2020;

(4) 9.8% cumulative persisting annual savings for the year ending December 31, 2021;

(5) 10.6% cumulative persisting annual savings for the year ending December 31, 2022;

(6) 11.4% cumulative persisting annual savings for the year ending December 31, 2023;

(7) 12.2% cumulative persisting annual savings for the year ending December 31, 2024;

(8) 13% cumulative persisting annual savings for the

year ending December 31, 2025;

(9) 13.6% cumulative persisting annual savings for the year ending December 31, 2026;

(10) 14.2% cumulative persisting annual savings for the year ending December 31, 2027;

(11) 14.8% cumulative persisting annual savings for the year ending December 31, 2028;

(12) 15.4% cumulative persisting annual savings for the year ending December 31, 2029; and

(13) 16% cumulative persisting annual savings for the year ending December 31, 2030.

No later than December 31, 2021, the Illinois Commerce Commission shall establish additional cumulative persisting annual savings goals for the years 2031 through 2035. No later than December 31, 2024, the Illinois Commerce Commission shall establish additional cumulative persisting annual savings goals for the years 2036 through 2040. The Commission shall also establish additional cumulative persisting annual savings goals every 5 years thereafter to ensure utilities always have goals that extend at least 11 years into the future. The cumulative persisting annual savings goals beyond the year 2030 shall increase by 0.6 percentage points per year, absent a Commission decision to initiate a proceeding to consider establishing goals that increase by more or less than that amount. Such a proceeding must be conducted in accordance with the procedures described in subsection (f) of this Section. If such a proceeding is initiated, the cumulative persisting annual savings goals established by the Commission through that proceeding shall reflect the Commission's best estimate of the maximum amount of additional savings that are forecast to be cost-effectively achievable unless such best estimates would result in goals that represent less than 0.4 percentage point annual increases in total cumulative persisting annual savings. The Commission may only establish goals that represent less than 0.4 percentage point annual increases in cumulative persisting annual savings if it can demonstrate, based on clear and convincing evidence and through independent analysis, that 0.4 percentage point increases are not cost-effectively achievable. The Commission shall inform its decision based on an energy efficiency potential study that conforms to the requirements of subsection (f-5) of this Section.

~~The difference between the cumulative persisting annual savings goal for the applicable calendar year and the cumulative persisting annual savings goal for the immediately preceding calendar year is 0.8% for the period of January 1, 2018 through December 31, 2025 and 0.6% for the period of January 1, 2026 through December 31, 2030.~~

(b-20) Each electric utility subject to this Section may include cost-effective voltage optimization measures in its plans submitted under subsections (f) and (g) of this Section, and the costs incurred by a utility to implement the measures under a Commission-approved plan shall be recovered under the provisions of Article IX or Section 16-108.5 of this Act. For purposes of this Section, the measure life of voltage optimization measures shall be 15 years. The measure life period is independent of the depreciation rate of the voltage optimization assets deployed. Utilities may claim savings from voltage optimization on circuits for more than 15 years if they can demonstrate that they have made additional investments necessary to enable voltage optimization savings to continue beyond 15 years. Such demonstrations must be subject to the review of independent evaluation.

Within 270 days after June 1, 2017 (the effective date of Public Act 99-906), an electric utility that serves less than 3,000,000 retail customers but more than 500,000 retail customers in the State shall file a plan with the Commission that identifies the cost-effective voltage optimization investment the electric utility plans to undertake through December 31, 2024. The Commission, after notice and hearing, shall approve or approve with modification the plan within 120 days after the plan's filing and, in the order approving or approving with modification the plan, the Commission shall adjust the applicable cumulative persisting annual savings goals set forth in subsection (b-15) to reflect any amount of cost-effective energy savings approved by the Commission that is greater than or less than the following cumulative persisting annual savings values attributable to voltage optimization for the applicable year:

(1) 0.0% of cumulative persisting annual savings for the year ending December 31, 2018;

(2) 0.17% of cumulative persisting annual savings for the year ending December 31, 2019;

(3) 0.17% of cumulative persisting annual savings for the year ending December 31, 2020;

(4) 0.33% of cumulative persisting annual savings for the year ending December 31, 2021;

(5) 0.5% of cumulative persisting annual savings for the year ending December 31, 2022;

(6) 0.67% of cumulative persisting annual savings for the year ending December 31, 2023;

(7) 0.83% of cumulative persisting annual savings for the year ending December 31, 2024; and

(8) 1.0% of cumulative persisting annual savings for the year ending December 31, 2025 <u>and all subsequent years</u>.

(b-25) In the event an electric utility jointly offers an energy efficiency measure or program with a gas utility under plans approved under this Section and Section 8-104 of this Act, the electric utility may continue offering the program, including the gas energy efficiency measures, in the event the gas utility discontinues funding the program. In that event, the energy savings value associated with such other fuels shall be converted to electric energy savings on an equivalent

Btu basis for the premises. However, the electric utility shall prioritize programs for low-income residential customers to the extent practicable. An electric utility may recover the costs of offering the gas energy efficiency measures under this subsection (b-25).

For those energy efficiency measures or programs that save both electricity and other fuels but are not jointly offered with a gas utility under plans approved under this Section and Section 8-104 or not offered with an affiliated gas utility under paragraph (6) of subsection (f) of Section 8-104 of this Act, the electric utility may count savings of fuels other than electricity toward the achievement of its annual savings goal, and the energy savings value associated with such other fuels shall be converted to electric energy savings on an equivalent Btu basis at the premises.

In no event shall more than 10% of each year's applicable annual total savings requirement ~~incremental goal~~ as defined in paragraph (7.5) ~~(7)~~ of subsection (g) of this Section be met through savings of fuels other than electricity.

(b-27) Beginning in 2022, an electric utility may offer and promote measures that electrify space heating, water heating, cooling, drying, cooking, industrial processes, and other building and industrial end uses that would otherwise be served by combustion of fossil fuel at the premises, provided that the electrification measures reduce total energy consumption at the premises. The electric utility may count the reduction in energy consumption at the premises toward achievement of its annual savings goals. The reduction in energy consumption at the premises shall be calculated as the difference between: (A) the reduction in Btu consumption of fossil fuels as a result of electrification, converted to kilowatt-hour equivalents by dividing by 3,412 Btu's per kilowatt hour; and (B) the increase in kilowatt hours of electricity consumption resulting from the displacement of fossil fuel consumption as a result of electrification. An electric utility may recover the costs of offering and promoting electrification measures under this subsection (b-27).

In no event shall electrification savings counted toward each year's applicable annual total savings requirement, as defined in paragraph (7.5) of subsection (g) of this Section, be greater than:

(1) 5% per year for each year from 2022 through 2025;

(2) 10% per year for each year from 2026 through 2029; and

(3) 15% per year for 2030 and all subsequent years.

In addition, a minimum of 25% of all electrification savings counted toward a utility's applicable annual total savings requirement must be from electrification of end uses in low-income housing. The limitations on electrification savings that may be counted toward a utility's annual savings goals are separate from and in addition to the subsection (b-25) limitations governing the counting of the other fuel savings resulting from efficiency measures and programs.

As part of the annual informational filing to the Commission that is required under paragraph (9) of subsection (g) of this Section, each utility shall identify the specific electrification measures offered under this subjection (b-27); the quantity of each electrification measure that was installed by its customers; the average total cost, average utility cost, average reduction in fossil fuel consumption, and average increase in electricity consumption associated with each electrification measure; the portion of installations of each electrification measure that were in low-income single-family housing, low-income multifamily housing, non-low-income single-family housing, non-low-income multifamily housing, commercial buildings, and industrial facilities; and the quantity of savings associated with each measure category in each customer category that are being counted toward the utility's applicable annual total savings requirement.

(c) Electric utilities shall be responsible for overseeing the design, development, and filing of energy efficiency plans with the Commission and may, as part of that implementation, outsource various aspects of program development and implementation. A minimum of 10%, for electric utilities that serve more than 3,000,000 retail customers in the State, and a minimum of 7%, for electric utilities that serve less than

3,000,000 retail customers but more than 500,000 retail customers in the State, of the utility's entire portfolio funding level for a given year shall be used to procure cost-effective energy efficiency measures from units of local government, municipal corporations, school districts, public housing, ~~and~~ community college districts, and buildings owned by nonprofit organizations, provided that a minimum percentage of available funds shall be used to procure energy efficiency from public housing, which percentage shall be equal to public housing's share of public building energy consumption.

The utilities shall also implement energy efficiency measures targeted at low-income households, which, for purposes of this Section, shall be defined as households at or below 80% of area median income, and expenditures to implement the measures shall be no less than $40,000,000 ~~$25,000,000~~ per year for electric utilities that serve more than 3,000,000 retail customers in the State and no less than $13,000,000 ~~$8,350,000~~ per year for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State. The ratio of spending on efficiency programs targeted at low-income multifamily buildings to spending on efficiency programs targeted at low-income single-family buildings shall be designed to achieve levels of savings from each building type that are approximately proportional to the magnitude of cost-effective lifetime savings potential in each building type.

The utilities shall work to bundle low-income energy efficiency offerings with other programs that serve low-income households to maximize the benefits going to these households. The utilities shall market and implement low-income energy efficiency programs in coordination with low-income assistance programs, Solar for All, and weatherization whenever practicable. The program implementer shall walk the customer through the enrollment process for any programs for which the customer is eligible. The utilities shall also pilot targeting customers with high arrearages, high energy intensity (ratio of energy usage divided by home or unit square footage), or energy assistance programs with energy efficiency offerings, and then track reduction in arrearages as a result of the targeting. This targeting and bundling of low-income energy programs shall be offered to both low-income single-family and multifamily customers (owners and residents).

The utilities shall also implement a health and safety fund of a minimum of 0.5% of the total portfolio budget, for electric utilities that serve more than 3,000,000 retail customers in the State, and a minimum of 0.5% of the total portfolio budget, for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State, of the utility's entire portfolio funding level for a given year, that shall be used for the purpose of making grants for technical assistance, construction, reconstruction, improvement, or repair of buildings to facilitate their participation in the energy efficiency programs targeted at low-income single-family and multifamily households. These funds may also be used for the purpose of making grants for technical assistance, construction, reconstruction, improvement, or repair of the following buildings to facilitate their participation in the energy efficiency programs created by this Section: (1) buildings that are owned or operated by registered 501(c)(3) public charities; and (2) day care centers, day care homes, or group day care homes, as defined under 89 Ill. Adm. Code Part 406, 407, or 408, respectively. Utilities shall also ensure that thermal insulating materials used for energy efficiency programs targeted at low-income single-family and multifamily households do not contain any substance that is a Category 1 respiratory sensitizer as defined by Appendix A to 29 CFR 1910.1200 (Health Hazard Criteria: A.4 Respiratory or Skin Sensitization) that was intentionally added or is present at greater than 0.1% (1000 ppm) by weight in the product.

Each electric utility shall assess opportunities to implement cost-effective energy efficiency measures and programs through a public housing authority or authorities located in its service territory. If such opportunities are identified, the utility shall propose such measures and programs to address the opportunities. Expenditures to address such opportunities shall be credited toward the minimum procurement and expenditure requirements set forth in this subsection (c).

Implementation of energy efficiency measures and programs targeted at low-income households should be contracted, when it is practicable, to independent third parties that have demonstrated capabilities to serve such households, with a preference for not-for-profit entities and government agencies that have existing relationships with or experience serving low-income communities in the State.

Each electric utility shall develop and implement reporting procedures that address and assist in determining the amount of energy savings that can be applied to the low-income procurement and expenditure requirements set forth in this subsection (c). Each electric utility shall also track the types and quantities or volumes of insulation and air sealing materials, and their associated energy saving benefits, installed in energy efficiency programs targeted at low-income single-family and multifamily households.

The electric utilities shall participate in ~~also convene~~ a low-income energy efficiency accountability ~~advisory~~ committee ("the committee"), which will directly inform ~~to assist in~~ the design, implementation, and evaluation of the low-income and public-housing energy efficiency programs. The committee shall be comprised of the electric utilities subject to the requirements of this Section, the gas utilities subject to the requirements of Section 8-104.1 ~~8-104~~ of this Act, the utilities' low-income energy efficiency implementation contractors, nonprofit organizations, community action agencies, advocacy groups, State and local governmental agencies, public-housing organizations, and representatives of community-based organizations, especially those living in or working with environmental justice communities and BIPOC communities. The committee shall be composed of 2 geographically differentiated subcommittees: one for stakeholders in northern Illinois and one for stakeholders in central and southern Illinois. The subcommittees shall meet together at least twice per year.

There shall be one statewide leadership committee led by and composed of community-based organizations that are representative of BIPOC and environmental justice communities and that includes equitable representation from BIPOC communities. The leadership committee shall be composed of an equal number of representatives from the 2 subcommittees. The subcommittees shall address specific programs and issues, with the leadership committee convening targeted workgroups as needed. The leadership committee may elect to work with an independent facilitator to solicit and organize feedback, recommendations and meeting participation from a wide variety of community-based stakeholders. If a facilitator is used, they shall be fair and responsive to the needs of all stakeholders involved in the committee.

All committee meetings must be accessible, with rotating locations if meetings are held in-person, virtual participation options, and materials and agendas circulated well in advance.

There shall also be opportunities for direct input by committee members outside of committee meetings, such as via individual meetings, surveys, emails and calls, to ensure robust participation by stakeholders with limited capacity and ability to attend committee meetings. Committee meetings shall emphasize opportunities to bundle and coordinate delivery of low-income energy efficiency with other programs that serve low-income communities, such as Solar for All and bill payment assistance programs. Meetings shall include educational opportunities for stakeholders to learn more about these additional offerings, and the committee shall assist in figuring out the best methods for coordinated delivery and implementation of offerings when serving low-income communities. The committee shall directly and equitably influence and inform utility low-income and public-housing energy efficiency programs and priorities. Participating utilities shall implement recommendations from the committee whenever possible.

Participating utilities shall track and report how input from the committee has led to new approaches and changes in their energy efficiency portfolios. This reporting shall occur at committee meetings and in quarterly energy efficiency reports to the Stakeholder Advisory Group and Illinois Commerce Commission, and other relevant reporting mechanisms.

Participating utilities shall also report on relevant equity data and metrics requested by the committee, such as energy burden data, geographic, racial, and other relevant demographic data on where programs are being delivered and what populations programs are serving.

The Illinois Commerce Commission shall oversee and have relevant staff participate in the committee. The committee shall have a budget of 0.25% of each utility's entire efficiency portfolio funding for a given year. The budget shall be overseen by the Commission. The budget shall be used to provide grants for community-based organizations serving on the leadership committee, stipends for community-based organizations participating in the committee, grants for community-based organizations to do energy efficiency outreach and education, and relevant meeting needs as determined by the leadership committee. The education and outreach shall include, but is not limited to, basic energy efficiency education, information about low-income energy efficiency programs, and information on the committee's purpose, structure, and activities.

(d) Notwithstanding any other provision of law to the contrary, a utility providing approved energy efficiency measures and, if applicable, demand-response measures in the State shall be permitted to recover all reasonable and prudently incurred costs of those measures from all retail customers, except as provided in subsection (l) of this

Section, as follows, provided that nothing in this subsection (d) permits the double recovery of such costs from customers:

(1) The utility may recover its costs through an automatic adjustment clause tariff filed with and approved by the Commission. The tariff shall be established outside the context of a general rate case. Each year the Commission shall initiate a review to reconcile any amounts collected with the actual costs and to determine the required adjustment to the annual tariff factor to match annual expenditures. To enable the financing of the incremental capital expenditures, including regulatory assets, for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State, the utility's actual year-end capital structure that includes a common equity ratio, excluding goodwill, of up to and including 50% of the total capital structure shall be deemed reasonable and used to set rates.

(2) A utility may recover its costs through an energy efficiency formula rate approved by the Commission under a filing under subsections (f) and (g) of this Section, which shall specify the cost components that form the basis of the rate charged to customers with sufficient specificity to operate in a standardized manner and be updated annually with transparent information that reflects the utility's actual costs to be recovered during

the applicable rate year, which is the period beginning with the first billing day of January and extending through the last billing day of the following December. The energy efficiency formula rate shall be implemented through a tariff filed with the Commission under subsections (f) and (g) of this Section that is consistent with the provisions of this paragraph (2) and that shall be applicable to all delivery services customers. The Commission shall conduct an investigation of the tariff in a manner consistent with the provisions of this paragraph (2), subsections (f) and (g) of this Section, and the provisions of Article IX of this Act to the extent they do not conflict with this paragraph (2). The energy efficiency formula rate approved by the Commission shall remain in effect at the discretion of the utility and shall do the following:

(A) Provide for the recovery of the utility's actual costs incurred under this Section that are prudently incurred and reasonable in amount consistent with Commission practice and law. The sole fact that a cost differs from that incurred in a prior calendar year or that an investment is different from that made in a prior calendar year shall not imply the imprudence or unreasonableness of that cost or investment.

(B) Reflect the utility's actual year-end capital structure for the applicable calendar year, excluding goodwill, subject to a determination of prudence and reasonableness consistent with Commission practice and law. To enable the financing of the incremental capital expenditures, including regulatory assets, for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State, a participating electric utility's actual year-end capital structure that includes a common equity ratio, excluding goodwill, of up to and including 50% of the total capital structure shall be deemed reasonable and used to set rates.

(C) Include a cost of equity, which shall be calculated as the sum of the following:

(i) the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication; and

(ii) 580 basis points.

At such time as the Board of Governors of the Federal Reserve System ceases to include the monthly average yields of 30-year U.S. Treasury bonds in its weekly H.15 Statistical Release or successor publication, the monthly average yields of the U.S. Treasury bonds then having the longest duration published by the Board of Governors in its weekly H.15 Statistical Release or successor publication shall instead be used for purposes of this paragraph (2).

(D) Permit and set forth protocols, subject to a determination of prudence and reasonableness consistent with Commission practice and law, for the following:

(i) recovery of incentive compensation expense that is based on the achievement of operational metrics, including metrics related to budget controls, outage duration and frequency, safety, customer service, efficiency and productivity, and environmental compliance; however, this protocol shall not apply if such expense related to costs incurred under this Section is recovered under Article IX or Section 16-108.5 of this Act; incentive compensation expense that is based on net income or an affiliate's earnings per share shall not be recoverable under the energy efficiency formula rate;

(ii) recovery of pension and other post-employment benefits expense, provided that such costs are supported by an actuarial study; however, this protocol shall not apply if such expense related to costs incurred under this Section is recovered under Article IX or Section

16-108.5 of this Act;

(iii) recovery of existing regulatory assets over the periods previously authorized by the Commission;

(iv) as described in subsection (e), amortization of costs incurred under this Section; and

(v) projected, weather normalized billing determinants for the applicable rate year.

(E) Provide for an annual reconciliation, as described in paragraph (3) of this subsection (d), less any deferred taxes related to the reconciliation, with interest at an annual rate of return equal to the utility's weighted average cost of capital, including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return, of the energy efficiency revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its energy efficiency formula rate tariff under this paragraph (2), with what the revenue requirement would have been had the actual cost information for the applicable calendar year been available at the filing date.

The utility shall file, together with its tariff, the projected costs to be incurred by the utility during the rate year under the utility's multi-year plan approved under subsections (f) and (g) of this Section, including, but not limited to, the projected capital investment costs and projected regulatory asset balances with correspondingly updated depreciation and amortization reserves and expense, that shall populate the energy efficiency formula rate and set the initial rates under the formula.

The Commission shall review the proposed tariff in conjunction with its review of a proposed multi-year plan, as specified in paragraph (5) of subsection (g) of this Section. The review shall be based on the same evidentiary standards, including, but not limited to, those concerning the prudence and reasonableness of the costs incurred by the utility, the Commission applies in a hearing to review a filing for a general increase in rates under Article IX of this Act. The initial rates shall take effect beginning with the January monthly billing period following the Commission's approval.

The tariff's rate design and cost allocation across customer classes shall be consistent with the utility's automatic adjustment clause tariff in effect on June 1, 2017 (the effective date of Public Act 99-906); however, the Commission may revise the tariff's rate design and cost allocation in subsequent proceedings under paragraph (3) of this subsection (d).

If the energy efficiency formula rate is terminated, the then current rates shall remain in effect until such time as the energy efficiency costs are incorporated into new rates that are set under this subsection (d) or Article IX of this Act, subject to retroactive rate adjustment, with interest, to reconcile rates charged with actual costs.

(3) The provisions of this paragraph (3) shall only apply to an electric utility that has elected to file an energy efficiency formula rate under paragraph (2) of this subsection (d). Subsequent to the Commission's issuance of an order approving the utility's energy efficiency formula rate structure and protocols, and initial rates under paragraph (2) of this subsection (d), the utility shall file, on or before June 1 of each year, with the Chief Clerk of the Commission its updated cost inputs to the energy efficiency formula rate for the applicable rate year and the corresponding new charges, as well as the information described in paragraph (9) of subsection (g) of this Section. Each such filing shall conform to the following requirements and include the following information:

(A) The inputs to the energy efficiency formula rate for the applicable rate year shall be based on the projected costs to be incurred by the utility during the rate year under the utility's multi-year plan approved under subsections (f) and (g) of this Section, including, but not limited to, projected capital investment costs and projected regulatory asset balances with correspondingly updated depreciation and amortization reserves and expense. The filing shall also include a reconciliation of the energy efficiency revenue requirement that was in effect for the prior rate year (as set by the cost inputs for the prior rate year) with the actual revenue requirement for the prior rate year (determined using a year-end rate base) that uses amounts reflected in the applicable FERC Form 1 that reports the actual costs for the prior rate year. Any over-collection or under-collection indicated by such reconciliation shall be reflected as a credit against, or recovered as an additional charge to, respectively, with interest calculated at a rate equal to the utility's weighted average cost of capital approved by the Commission for the prior rate year, the charges for the applicable rate year. Such over-collection or under-collection shall be adjusted to remove any deferred taxes related to the reconciliation, for purposes of calculating interest at an annual rate of return equal to the utility's weighted average cost of capital approved by the Commission for the prior rate year, including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return. Each reconciliation shall be certified by the participating utility in the same manner that FERC Form 1 is certified. The filing shall also include the charge or credit, if any, resulting from the calculation required by subparagraph (E) of paragraph (2) of this subsection (d).

Notwithstanding any other provision of law to the contrary, the intent of the reconciliation is to ultimately reconcile both the revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its energy efficiency formula rate tariff under paragraph (2) of this subsection (d), with what the revenue requirement determined using a year-end rate base for the applicable calendar year would have been had the actual cost information for the applicable calendar year been available at the filing date.

For purposes of this Section, "FERC Form 1" means the Annual Report of Major Electric Utilities, Licensees and Others that electric utilities are required to file with the Federal Energy Regulatory Commission under the Federal Power Act, Sections 3, 4(a), 304 and 209, modified as necessary to be consistent with 83 Ill. Admin. Code Part 415 as of May

1, 2011. Nothing in this Section is intended to allow costs that are not otherwise recoverable to be recoverable by virtue of inclusion in FERC Form 1.

(B) The new charges shall take effect beginning on the first billing day of the following January billing period and remain in effect through the last billing day of the next December billing period regardless of whether the Commission enters upon a hearing under this paragraph (3).

(C) The filing shall include relevant and necessary data and documentation for the applicable rate year. Normalization adjustments shall not be required.

Within 45 days after the utility files its annual update of cost inputs to the energy efficiency formula rate, the Commission shall with reasonable notice, initiate a proceeding concerning whether the projected costs to be incurred by the utility and recovered during the applicable rate year, and that are reflected in the inputs to the energy efficiency formula rate, are consistent with the utility's approved multi-year plan under subsections (f) and (g) of this Section and whether the costs incurred by the utility during the prior rate year were prudent and reasonable. The Commission shall also have the authority to investigate the information and data described in paragraph (9) of subsection (g) of this

Section, including the proposed adjustment to the utility's return on equity component of its weighted average cost of capital. During the course of the proceeding, each objection shall be stated with particularity and evidence provided in support thereof, after which the utility shall have the opportunity to rebut the evidence. Discovery shall be allowed consistent with the Commission's Rules of Practice, which Rules of Practice shall be enforced by the Commission or the assigned administrative law judge. The Commission shall apply the same evidentiary standards, including, but not limited to, those concerning the prudence and reasonableness of the costs incurred by the utility, during the proceeding as it would apply in a proceeding to review a filing for a general increase in rates under Article IX of this Act. The Commission shall not, however, have the authority in a proceeding under this paragraph (3) to consider or order any changes to the structure or protocols of the energy efficiency formula rate approved under paragraph (2) of this subsection (d). In a proceeding under this paragraph (3), the Commission shall enter its order no later than the earlier of 195 days after the utility's filing of its annual update of cost inputs to the energy efficiency formula rate or December 15. The utility's proposed return on equity calculation, as described in paragraphs (7) through (9) of subsection (g) of this Section, shall be deemed the final, approved calculation on December 15 of the year in which it is filed unless the Commission enters an order on or before December 15, after notice and hearing, that modifies such calculation consistent with this Section. The Commission's determinations of the prudence and reasonableness of the costs incurred, and determination of such return on equity calculation, for the applicable calendar year shall be final upon entry of the Commission's order and shall not be subject to reopening, reexamination, or collateral attack in any other Commission proceeding, case, docket, order, rule, or regulation; however, nothing in this paragraph (3) shall prohibit a party from petitioning the Commission to rehear or appeal to the courts the order under the provisions of this Act.

(e) Beginning on June 1, 2017 (the effective date of Public Act 99-906), a utility subject to the requirements of this Section may elect to defer, as a regulatory asset, up to the full amount of its expenditures incurred under this Section for each annual period, including, but not limited to, any expenditures incurred above the funding level set by subsection (f) of this Section for a given year. The total expenditures deferred as a regulatory asset in a given year shall be amortized and recovered over a period that is equal to the weighted average of the energy efficiency measure lives implemented for that year that are reflected in the regulatory asset. The unamortized balance shall be recognized as of December 31 for a given year. The utility shall also earn a return on the total of the unamortized balances of all of the energy efficiency regulatory assets, less any deferred taxes related to those unamortized balances, at an annual rate equal to the utility's weighted average cost of capital that includes, based on a year-end capital structure, the utility's actual cost of debt for the applicable calendar year and a cost of equity, which shall be calculated as the sum of the (i) the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication; and (ii) 580 basis points, including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return. Capital investment costs shall be depreciated and recovered over their useful lives consistent with generally accepted accounting principles. The weighted average cost of capital shall be applied to the capital investment cost balance, less any accumulated depreciation and accumulated deferred income taxes, as of December 31 for a given year.

When an electric utility creates a regulatory asset under the provisions of this Section, the costs are recovered over a period during which customers also receive a benefit which is in the public interest. Accordingly, it is the intent of the

General Assembly that an electric utility that elects to create a regulatory asset under the provisions of this Section shall recover all of the associated costs as set forth in this Section. After the Commission has approved the prudence and reasonableness of the costs that comprise the regulatory asset, the electric utility shall be permitted to recover all such costs, and the value and recoverability through rates of the associated regulatory asset shall not be limited, altered, impaired, or reduced.

(f) Beginning in 2017, each electric utility shall file an energy efficiency plan with the Commission to meet the energy efficiency standards for the next applicable multi-year period beginning January 1 of the year following the filing, according to the schedule set forth in paragraphs (1) through (3) of this subsection (f). If a utility does not file such a plan on or before the applicable filing deadline for the plan, it shall face a penalty of $100,000 per day until the plan is filed.

(1) No later than 30 days after June 1, 2017 (the effective date of Public Act 99-906), each electric utility shall file a 4-year energy efficiency plan commencing on January 1, 2018 that is designed to achieve the cumulative persisting annual savings goals specified in paragraphs (1) through (4) of subsection (b-5) of this Section or in paragraphs (1) through (4) of subsection (b-15) of this Section, as applicable, through

implementation of energy efficiency measures; however, the goals may be reduced if the utility's expenditures are limited pursuant to subsection (m) of this Section or, for a utility that serves less than 3,000,000 retail customers, if each of the following conditions are met: (A) the plan's analysis and forecasts of the utility's ability to acquire energy savings demonstrate that achievement of such goals is not cost effective; and (B) the amount of energy savings achieved by the utility as determined by the independent evaluator for the most recent year for which savings have been evaluated preceding the plan filing was less than the average annual amount of savings required to achieve the goals for the applicable 4-year plan period. Except as provided in subsection (m) of this Section, annual increases in cumulative persisting annual savings goals during the applicable 4-year plan period shall not be reduced to amounts that are less than the maximum amount of cumulative persisting annual savings that is forecast to be cost-effectively achievable during the 4-year plan period. The Commission shall review any proposed goal reduction as part of its review and approval of the utility's proposed plan.

(2) No later than March 1, 2021, each electric utility shall file a 4-year energy efficiency plan commencing on January 1, 2022 that is designed to achieve the cumulative

persisting annual savings goals specified in paragraphs (5) through (8) of subsection (b-5) of this Section or in paragraphs (5) through (8) of subsection (b-15) of this Section, as applicable, through implementation of energy efficiency measures; however, the goals may be reduced if either (1) clear and convincing evidence demonstrates, through independent analysis, that the expenditure limits in subsection (m) of this Section preclude full achievement of the goals or (2) ~~the utility's expenditures are limited pursuant to subsection (m) of this Section or,~~ each of the following conditions are met: (A) the plan's analysis and forecasts of the utility's ability to acquire energy savings demonstrate by clear and convincing evidence and through independent analysis that achievement of such goals is not cost effective; and (B) the amount of energy savings achieved by the utility as determined by the independent evaluator for the most recent year for which savings have been evaluated preceding the plan filing was less than the average annual amount of savings required to achieve the goals for the applicable 4-year plan period. If there is any significant uncertainty regarding whether achieving the savings goals specified in paragraph (b-5) or (b-15) of this Section is possible both cost-effectively and within the expenditure limits in subsection (m), such savings goals shall not be reduced. Except as provided in subsection (m) of this Section, annual increases in cumulative persisting annual savings goals during the applicable 4-year plan period shall not be reduced to amounts that are less than the maximum amount of cumulative persisting annual savings that is forecast to be cost-effectively achievable during the 4-year plan period. The Commission shall review any proposed goal reduction as part of its review and approval of the utility's proposed plan, taking into account the results of the potential study required by subsection (f-5) of this Section.

(3) No later than March 1, 2025, each electric utility shall file a 4-year ~~5-year~~ energy efficiency plan commencing on January 1, 2026 that is designed to achieve the cumulative persisting annual savings goals specified in paragraphs (9) through (12) ~~(13)~~ of subsection (b-5) of this Section or in paragraphs (9) through (12) ~~(13)~~ of subsection (b-15) of this Section, as applicable, through implementation of energy efficiency measures; however, the goals may be reduced if either (1) clear and convincing evidence demonstrates, through independent analysis, that the expenditure limits in subsection (m) of this Section preclude full achievement of the goals or (2) ~~the utility's expenditures are limited pursuant to subsection (m) of this Section or,~~ each of the following conditions are met: (A) the plan's analysis and forecasts of the utility's ability to acquire energy savings demonstrate by

clear and convincing evidence and through independent analysis that achievement of such goals is not cost effective; and (B) the amount of energy savings achieved by the utility as determined by the independent evaluator for the most recent year for which savings have been evaluated preceding the plan filing was less than the average annual amount of savings required to achieve the goals for the applicable 4-year ~~5-year~~ plan period. If there is any significant uncertainty regarding whether achieving the savings goals specified in paragraphs (b-5) or (b-15) of this Section is possible both cost-effectively and within the expenditure limits in subsection (m), such savings goals shall not be reduced. Except as provided in subsection (m) of this Section, annual increases in cumulative persisting annual savings goals during the applicable 4-year ~~5-year~~ plan period shall not be reduced to amounts that are less than the maximum amount of cumulative persisting annual savings that is forecast to be cost-effectively achievable during the 4-year ~~5-year~~ plan period. The Commission shall review any proposed goal reduction as part of its review and approval of the utility's proposed plan, taking into account the results of the potential study required by subsection (f-5) of this Section.

(4) No later than March 1, 2029, and every 4 years thereafter, each electric utility shall file a 4-year

energy efficiency plan commencing on January 1, 2030, and every 4 years thereafter, respectively, that is designed to achieve the cumulative persisting annual savings goals established by the Illinois Commerce Commission pursuant to direction of subsections (b-5) and (b-15) of this Section, as applicable, through implementation of energy efficiency measures; however, the goals may be reduced if either (1) clear and convincing evidence and independent analysis demonstrates that the expenditure limits in subsection (m) of this Section preclude full achievement of the goals or (2) each of the following conditions are met: (A) the plan's analysis and forecasts of the utility's ability to acquire energy savings demonstrate by clear and convincing evidence and through independent analysis that achievement of such goals is not cost-effective; and (B) the amount of energy savings achieved by the utility as determined by the independent evaluator for the most recent year for which savings have been evaluated preceding the plan filing was less than the average annual amount of savings required to achieve the goals for the applicable 4-year plan period. If there is any significant uncertainty regarding whether achieving the savings goals specified in paragraphs (b-5) or (b-15) of this Section is possible both cost-effectively and within the expenditure limits in subsection (m), such savings goals shall not be reduced. Except as provided in subsection (m) of this Section, annual increases in cumulative persisting annual savings goals during the applicable 4-year plan period shall not be reduced to amounts that are less than the maximum amount of cumulative persisting annual savings that is forecast to be cost-effectively achievable during the 4-year plan period. The Commission shall review any proposed goal reduction as part of its review and approval of the utility's proposed plan.

Each utility's plan shall set forth the utility's proposals to meet the energy efficiency standards identified in subsection (b-5) or (b-15), as applicable and as such standards may have been modified under this subsection (f), taking into account the unique circumstances of the utility's service territory and results of an energy efficiency potential study as described in subsection (f-5) of this Section. For those plans commencing on January 1, 2018, the Commission shall seek public comment on the utility's plan and shall issue an order approving or disapproving each plan no later than 105 days after June 1, 2017 (the effective date of Public Act 99-906). For those plans commencing after December 31, 2021, the Commission shall seek public comment on the utility's plan and shall issue an order approving or disapproving each plan within 6 months after its submission. If the Commission disapproves a plan, the Commission shall, within 30 days, describe in detail the reasons for the disapproval and describe a path by which the utility may file a revised draft of the plan to address the Commission's concerns satisfactorily. If the utility does not refile with the Commission within 60 days, the utility shall be subject to penalties at a rate of $100,000 per day until the plan is filed. This process shall continue, and penalties shall accrue, until the utility has successfully filed a portfolio of energy efficiency and demand-response measures. Penalties shall be deposited into the Energy Efficiency Trust Fund.

<u>(f-5) Energy efficiency potential study. An energy efficiency potential study shall be commissioned and overseen by the Illinois Commerce Commission. The potential study shall be a dual fuel study, addressing both gas and electric efficiency potential, such that the requirements both in this subsection (f-5) and in subsection (j-5) of Section 8-104.1 are met in an integrated and cost-efficient manner. The potential study shall be reviewed as part of the approval of a utility's plan filed pursuant to subsection (f) of this Section. The potential study shall be designed and conducted with input from a Potential Study Stakeholder Committee established by the Commission. This Committee shall be composed of representatives from each electric utility, the Illinois Attorney General's office, at least 2 environmental stakeholders, at least one community-based organization, and additional parties representing consumers. The Committee shall provide input, at a minimum, into the scope of work for the</u>

studies, the selection of vendors to perform the studies in accordance with appropriate confidentiality and conflict of interest provisions, and draft work products. The Committee shall make best efforts to achieve consensus on the key elements of the potential study, including:

(i) savings potential from efficiency measures and program concepts that are known at the time of the study;

(ii) likely emergence of new technology or new program concepts that could emerge;

(iii) likely savings potential from efficiency measures that may be unique to individual industries or individual facilities; and

(iv) the experience of other similar utilities, areas and jurisdictions in maximizing achievement of cost-effective savings.

When the Committee is not able to reach consensus, the Commission shall make the final decision.

(g) In submitting proposed plans and funding levels under subsection (f) of this Section to meet the savings goals identified in subsection (b-5) or (b-15) of this Section, as applicable, the utility shall:

(1) Demonstrate that its proposed energy efficiency measures will achieve the applicable requirements that are identified in subsection (b-5) or (b-15) of this Section, as modified by subsection (f) of this Section.

(2) (Blank). ~~Present specific proposals to implement~~

~~new building and appliance standards that have been placed into effect.~~

(2.5) Demonstrate consideration of program options for (A) advancing new building codes, appliance standards, and municipal regulations governing existing and new building efficiency improvements and (B) supporting efforts to improve compliance with new building codes, appliance standards and municipal regulations, as potentially cost-effective means of acquiring energy savings to count toward savings goals.

(3) Demonstrate that its overall portfolio of measures, not including low-income programs described in subsection (c) of this Section, is cost-effective using the total resource cost test or complies with paragraphs (1) through (3) of subsection (f) of this Section and represents a diverse cross-section of opportunities for customers of all rate classes, other than those customers described in subsection (l) of this Section, to participate in the programs. Individual measures need not be cost effective.

(3.5) Demonstrate that the utility's plan integrates the delivery of energy efficiency programs with natural gas efficiency programs, programs promoting distributed solar, programs promoting demand response and other efforts to address bill payment issues, including, but not limited to, LIHEAP and the Percentage of Income Payment

Plan, to the extent such integration is practical and has the potential to enhance customer engagement, minimize market confusion, or reduce administrative costs.

(4) Present a third-party energy efficiency implementation program subject to the following requirements:

(A) beginning with the year commencing January 1, 2019, electric utilities that serve more than 3,000,000 retail customers in the State shall fund third-party energy efficiency programs in an amount that is no less than $25,000,000 per year, and electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State shall fund third-party energy efficiency programs in an amount that is no less than $8,350,000 per year;

(B) during 2018, the utility shall conduct a solicitation process for purposes of requesting proposals from third-party vendors for those third-party energy efficiency programs to be offered during one or more of the years commencing January 1, 2019, January 1, 2020, and January 1, 2021; for those multi-year plans commencing on January 1, 2022 and January 1, 2026, the utility shall conduct a solicitation process during 2021 and 2025, respectively, for purposes of requesting proposals from third-party vendors for those third-party energy efficiency programs to be offered during one or more years of the respective multi-year plan period; for each solicitation process, the utility shall identify the sector, technology, or geographical area for which it is seeking requests for proposals; the solicitation process must be either for programs that fill gaps in the utility's program portfolio or for programs that target business sectors, building types, geographies, or other specific parts of its customer base with initiatives that would be more effective at reaching these customer segments than the utilities' programs filed in its energy efficiency plans;

(C) the utility shall propose the bidder qualifications, performance measurement process, and contract structure, which must include a performance payment mechanism and general terms and conditions; the proposed qualifications, process, and structure shall be subject to Commission approval; and

(D) the utility shall retain an independent third party to score the proposals received through the solicitation process described in this paragraph (4), rank them according to their cost per lifetime kilowatt-hours saved, and assemble the portfolio of third-party programs.

The electric utility shall recover all costs associated with Commission-approved, third-party administered programs regardless of the success of those programs.

(4.5) Implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers, as defined in Section 16-111.5 of this Act, and for customers that elect hourly service from the utility pursuant to Section 16-107 of this Act, provided those customers have not been declared competitive. This requirement continues until December 31, 2026.

(5) Include a proposed or revised cost-recovery tariff mechanism, as provided for under subsection (d) of this Section, to fund the proposed energy efficiency and demand-response measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs.

(6) Provide for an annual independent evaluation of the performance of the cost-effectiveness of the utility's portfolio of measures, as well as a full review of the multi-year plan results of the broader net program impacts and, to the extent practical, for adjustment of the measures on a going-forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given year.

(7) For electric utilities that serve more than

3,000,000 retail customers in the State:

(A) Through December 31, 2025, provide for an adjustment to the return on equity component of the utility's weighted average cost of capital calculated under subsection (d) of this Section:

(i) If the independent evaluator determines that the utility achieved a cumulative persisting annual savings that is less than the applicable annual incremental goal, then the return on equity component shall be reduced by a maximum of 200 basis points in the event that the utility achieved no more than 75% of such goal. If the utility achieved more than 75% of the applicable annual incremental goal but less than 100% of such goal, then the return on equity component shall be reduced by 8 basis points for each percent by which the utility failed to achieve the goal.

(ii) If the independent evaluator determines that the utility achieved a cumulative persisting annual savings that is more than the applicable annual incremental goal, then the return on equity component shall be increased by a maximum of 200 basis points in the event that the utility achieved at least 125% of such goal. If the utility achieved more than 100% of the applicable annual incremental goal but less than 125% of such goal, then the return on equity component shall be increased by 8 basis points for each percent by which the utility achieved above the goal. If the applicable annual incremental goal was reduced under paragraphs (1) or (2) of subsection (f) of this Section, then the following adjustments shall be made to the calculations described in this item (ii):

(aa) the calculation for determining achievement that is at least 125% of the applicable annual incremental goal shall use the unreduced applicable annual incremental goal to set the value; and

(bb) the calculation for determining achievement that is less than 125% but more than 100% of the applicable annual incremental goal shall use the reduced applicable annual incremental goal to set the value for 100% achievement of the goal and shall use the unreduced goal to set the value for 125% achievement. The 8 basis point value shall also be modified, as necessary, so that the 200 basis points are evenly apportioned among each percentage point value between 100% and 125% achievement.

(B) For the period January 1, 2026 through

December 31, 2029 and in all subsequent 4-year periods ~~2030~~, provide for an adjustment to the return on equity component of the utility's weighted average cost of capital calculated under subsection (d) of this Section:

(i) If the independent evaluator determines that the utility achieved a cumulative persisting annual savings that is less than the applicable annual incremental goal, then the return on equity component shall be reduced by a maximum of 200 basis points in the event that the utility achieved no more than 66% of such goal. If the utility achieved more than 66% of the applicable annual incremental goal but less than 100% of such goal, then the return on equity component shall be reduced by 6 basis points for each percent by which the utility failed to achieve the goal.

(ii) If the independent evaluator determines that the utility achieved a cumulative persisting annual savings that is more than the applicable annual incremental goal, then the return on equity component shall be increased by a maximum of 200 basis points in the event that the utility achieved at least 134% of such goal. If the utility achieved more than 100% of the applicable annual incremental goal but less than 134% of such goal, then the return on equity component shall be increased by 6 basis points for each percent by which the utility achieved above the goal. If the applicable annual incremental goal was reduced under paragraph (3) of subsection (f) of this Section, then the following adjustments shall be made to the calculations described in this item (ii):

(aa) the calculation for determining achievement that is at least 134% of the applicable annual incremental goal shall use the unreduced applicable annual incremental goal to set the value; and

(bb) the calculation for determining achievement that is less than 134% but more than 100% of the applicable annual incremental goal shall use the reduced applicable annual incremental goal to set the value for 100% achievement of the goal and shall use the unreduced goal to set the value for 134% achievement. The 6 basis point value shall also be modified, as necessary, so that the 200 basis points are evenly apportioned among each percentage point value between 100% and 134% achievement.

<u>(C) Notwithstanding the provisions of</u>

subparagraphs (A) and (B) of this paragraph (7), if the applicable annual incremental goal for an electric utility is ever less than 0.6% of deemed average weather normalized sales of electric power and energy during calendar years 2014, 2015, and 2016, an adjustment to the return on equity component of the utility's weighted average cost of capital calculated under subsection (d) of this Section shall be made as follows:

(i) If the independent evaluator determines that the utility achieved a cumulative persisting annual savings that is less than would have been achieved had the applicable annual incremental goal been achieved, then the return on equity component shall be reduced by a maximum of 200 basis points if the utility achieved no more than 75% of its applicable annual total savings requirement as defined in paragraph (7.5) of this subsection. If the utility achieved more than 75% of the applicable annual total savings requirement but less than 100% of such goal, then the return on equity component shall be reduced by 8 basis points for each percent by which the utility failed to achieve the goal.

(ii) If the independent evaluator determines that the utility achieved a cumulative persisting annual savings that is more than would have been achieved had the applicable annual incremental goal been achieved, then the return on equity component shall be increased by a maximum of 200 basis points if the utility achieved at least 125% of its applicable annual total savings requirement. If the utility achieved more than 100% of the applicable annual total savings requirement but less than 125% of such goal, then the return on equity component shall be increased by 8 basis points for each percent by which the utility achieved above the applicable annual total savings requirement. If the applicable annual incremental goal was reduced under paragraphs (1) or (2) of subsection (f) of this Section, then the following adjustments shall be made to the calculations described in this item (ii):

(aa) the calculation for determining achievement that is at least 125% of the applicable annual total savings requirement shall use the unreduced applicable annual incremental goal to set the value; and

(bb) the calculation for determining achievement that is less than 125% but more than 100% of the applicable annual total savings requirement shall use the reduced applicable annual incremental goal to set the value for 100% achievement of the goal and shall use the unreduced goal to set the value for 125% achievement. The 8 basis point value shall also be modified, as necessary, so that the 200 basis points are evenly apportioned among each percentage point value between 100% and 125% achievement.

(7.5) For purposes of this Section, the term "applicable annual incremental goal" means the difference between the cumulative persisting annual savings goal for the calendar year that is the subject of the independent evaluator's determination and the cumulative persisting annual savings goal for the immediately preceding calendar year, as such goals are defined in subsections (b-5) and (b-15) of this Section and as these goals may have been modified as provided for under subsection (b-20) and paragraphs (1) through (3) of subsection (f) of this Section. Under subsections (b), (b-5), (b-10), and (b-15) of this Section, a utility must first replace energy savings from measures that have expired ~~reached the end of their measure lives and would otherwise have to be replaced to meet the applicable savings goals identified in subsection (b-5) or (b-15) of this Section~~ before any progress towards achievement of its applicable annual incremental goal may be counted. Savings may expire because measures installed in previous years have reached the end of their lives, because measures installed in previous years are producing lower savings in the current year than in the previous year, or for other reasons identified by independent evaluators. Notwithstanding anything else set forth in this Section, the difference between the actual annual incremental savings achieved in any given year, including the replacement of energy savings ~~from measures~~ that have expired, and the applicable annual incremental goal shall not affect adjustments to the return on equity for subsequent calendar years under this subsection (g).

In this Section, "applicable annual total savings requirement" means the total amount of new annual savings that the utility must achieve in any given year to achieve the applicable annual incremental goal. This is equal to the applicable annual incremental goal plus the total new annual savings that are required to replace savings that expired in or at the end of the previous year.

(8) For electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State:

(A) Through December 31, 2025, the applicable annual incremental goal shall be compared to the annual incremental savings as determined by the independent evaluator.

(i) The return on equity component shall be reduced by 8 basis points for each percent by which the utility did not achieve 84.4% of the applicable annual incremental goal.

(ii) The return on equity component shall be increased by 8 basis points for each percent by which the utility exceeded 100% of the applicable annual incremental goal.

(iii) The return on equity component shall not be increased or decreased if the annual incremental savings as determined by the independent evaluator is greater than 84.4% of the applicable annual incremental goal and less than 100% of the applicable annual incremental goal.

(iv) The return on equity component shall not be increased or decreased by an amount greater than 200 basis points pursuant to this subparagraph (A).

(B) For the period of January 1, 2026 through December 31, 2029 and in all subsequent 4-year periods ~~2030~~, the applicable annual incremental goal shall be compared to the annual incremental savings as determined by the independent evaluator.

(i) The return on equity component shall be reduced by 6 basis points for each percent by which the utility did not achieve 100% of the applicable annual incremental goal.

(ii) The return on equity component shall be increased by 6 basis points for each percent by which the utility exceeded 100% of the applicable annual incremental goal.

(iii) The return on equity component shall not be increased or decreased by an amount greater than 200 basis points pursuant to this subparagraph (B).

(C) Notwithstanding provisions in subparagraphs (A) and (B) of paragraph (7) of this subsection, if the applicable annual incremental goal for an electric utility is ever less than 0.6% of deemed average weather normalized sales of electric power and energy during calendar years 2014, 2015 and 2016, an adjustment to the return on equity component of the utility's weighted average cost of capital calculated under subsection (d) of this Section shall be made as follows:

(i) The return on equity component shall be reduced by 8 basis points for each percent by which the utility did not achieve 100% of the applicable annual total savings requirement.

(ii) The return on equity component shall be increased by 8 basis points for each percent by which the utility exceeded 100% of the applicable annual total savings requirement.

(iii) The return on equity component shall not be increased or decreased by an amount greater than 200 basis points pursuant to this subparagraph (C).

(D) ~~(C)~~ If the applicable annual incremental goal was reduced under paragraphs (1), (2), ~~or~~ (3), or (4) of subsection (f) of this Section, then the following adjustments shall be made to the calculations described in subparagraphs (A), ~~and~~ (B), and (C) of this paragraph (8):

(i) The calculation for determining achievement that is at least 125% or 134%, as applicable, of the applicable annual incremental goal or the applicable annual total savings requirement, as applicable, shall use the unreduced applicable annual incremental goal to set the value.

(ii) For the period through December 31, 2025, the calculation for determining achievement that is less than 125% but more than 100% of the applicable annual incremental goal or the applicable annual total savings requirement, as applicable, shall use the reduced applicable annual incremental goal to set the value for 100% achievement of the goal and shall use the unreduced goal to set the value for 125% achievement. The 8 basis point value shall also be modified, as necessary, so that the 200 basis points are evenly apportioned among each percentage point value between 100% and 125% achievement.

(iii) For the period of January 1, 2026 through December 31, 2029 and all subsequent 4-year periods, the calculation for determining achievement that is less than 125% or 134%, as applicable, but more than 100% of the applicable annual incremental goal or the applicable annual total savings requirement, as applicable, shall use the reduced applicable annual incremental goal to set the value for 100% achievement of the goal and shall use the unreduced goal to set the value for 125% achievement. The 6 or 8 basis point values, as applicable, shall also be modified, as necessary, so that the 200 basis points are evenly apportioned among each percentage point value between 100% and 125% or between 100% and 134% achievement, as applicable ~~2030, the calculation for determining achievement that is less than 134% but more than 100% of the applicable annual incremental goal shall use the reduced applicable annual incremental goal to set the value for 100%~~

~~achievement of the goal and shall use the unreduced goal to set the value for 125% achievement. The 6 basis point value shall also be modified, as necessary, so that the 200 basis points are evenly apportioned among each percentage point value between 100% and 134% achievement~~.

(9) The utility shall submit the energy savings data to the independent evaluator no later than 30 days after the close of the plan year. The independent evaluator shall determine the cumulative persisting annual savings for a given plan year, as well as an estimate of job impacts and other macroeconomic impacts of the efficiency programs for that year, no later than 120 days after the close of the plan year. The utility shall submit an informational filing to the Commission no later than 160 days after the close of the plan year that attaches the independent evaluator's final report identifying the cumulative persisting annual savings for the year and calculates, under paragraph (7) or (8) of this subsection (g), as applicable, any resulting change to the utility's return on equity component of the weighted average cost of capital applicable to the next plan year beginning with the January monthly billing period and extending through the December monthly billing period. However, if the utility recovers the costs incurred under this Section

under paragraphs (2) and (3) of subsection (d) of this Section, then the utility shall not be required to submit such informational filing, and shall instead submit the information that would otherwise be included in the informational filing as part of its filing under paragraph (3) of such subsection (d) that is due on or before June 1 of each year.

For those utilities that must submit the informational filing, the Commission may, on its own motion or by petition, initiate an investigation of such filing, provided, however, that the utility's proposed return on equity calculation shall be deemed the final, approved calculation on December 15 of the year in which it is filed unless the Commission enters an order on or before December 15, after notice and hearing, that modifies such calculation consistent with this Section.

The adjustments to the return on equity component described in paragraphs (7) and (8) of this subsection (g) shall be applied as described in such paragraphs through a separate tariff mechanism, which shall be filed by the utility under subsections (f) and (g) of this Section.

(9.5) The utility must demonstrate how it will ensure that program implementation contractors and energy efficiency installation vendors will meet multiple workforce equity building criteria, including, but not limited to:

(i) Ensuring that an amount of program portfolio incentive funding proportional to the population of BIPOC persons within the utility's territory, as updated every 2 years, is administered or installed by energy efficiency installation vendors who meet one of the following criteria:

(aa) certified under Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act; or

(bb) certified by another municipal, state, federal, or other certification for disadvantaged businesses; or

(cc) submit an affidavit showing that the vendor meets the eligibility criteria for a certification program such as those in subdivision (aa) or (bb); or

(dd) if the vendor is a nonprofit, meet any of the criteria in subdivision (aa), (bb), or (cc) or is controlled by a board of directors that consists of 51% or greater individuals who are minorities, women, or persons with a disability as defined by the Business Enterprise for Minorities, Women, and Persons with a Disability Act.

(ii) Ensuring that program implementation contractors and energy efficiency installation vendors pay employees working on energy efficiency programs at or above the prevailing wage rate when such a wage rate has been published by the Illinois Department of Labor and pay employees working on energy efficiency programs at or above the median wage rate for a similar job description in the nearest metropolitan area when there is no applicable published prevailing wage rate. If necessary, utilities may conduct surveys to establish the median wage rate for a given job description. Utilities shall establish reporting procedures for vendors that ensure compliance with this subsection, but are structured to avoid, wherever possible, placing an undue administrative burden on vendors.

(iii) Ensuring that program implementation contractor employees and energy efficiency installation vendor employees are proportional to the population of BIPOC persons, within the utility's territory, as updated every 2 years.

(iv) Ensuring that 30% or more of the energy efficiency installation vendor employees working for vendors reporting to each program implementation contractor are graduates or trainees from equity-focused workforce training programs designated by the Illinois Power Agency or similar programs offering equivalent certifications.

(v) Ensuring that vendors who are very small businesses of 5 or fewer full-time employees or businesses that have completed or are participating in contractor incubator programs or entrepreneurship programs designated by the Illinois Power Agency, receive a substantial portion of program portfolio funding. Utility plans to achieve this shall include efforts to provide the necessary training and administrative support needed for very small businesses to meet utility-mandated training, certification, insurance, and security-related contract requirements.

(9.6) Utilities shall collect data necessary to ensure compliance with paragraph (9.5) no less than quarterly and shall communicate progress toward compliance with paragraph (9.5) to program implementation contractors and energy efficiency installation vendors no less than quarterly. When it seems unlikely that the criteria in paragraph (9.5) will be met, utilities shall work with relevant vendors, providing education, training, and other resources needed to ensure compliance and, where necessary, adjusting or terminating work with vendors that cannot assist with compliance.

(10) Utilities required to implement efficiency programs under subsections (b-5) and (b-10) shall report annually to the Illinois Commerce Commission and the General Assembly on how hiring, contracting, job training,

and other practices related to its energy efficiency programs enhance the diversity of vendors working on such programs. These reports must include data on vendor and employee diversity, including data on the implementation of paragraphs (9.5) and (9.6). If the utility is not meeting the requirements of paragraphs (9.5) and (9.6), the utility shall submit a plan to adjust their activities so that they meet the requirements of paragraphs (9.5) and (9.6) within the following year.

(h) No more than 6% of energy efficiency and demand-response program revenue may be allocated for research, development, or pilot deployment of new equipment or measures.

(i) When practicable, electric utilities shall incorporate advanced metering infrastructure data into the planning, implementation, and evaluation of energy efficiency measures and programs, subject to the data privacy and confidentiality protections of applicable law.

(j) The independent evaluator shall follow the guidelines and use the savings set forth in Commission-approved energy efficiency policy manuals and technical reference manuals, as each may be updated from time to time. Until such time as measure life values for energy efficiency measures implemented for low-income households under subsection (c) of this Section are incorporated into such Commission-approved manuals, the low-income measures shall have the same measure life values that are established for same measures implemented in households that are not low-income households.

(k) Notwithstanding any provision of law to the contrary, an electric utility subject to the requirements of this Section may file a tariff cancelling an automatic adjustment clause tariff in effect under this Section or Section 8-103, which shall take effect no later than one business day after the date such tariff is filed. Thereafter, the utility shall be authorized to defer and recover its expenditures incurred under this Section through a new tariff authorized under subsection (d) of this Section or in the utility's next rate case under Article IX or Section 16-108.5 of this Act, with interest at an annual rate equal to the utility's weighted average cost of capital as approved by the Commission in such case. If the utility elects to file a new tariff under subsection (d) of this Section, the utility may file the tariff within 10 days after June 1, 2017 (the effective date of Public Act 99-906), and the cost inputs to such tariff shall be based on the projected costs to be incurred by the utility during the calendar year in which the new tariff is filed and that were not recovered under the tariff that was cancelled as provided for in this subsection. Such costs shall include those incurred or to be incurred by the utility under its multi-year plan approved under subsections (f) and (g) of this Section, including, but not limited to, projected capital investment costs and projected regulatory asset balances with correspondingly updated depreciation and amortization reserves and expense. The Commission shall, after notice and hearing, approve, or approve with modification, such tariff and cost inputs no later than 75 days after the utility filed the tariff, provided that such approval, or approval with modification, shall be consistent with the provisions of this Section to the extent they do not conflict with this subsection (k). The tariff approved by the Commission shall take effect no later than 5 days after the Commission enters its order approving the tariff.

No later than 60 days after the effective date of the tariff cancelling the utility's automatic adjustment clause tariff, the utility shall file a reconciliation that reconciles the moneys collected under its automatic adjustment clause tariff with the costs incurred during the period beginning June 1, 2016 and ending on the date that the electric utility's automatic adjustment clause tariff was cancelled. In the event the reconciliation reflects an under-collection, the utility shall recover the costs as specified in this subsection (k). If the reconciliation reflects an over-collection, the utility shall apply the amount of such over-collection as a one-time credit to retail customers' bills.

(l) (Blank). ~~For the calendar years covered by a multi-year plan commencing after December 31, 2017, subsections (a) through (j) of this Section do not apply to any retail customers of an electric utility that serves more than~~

~~3,000,000 retail customers in the State and whose total highest 30 minute demand was more than 10,000 kilowatts, or any retail customers of an electric utility that serves less than 3,000,000 retail customers but more than 500,000 retail customers in the State and whose total highest 15 minute demand was more than 10,000 kilowatts. For purposes of this subsection (l), "retail customer" has the meaning set forth in Section 16-102 of this Act. A determination of whether this subsection is applicable to a customer shall be made for each multi-year plan beginning after December 31, 2017. The criteria for determining whether this subsection (l) is applicable to a retail customer shall be based on the 12 consecutive billing periods prior to the start of the first year of each such multi-year plan.~~

(m) Notwithstanding the requirements of this Section, as part of a proceeding to approve a multi-year plan under subsections (f) and (g) of this Section if the multi-year plan has been designed to maximize savings, but does not meet the cost cap limitations of this subsection, the Commission shall reduce the amount of energy efficiency measures implemented for any single year, and whose costs are recovered under subsection (d) of this Section, by an amount necessary to limit the estimated average net increase due to the cost of the measures to no more than

(1) 3.5% for each of the 4 years beginning January 1, 2018,

(2) (blank), ~~3.75% for each of the 4 years beginning January 1, 2022, and~~

(3) 4% for each of the 4 ~~5~~ years beginning January 1, 2022 ~~2026~~,

(4) 4.25% for the 4 years beginning January 1, 2026, and

(5) 4.25% plus an increase sufficient to account for the rate of inflation between January 1, 2026 and January 1 of the first year of each subsequent 4-year plan cycle,

of the average amount paid per kilowatthour by residential eligible retail customers during calendar year 2015. An electric utility may plan to spend up to 10% more in any year during an applicable multi-year plan period to cost-effectively achieve additional savings so long as the average over the applicable multi-year plan period does not exceed the percentages defined in items (1) through (5). To determine the total amount that may be spent by an electric utility in any single year, the applicable percentage of the average amount paid per kilowatthour shall be multiplied by the total amount of energy delivered by such electric utility in the calendar year 2015, ~~adjusted to reflect the proportion of the utility's load attributable to customers who are exempt from subsections (a) through (j) of this Section under subsection (l) of this Section~~. For purposes of this subsection (m), the amount paid per kilowatthour includes, without limitation, estimated amounts paid for supply, transmission, distribution, surcharges, and add-on taxes. For purposes of this Section, "eligible retail customers" shall have the meaning set forth in Section 16-111.5 of this Act. Once the Commission has approved a plan under subsections (f) and (g) of this Section, no subsequent rate impact determinations shall be made.

(Source: P.A. 100-840, eff. 8-13-18; 101-81, eff. 7-12-19.)

(220 ILCS 5/8-104.1 new)

Sec. 8-104.1. Gas utilities; annual savings goals.

(a) It is the policy of the State that gas utilities are required to use cost-effective energy efficiency to reduce delivery load. Requiring investment in cost-effective energy efficiency will reduce direct and indirect costs to consumers by decreasing environmental impacts and by reducing the amount of natural gas that needs to be purchased and avoiding or delaying the need for new transmission, distribution, storage and other related infrastructure. It serves the public interest to allow gas utilities to recover costs for reasonably and prudently incurred expenditures for energy efficiency measures.

(b) In this Section:

"Cost-effective" means that the measures satisfy the total resource cost test that, for purposes of this Section, means a standard that is met if, for an investment in energy efficiency, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the measures to the net present value of the total costs as calculated over the lifetime of the measures. The total resource cost test compares the sum of avoided natural gas utility costs, representing the benefits that accrue to the natural gas system and the participant in the delivery of those efficiency measures and including avoided costs associated with the use of electricity or other fuels, avoided cost associated with reduced water consumption, and avoided costs associated with reduced operation and maintenance costs, as well as other quantifiable societal benefits, to the sum of all incremental costs of end-use measures (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side measure, to quantify the net savings obtained by substituting demand-side measures for supply resources. In calculating avoided costs, reasonable estimates shall be included for financial costs likely to be imposed by future regulation of emissions of greenhouse gases. In discounting future societal costs and benefits for the purpose of calculating net present values, a societal discount rate based on actual, long-term Treasury bond yields shall be used. The low-income measures described in subsection (f) of this Section shall not be required to meet the total resource cost test.

"Cumulative persisting annual savings" means the total gas energy savings in a given year from measures installed in that year or in previous years, but no earlier than January 1, 2022, that are still operational and providing savings in that year because the measures have not yet reached the end of their useful lives.

"Energy efficiency" means measures that reduce the amount of energy required to achieve a given end use. "Energy efficiency" also includes measures that reduce the total Btus of electricity and natural gas needed to meet the end use or uses. "Black, indigenous, and people of color" and "BIPOC" means people who are members of the groups described in subparagraphs (a) through (e) of paragraph (A) of subsection (1) of Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

(c) This Section applies to all gas distribution utilities in the State for those multi-year plans that include energy efficiency programs commencing after December 31, 2022.

(d) Beginning in 2023, gas utilities subject to this Section shall achieve the following cumulative persisting annual savings goals, as compared to a deemed baseline equivalent to the utility's average annual therm throughput in 2016 through 2020 through the implementation of energy efficiency measures during the applicable year and in prior years, but no earlier than January 1, 2023:

(1) 1.2% cumulative persisting annual savings for the year ending December 31, 2023;

(2) 2.1% cumulative persisting annual savings for the year ending December 31, 2024;

(3) 3.0% cumulative persisting annual savings for the year ending December 31, 2025;

(4) 3.9% cumulative persisting annual savings for the year ending December 31, 2026;

(5) 4.8% cumulative persisting annual savings for the year ending December 31, 2027;

(6) 5.7% cumulative persisting annual savings for the year ending December 31, 2028;

(7) 6.6% cumulative persisting annual savings for the year ending December 31, 2029;

(8) 7.4% cumulative persisting annual savings for the year ending December 31, 2030;

(9) 8.2% cumulative persisting annual savings for the year ending December 31, 2031;

(10) 9.0% cumulative persisting annual savings for the year ending December 31, 2032;

(11) 9.8% cumulative persisting annual savings for the year ending December 31, 2033;

(12) 10.6% cumulative persisting annual savings for the year ending December 31, 2034;

(13) 11.4% cumulative persisting annual savings for the year ending December 31, 2035;

(14) 12.1% cumulative persisting annual savings for the year ending December 31, 2036; and

(15) 12.8% cumulative persisting annual savings for the year ending December 31, 2037.

No later than December 31, 2025, the Illinois Commerce Commission shall establish additional cumulative persisting annual savings goals for the years 2037 through 2041. The Commission shall also establish additional cumulative persisting annual savings goals every 5 years thereafter to ensure utilities always have goals that extend at least 11 years into the future. The cumulative persisting annual savings goals beyond the year 2035 shall increase by 0.6 percentage points per year absent a Commission decision to initiate a proceeding to consider establishing goals that increase by more or less than that amount. Such a proceeding must be conducted in accordance with the procedures described in subsection (f) of this Section. If such a proceeding is initiated, the cumulative persisting annual savings goals established by the Commission through that proceeding shall reflect the Commission's best estimate of the maximum amount of additional gas savings that are forecast to be cost-effectively achievable unless such best estimates would result in goals that represent less than 0.4 percentage point annual increases in total cumulative persisting annual savings. The Commission may only establish goals that represent less than 0.4 percentage point annual increases in cumulative persisting annual savings if it can demonstrate, based on clear and convincing evidence, that 0.4 percentage point increases are not cost-effectively achievable. The Commission shall inform its decision based on an energy efficiency potential study that conforms to the requirements of subsection (j-5) of this Section.

(e) If a gas utility jointly offers an energy efficiency measure or program with an electric utility under plans approved under this Section and Section 8-103B of this Act, the gas utility may continue offering the program, including the electric energy efficiency measures, if the electric utility discontinues funding the program. In that event, the energy-savings value associated with such other fuels shall be converted to gas energy savings on an equivalent Btu basis for the premises. However, the gas utility shall prioritize programs for low-income residential customers to the extent practicable. A gas utility may recover the costs of offering the gas energy efficiency measures under this subsection (e).

For those energy efficiency measures or programs that save both gas and other fuels but are not jointly offered with an electric utility under plans approved under this Section and Section 8-103B, the gas utility may count savings of fuels other than gas toward the achievement of its annual savings goal, and the energy-savings value associated with such other fuels shall be converted to gas energy savings on an equivalent Btu basis at the premises.

In no event shall more than 10% of each year's applicable annual total savings requirement as defined in paragraph (8) of subsection (j) of this Section be met through savings of fuels other than gas.

(f) Gas utilities are responsible for overseeing the design, development, and filing of energy efficiency plans with the Commission and may, as part of that implementation, outsource various aspects of program development and implementation. A minimum of 10% of the utility's entire portfolio funding level for a given year shall be used to procure cost-effective energy efficiency measures from units of local government, municipal corporations, school districts, public housing, community college districts, and nonprofit-owned buildings provided that a minimum percentage of available funds shall be used to procure energy efficiency from public housing, which percentage shall be equal to public housing's share of public building energy consumption.

The utilities shall also implement energy efficiency measures targeted at low-income single-family and multifamily households, which, as used in this Section, means households at or below 80% of area median income, and expenditures to implement the measures shall be no less than 25% of the utility's total efficiency portfolio budget.

At least 70% of spending on programs targeted at low-income households shall go toward integrated whole building efficiency programs, as defined in subsection (g), or individual measures that reduce space heating needs through improvements to the building envelope, heating distribution systems, or heating system controls. In implementing these programs, utilities shall ensure that thermal insulating materials used in the building envelope do not contain any substance that is a Category 1 respiratory sensitizer as defined by Appendix A to 29 CFR 1910.1200 (Health Hazard Criteria: A.4 Respiratory or Skin Sensitization) that was intentionally added or is present at greater than 0.1% (1000 ppm) by weight in the product. Programs targeted at low-income households, which address single-family and multifamily buildings shall be treated such that forecast savings to be achieved in each building type are approximately in proportional to the magnitude of cost-effective energy efficiency opportunities in these respective building types.

Each gas utility shall assess opportunities to implement cost-effective energy efficiency measures and programs through a public-housing authority or authorities located in its service territory. If such opportunities are identified, the utility shall propose such measures and programs to address the opportunities. Expenditures to address such opportunities shall be credited toward the minimum procurement and expenditure requirements set forth in this subsection (f).

Implementation of energy efficiency measures and programs targeted at low-income households shall be contracted, when it is practical, to independent third parties that have demonstrated capabilities to serve such households, with a preference for not-for-profit entities and government agencies that have existing relationships with or experience serving low-income communities in the State.

Each gas utility shall develop and implement reporting procedures that address and assist in determining the amount of energy savings that can be applied to the low-income procurement and expenditure requirements set forth in this subsection (f). Each gas utility shall also track the types and quantities or volumes of insulation and air sealing materials, and their associated energy saving benefits, installed in energy efficiency programs targeted at low-income single-family and multifamily households.

Each gas utility shall implement a health and safety fund of a minimum of 0.5% of the utility's entire portfolio funding level for a given year, that shall be used for the purpose of making grants for technical assistance, construction, reconstruction, improvement, or repair of buildings to facilitate their participation in the energy efficiency programs targeted at low-income single-family and multifamily households. These funds may also be used for the purpose of making grants for technical assistance, construction, reconstruction, improvement, or repair of the following buildings to facilitate their participation in the energy efficiency programs created by this Section: (1) buildings that are owned or operated by registered 501(c)(3) public charities; and (2) day care centers, day care homes, or group day care homes, as defined by 89 Ill. Adm. Code Part 406, 407, or 408, respectively.

The gas utilities shall participate in a low-income energy efficiency accountability committee ("the committee"), which will directly inform the design, implementation, and evaluation of the low-income and public-housing energy efficiency programs. The committee shall be composed of the electric utilities subject to the requirements of Section 8-103B of this Act, the gas utilities subject to the requirements of this Section, the utilities' low-income energy efficiency implementation contractors, nonprofit organizations, community action agencies, advocacy groups, State and local governmental agencies, public-housing organizations, and representatives of community-based organizations, especially those living in or working with environmental justice communities and BIPOC communities. The committee shall be composed of a statewide leadership committee and 2 geographically differentiated subcommittees: one for stakeholders in northern Illinois and one for stakeholders in central and southern Illinois. The subcommittees shall meet together at least twice per year.

There shall be a statewide leadership committee led by and composed of community-based organizations that are representative of BIPOC and environmental justice communities and that includes equitable representation from BIPOC communities. The leadership committee shall be composed of an equal number of representatives from the 2 subcommittees.

The subcommittees shall address specific programs and issues, with the leadership committee convening targeted workgroups as needed. The leadership committee may elect to work with an independent facilitator to solicit and organize feedback, recommendations and meeting participation from a wide variety of community-based stakeholders. If a facilitator is used, they shall be fair and responsive to the needs of all stakeholders involved in the committee.

All committee meetings must be accessible, with rotating locations if meetings are held in-person, virtual participation options, and materials and agendas circulated well in advance.

There shall also be opportunities for direct input by committee members outside of committee meetings, such as via individual meetings, surveys, emails and calls, to ensure robust participation by stakeholders with limited capacity and ability to attend committee meetings. Committee meetings shall emphasize opportunities to bundle and coordinate delivery of low-income energy efficiency with other programs that serve low-income communities, such as Solar for All and bill payment assistance programs. Meetings shall include educational opportunities for stakeholders to learn more about these additional offerings, and the committee shall assist in figuring out the best methods for coordinated delivery and implementation of offerings when serving low-income communities. The committee shall directly and equitably influence and inform utility low-income and public-housing energy efficiency programs and priorities.

Participating utilities shall implement recommendations from the committee whenever possible. Participating utilities shall track and report how input from the committee has led to new approaches and changes in their energy efficiency portfolios. This reporting shall occur at committee meetings and in quarterly energy efficiency reports to the Stakeholder Advisory Group and Illinois Commerce Commission, and other relevant reporting mechanisms. Participating utilities shall also report on relevant equity data and metrics requested by the committee, such as energy burden data, geographic, racial, and other relevant demographic data on where programs are being delivered and what populations programs are serving.

The Illinois Commerce Commission shall oversee and have relevant staff participate in the committee. The committee shall have a budget of 0.25% of each utility's entire efficiency portfolio funding for a given year. The budget shall be overseen by the Commission. The budget shall be used to provide grants for community-based organizations serving on the leadership committee, stipends for community-based organizations participating in the committee, grants for community-based organizations to do energy efficiency outreach and education, and relevant meeting needs as determined by the leadership committee. The education and outreach shall include, but is not limited to, basic energy efficiency education, information about low-income energy efficiency programs, and information on the committee's purpose, structure, and activities.

(g) At least 50% of the entire efficiency program portfolio budget shall be spent on any combination of (1) heating energy savings from integrated, residential or nonresidential, new or existing whole building efficiency programs; and (2) individual heating measures in residential or nonresidential buildings, new or existing, that reduce the amount of space heating needs through improvements to the efficiency of building envelopes (including, but not limited to, insulation measures, efficient windows and air leakage reduction), improvements to systems for distributing heat (including, but not limited to, duct leakage reduction, duct insulation or pipe insulation) in buildings, improvements to ventilation systems (including, but not limited to heat recovery ventilation and demand control ventilation measures) or improvements to controls of heating equipment (including, but not limited to, advanced thermostats). Spending on efficient furnaces, efficient boilers, or other efficient heating equipment measures outside of or separate from integrated whole building efficiency programs is permitted within the efficiency program portfolio, but does not count toward the minimum spending requirement in this subsection (g). Spending on integrated whole building efficiency programs targeted to low-income customers, as well as spending on individual building envelope, heating distribution system, ventilation system and heating system control measures installed in low-income homes does count toward this requirement. The portion of portfolio spending on program marketing, training of installers, audits of buildings, inspections of work performed, and other administrative and technical expenses that are clearly tied to promotion and delivery of integrated whole building efficiency programs or installation of individual building envelope, heating distribution system, ventilation system or heating system control measures shall count toward this requirement. If this minimum requirement is not met, any performance incentive earned under paragraph (7) of subsection (j) should be reduced by the percentage point level of shortfall in meeting this requirement; if the utility is subject to a performance penalty, then the magnitude of the penalty shall be increased by the percentage point shortfall in meeting this requirement.

As used in this subsection (g), "integrated whole building efficiency programs" means programs designed to optimize the heating efficiency of buildings by comprehensively and simultaneously addressing cost-effective energy-savings opportunities associated with heating equipment, heating distribution systems, heating system controls, ventilation systems and building envelopes; such programs may be targeted to existing buildings or to construction of new buildings.

(h) Notwithstanding any other provision of law to the contrary, a utility providing approved energy efficiency measures in the State shall be permitted to recover all reasonable and prudently incurred costs of those measures from all distribution system customers, provided that nothing in this subsection (h) permits the double recovery of such costs from customers.

(i) Beginning in 2022, each gas utility shall file an energy efficiency plan with the Commission to meet the energy efficiency standards for the next applicable multi-year period beginning January 1 of the year following the filing, according to the schedule set forth in paragraphs (1) through (5) of this subsection (i). If a utility does not file such a plan on or before the applicable filing deadline for the plan, it shall face a penalty of $100,000 per day until the plan is filed.

(1) No later March 1, 2022, each gas utility shall file a 3-year energy efficiency plan commencing on January 1, 2023 that is designed to achieve the cumulative persisting annual savings goals specified in paragraphs (1) through (3) of subsection (d) of this Section through implementation of energy efficiency measures; however, the goals may be reduced if the plan's analysis and forecasts of the utility's ability to acquire energy savings demonstrate beyond a reasonable doubt that achievement of such goals is not cost-effective. Annual increases in cumulative persisting annual savings goals during the

applicable 3-year plan period shall not be reduced to amounts that are less than the maximum amount of cumulative persisting annual savings that is forecast to be cost-effectively achievable during the 3-year plan period. The Commission shall review any proposed goal reduction as part of its review and approval of the utility's proposed plan, taking into account the results of the potential study required by subsection (j-5) of this Section.

(2) No later than March 1, 2025, each gas utility shall file a 4-year energy efficiency plan commencing on January 1, 2026 that is designed to achieve the cumulative persisting annual savings goals specified in paragraphs (4) through (7) of subsection (d) of this Section through implementation of energy efficiency measures; however, the goals may be reduced if each of the following conditions are met: (A) the plan's analysis and forecasts of the utility's ability to acquire energy savings demonstrate beyond a reasonable doubt that achievement of such goals is not cost-effective; and (B) the amount of energy savings achieved by the utility as determined by the independent evaluator for the most recent year for which savings have been evaluated preceding the plan filing was less than the average annual amount of savings required to achieve the goals for the applicable 4-year plan period. Annual increases in cumulative persisting annual savings

goals during the applicable 4-year plan period shall not be reduced to amounts that are less than the maximum amount of cumulative persisting annual savings that is forecast to be cost-effectively achievable during the 4-year plan period. The Commission shall review any proposed goal reduction as part of its review and approval of the utility's proposed plan, taking into account the results of the potential study required by subsection (j-5) of this Section.

(3) No later than March 1, 2029, each gas utility shall file a 4-year energy efficiency plan commencing on January 1, 2030 that is designed to achieve the cumulative persisting annual savings goals specified in paragraphs (8) through (11) of subsection (d) of this Section through implementation of energy efficiency measures; however, the goals may be reduced if each of the following conditions are met: (A) the plan's analysis and forecasts of the utility's ability to acquire energy savings demonstrate beyond a reasonable doubt that achievement of such goals is not cost-effective; and (B) the amount of energy savings achieved by the utility as determined by the independent evaluator for the most recent year for which savings have been evaluated preceding the plan filing was less than the average annual amount of savings required to achieve the goals for the applicable 4-year plan period. Annual increases in cumulative persisting annual savings

goals during the applicable 4-year plan period shall not be reduced to amounts that are less than the maximum amount of cumulative persisting annual savings that is forecast to be cost-effectively achievable during the 4-year plan period. The Commission shall review any proposed goal reduction as part of its review and approval of the utility's proposed plan, taking into account the results of the potential study required by subsection (j-5) of this Section.

(4) No later than March 1, beginning in 2033 and each 4 years thereafter, each gas utility shall file a 4-year energy efficiency plan commencing on January 1, beginning in 2034 and each 4-year period thereafter, that is designed to achieve the cumulative persisting annual savings goals specified in paragraphs (12) through (15) of subsection (d), as well as goals for subsequent years that are established by the Illinois Commerce Commission pursuant to direction of subsection (d) of this Section, through implementation of energy efficiency measures; however, the goals may be reduced if each of the following conditions are met: (A) the plan's analysis and forecasts of the utility's ability to acquire energy savings demonstrate beyond a reasonable doubt that achievement of such goals is not cost-effective; and (B) the amount of energy savings achieved by the utility as determined by the independent evaluator for the most recent year for

which savings have been evaluated preceding the plan filing was less than the average annual amount of savings required to achieve the goals for the applicable 4-year plan period. Annual increases in cumulative persisting annual savings goals during the applicable 4-year plan period shall not be reduced to amounts that are less than the maximum amount of cumulative persisting annual savings that is forecast to be cost-effectively achievable during the 4-year plan period. The Commission shall review any proposed goal reduction as part of its review and approval of the utility's proposed plan, taking into account the results of the potential study required by subsection (j-5) of this Section.

Each utility's plan shall set forth the utility's proposals to meet the energy efficiency standards identified in subsection (d). The Commission shall seek public comment on the utility's plan and shall issue an order approving or disapproving each plan within 6 months after its submission. If the Commission disapproves a plan, the Commission shall, within 30 days, describe in detail the reasons for the disapproval and describe a path by which the utility may file a revised draft of the plan to address the Commission's concerns satisfactorily. If the utility does not refile with the Commission within 60 days, the utility shall be subject to penalties at a rate of $100,000 per day until the plan is filed. This process shall continue, and penalties shall accrue, until the utility has successfully filed a portfolio of energy efficiency measures. Penalties shall be deposited into the Energy Efficiency Trust Fund.

(j) In submitting proposed plans and funding levels under subsection (i) of this Section to meet the savings goals identified in subsection (d), the utility shall:

(1) Demonstrate that its proposed energy efficiency measures will achieve the applicable requirements that are identified in subsection (d) of this Section.

(2) Demonstrate consideration of program options for (A) advancing new building codes, appliance standards, and municipal regulations governing existing and new building efficiency improvements and (B) supporting efforts to improve compliance with new building codes, appliance standards and municipal regulations, as potentially cost-effective means of acquiring energy savings to count toward savings goals.

(3) Demonstrate that its overall portfolio of measures, not including low-income programs described in subsection (f) of this Section, is cost-effective using the total resource cost test, complies with subsection (i) of this Section and represents a diverse cross-section of opportunities for customers of all rate classes, to participate in the programs. Individual measures need not be cost-effective.

(3.5) Demonstrate that the utility's plan integrates the delivery of energy efficiency programs with electric efficiency programs and other efforts to address bill payment issues, including, but not limited to, LIHEAP and the Percent Income Payment Plan, to the extent such integration is practical and has the potential to enhance customer engagement, minimize market confusion, or reduce administrative costs.

(4) Present a third-party energy efficiency implementation program subject to the following requirements:

(A) Beginning with the year commencing January 1, 2024, gas utilities shall fund third-party energy efficiency programs in an amount that is no less than 10% of total efficiency portfolio budgets per year.

(B) For the multi-year plans commencing on January 1, 2023, the utility shall conduct a solicitation process during 2023 for purposes of requesting proposals from third-party vendors for those third-party energy efficiency programs to be offered during one or more years of the last 2 years of the 2023 to 2025 plan period. For the solicitation process, the utility shall identify the sector, technology, or a geographic area for which it is seeking requests for proposals. The solicitation process must be for programs that fill gaps in the utility's program portfolio or target business sectors, building types, geographies or other specific parts of its customer base with initiatives that would be more effective at reaching these customer segments than the utilities' programs filed in its energy efficiency plans.

(C) For multi-year plans commencing on January 1, 2026, January 1, 2030, and every 4 years thereafter, the utility shall conduct a solicitation process during 2025, 2029, and every 4 years thereafter, respectively, for purposes of requesting proposals from third-party vendors for those third-party energy efficiency programs to be offered during one or more years of the respective multi-year plan period; for each solicitation process, the utility shall identify the sector, technology, or geographic area for which it is seeking requests for proposals; the solicitation process must be for programs that fill gaps in the utility's program portfolio or target business sectors, building types, geographies or other specific parts of its customer base with initiatives that would be more effective at reaching these customer segments than the utilities' programs filed in its energy efficiency plans.

(D) The utility shall propose the bidder qualifications, performance measurement process, and contract structure, which must include a performance payment mechanism and general terms and conditions; the proposed qualifications, process, and structure shall be subject to Commission approval.

(E) The utility shall retain an independent third party to score the proposals received through the solicitation process described in this paragraph (4), rank them according to their cost per lifetime kilowatt hours saved, and assemble the portfolio of third-party programs.

The gas utility shall recover all costs associated with Commission-approved, third-party administered programs regardless of the success of those programs.

(5) Include a proposed or revised cost-recovery mechanism, as provided for under subsection (h) of this Section, to fund the proposed energy efficiency measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs.

(6) Provide for an annual independent evaluation of the performance of the cost-effectiveness of the utility's portfolio of measures, as well as a full review of the multi-year plan results of the broader net program impacts and, to the extent practical, for adjustment of the measures on a going-forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given year.

(7) Each gas utility shall be eligible to earn a

shareholder incentive for effective implementation of its efficiency programs. The incentive shall be tied to each utility's annual energy efficiency spending and its savings relative to its applicable annual total savings requirement as defined in paragraph (8) of this subsection (j). There shall be no incentive if the independent evaluator determines the utility failed to achieve savings equal to at least 85% of its applicable annual total savings requirement. The utility shall earn an incentive equal 0.5% of total annual efficiency spending in the year being evaluated for every one percentage point above 85% up to 100% of its applicable annual total savings requirement that the utility achieved in that year, such that the utility shall earn an incentive equal to 7.5% of spending for meeting 100% of its applicable annual total savings requirement. The utility shall earn an additional 0.3% of spending for every one percentage point above 100% of its applicable annual total savings requirement achieved, with a maximum incentive of 15% for achieving 125% of its applicable annual total savings requirement.

(7.5) In this Section, "applicable annual incremental goal" means the difference between the cumulative persisting annual savings goal for the calendar year that is the subject of the independent evaluator's determination and the cumulative persisting annual savings goal for the immediately preceding calendar year, as such goals are defined in subsection (d) of this Section. Under subsection (d) of this Section, a utility must first replace energy savings from measures that have expired and would otherwise have to be replaced to meet the applicable savings goals identified in subsection (d) of this Section before any progress toward achievement of its applicable annual incremental goal may be counted. Savings may expire because measures installed in previous years have reached the end of their lives, because measures installed in previous years are producing lower savings in the current year than in the previous year or for other reasons identified by independent evaluators. Notwithstanding anything else set forth in this Section, the difference between the actual annual incremental savings achieved in any given year, including the replacement of energy savings that have expired, and the applicable annual incremental goal shall not affect adjustments to the return on equity for subsequent calendar years under this subsection (j).

(8) In this Section, "applicable annual total savings requirement" means the total amount of new annual savings that the utility must achieve in any given year to achieve the applicable annual incremental goal. This shall be equal to the applicable annual incremental goal plus the total new annual savings that are required to replace savings that expired in or at the end of the previous year.

(9) The utility shall submit the energy-savings data to the independent evaluator no later than 30 days after the close of the plan year. The independent evaluator shall determine the cumulative persisting annual savings and the utility's performance relative to its applicable annual total savings requirement for a given plan year no later than 120 days after the close of the plan year. The independent evaluator must also estimate the job impacts and other macroeconomic impacts of the utility's efficiency programs. The utility shall submit an informational filing to the Commission no later than 160 days after the close of the plan year that attaches the independent evaluator's final report identifying the cumulative persisting annual savings for the year and calculates, under paragraph (7) of this subsection (j), as applicable, the magnitude of any shareholder incentive that the utility has earned.

(9.5) The utility must demonstrate how it will ensure that program implementation contractors and energy efficiency installation vendors will meet multiple workforce equity building criteria, including, but not limited to:

(i) Ensuring that an amount of program portfolio incentive funding proportional to the population of BIPOC persons within the utility's territory, as updated every 2 years, is administered or installed by energy efficiency installation vendors who meet one of the following criteria:

(aa) certified under Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act; or

(bb) certified by another municipal, state, federal, or other certification for disadvantaged businesses; or

(cc) submit an affidavit showing that the vendor meets the eligibility criteria for a certification program such as those in subdivision (aa) or (bb); or

(dd) if the vendor is a nonprofit, meet any of the criteria in subdivision (aa), (bb), or (cc) or is controlled by a board of directors that consists of 51% or greater BIPOC persons.

(ii) Ensuring that program implementation contractors and energy efficiency installation vendors pay employees working on energy efficiency programs at or above the prevailing wage rate when such a wage rate has been published by the Illinois Department of Labor and pay employees working on energy efficiency programs at or above the median wage rate for a similar job description in the nearest metropolitan area when there is no applicable published prevailing wage rate. If necessary, utilities may conduct surveys to establish the median wage rate for a given job description. Utilities shall establish reporting procedures for vendors that ensure compliance with this subsection, but are structured to avoid, wherever possible, placing an undue administrative burden on vendors.

(iii) Ensuring that program implementation contractor employees and energy efficiency installation vendor employees are proportional to the population of people of color, as defined in subparagraphs (a) through (e) of paragraph (A)(1) of Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, within the utility's territory, as updated every 2 years.

(iv) Ensuring that 30% or more of the energy efficiency installation vendor employees working for vendors reporting to each program implementation contractor are graduates or trainees from equity-focused workforce training programs designated by the Illinois Power Agency or similar programs offering equivalent certifications.

(v) Ensuring that vendors who are very small businesses of 5 or fewer full-time employees or businesses that have completed or are participating in contractor incubator programs or entrepreneurship programs designated by the Illinois Power Agency, receive a substantial portion of program portfolio funding. Utility plans to achieve this shall include efforts to provide the necessary training and administrative support needed for very small businesses to meet utility-mandated training, certification, insurance, and security-related contract requirements.

(9.6) Utilities shall collect data necessary to ensure compliance with paragraph (9.5) no less than quarterly and shall communicate progress toward compliance with paragraph (9.5) to program implementation contractors and energy efficiency installation vendors no less than quarterly. When it seems unlikely that the criteria in paragraph (9.5) will be met, utilities shall work with relevant vendors, providing education, training, and other resources needed to ensure compliance and, where necessary, adjusting or terminating work with vendors that cannot assist with compliance.

(10) A utility required to implement efficiency programs under this Section shall report annually to the Illinois Commerce Commission and the General Assembly on how hiring, contracting, job training, and other practices related to its energy efficiency programs enhance the diversity of vendors working on such programs. These reports must include data on vendor and employee diversity, including data on the implementation of

paragraphs (9.5) and (9.6). If the utility is not meeting the requirements of paragraphs (9.5) and (9.6), the utility shall submit a plan to adjust their activities so that they meet the requirements of paragraphs (9.5) and (9.6) within the following year.

(j-5) Energy efficiency potential study. An energy efficiency potential study shall be commissioned and overseen by the Illinois Commerce Commission. The potential study shall be a dual fuel study, addressing both gas and electric efficiency potential, such that the requirements both in this subsection (j-5) and in subsection (f-5) of Section 8-103B are met in an integrated and cost-efficient manner. The potential study shall be designed and conducted with input from a Potential Study Stakeholder Committee established by the Commission. This Committee shall be composed of representatives from each electric utility, the Illinois Attorney General's office, at least 2 environmental stakeholders, at least one community-based organization, and additional parties representing consumers. The Committee shall provide input, at a minimum, into the scope of work for the studies, the selection of vendors to perform the studies in accordance with appropriate confidentiality and conflict of interest provisions, and draft work products. The Committee shall make best efforts to achieve consensus on the key elements of the potential study, including:

(i) savings potential from efficiency measures and program concepts that are known at the time of the study;

(ii) likely emergence of new technology or new program concepts that could emerge, including proxies for new technologies or program concepts that cannot be specifically named, identified, or characterized at the time of the study;

(iii) likely savings potential from efficiency measures that may be unique to individual industries or individual facilities; and

(iv) the experience of other similar utilities, areas and jurisdictions in maximizing achievement of cost-effective savings.

When the committee is not able to reach consensus, the Commission shall make the final decision.

(k) No more than 6% of energy efficiency and demand-response program revenue may be allocated for research, development, or pilot deployment of new equipment or measures.

(l) When practical, gas utilities shall incorporate advanced metering infrastructure data into the planning, implementation, and evaluation of energy efficiency measures and programs, subject to the data privacy and confidentiality protections of applicable law.

(m) The independent evaluator shall follow the guidelines and use the savings set forth in Commission-approved energy efficiency policy manuals and technical reference manuals, as each may be updated from time to time. Until measure life values for energy efficiency measures implemented for low-income households under subsection (f) of this Section are incorporated into such Commission-approved manuals, the low-income measures shall have the same measure life values that are established for same measures implemented in households that are not low-income households.

(220 ILCS 5/16-128B)

Sec. 16-128B. Qualified energy efficiency installers.

(a) Within 18 months after the effective date of this amendatory Act of the 99th General Assembly, the Commission shall adopt rules, including emergency rules, establishing a process for entities installing energy efficiency measures to certify compliance with the requirements of this Section.

The process shall include an option to complete the certification electronically by completing forms on-line. An entity installing energy efficiency measures shall be permitted to complete the certification after the subject work has been completed.

The Commission shall maintain on its website a list of entities installing energy efficiency measures that have successfully completed the certification process.

(b) In addition to any authority granted to the Commission under this Act, the Commission may:

(1) determine which entities are subject to certification under this Section;

(2) impose reasonable certification fees and penalties;

(3) adopt disciplinary procedures;

(4) investigate any and all activities subject to this Section, including violations thereof;

(5) adopt procedures to issue or renew, or to refuse to issue or renew, a certification or to revoke, suspend, place on probation, reprimand, or otherwise discipline a certified entity under this Act or take other enforcement action against an entity subject to this Section; and

(6) prescribe forms to be issued for the administration and enforcement of this Section.

(c) An electric utility may not provide a retail customer with a rebate or other energy efficiency incentive for a measure that exceeds a minimal amount determined by the Commission unless the customer provides the electric utility with (1) a certification that the person installing the energy efficiency measure was a self-installer; or (2) evidence that the energy efficiency measure was installed by an entity certified under this Section that is also in good standing with the Commission.

(d) The Commission shall:

(1) require entities installing energy efficiency measures to be certified to do business and to be bonded in this State;

(2) ensure that entities installing energy efficiency

measures have the requisite knowledge, skill, training, experience, and competence to perform functions in a safe and reliable manner as required under subsection (a) of Section 16-128 of this Act;

(3) ensure that entities installing energy efficiency measures conform to applicable building and electrical codes;

(4) ensure that all entities installing energy efficiency measures meet recognized industry standards as the Commission deems appropriate;

(5) include any additional requirements that the Commission deems reasonable to ensure that entities installing energy efficiency measures meet adequate training, financial, and competency requirements;

(6) ensure that all entities installing energy efficiency measures obtain certificates of insurance in sufficient amounts and coverages that the Commission so determines; and

(7) identify and determine the training or other programs by which persons or entities may obtain the requisite training, skill, or experience necessary to achieve and maintain compliance with the requirements of this Section.

(e) Fees and penalties collected under this Section shall be deposited into the Public Utility Fund and used to fund the Commission's compliance with the obligations imposed by this

Section.

(f) The rules adopted under this Section shall specify the initial dates for compliance with the rules.

(g) For purposes of this Section, entities installing energy efficiency measures shall endeavor to support the diversity goals of this State by attracting, developing, retaining, and providing opportunities to employees of all backgrounds and by supporting women-owned ~~female-owned~~, black, indigenous, and people of color-owned ~~minority-owned~~, and veteran-owned~~, and~~ small businesses, and nonprofit organizations, worker-owned cooperatives, and other entities.

(Source: P.A. 99-906, eff. 6-1-17.)

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

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