



# **SENATE JOURNAL**

**STATE OF ILLINOIS**

**NINETY-SIXTH GENERAL ASSEMBLY**

**143RD LEGISLATIVE DAY**

**MONDAY, JANUARY 10, 2011**

**3:06 O'CLOCK P.M.**

**SENATE**  
**Daily Journal Index**  
**143rd Legislative Day**

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The Senate met pursuant to adjournment.  
Senator Don Harmon, Oak Park, Illinois, presiding.  
Prayer by Pastor John Smith, United Methodist Church, Springfield, Illinois.  
Senator Jacobs led the Senate in the Pledge of Allegiance.

The Journal of Tuesday, May 4, 2010, was being read when on motion of Senator Hunter, further reading of same was dispensed with, and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

The Journal of Wednesday, May 5, 2010, was being read when on motion of Senator Hunter, further reading of same was dispensed with, and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

Senator Hunter moved that reading and approval of the Journal of Thursday, January 6, 2011, be postponed, pending arrival of the printed Journal.  
The motion prevailed.

### REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

Illinois Automated Victim Notification System (IL AVN) Report, submitted by the Office of the Attorney General.

Violent Crimes Advisory Commission Report, submitted by the Office of the Attorney General.

DOI 2009 Annual Report, submitted by the Department of Insurance.

The foregoing reports were ordered received and placed on file in the Secretary's Office.

### MESSAGE FROM THE SECRETARY OF STATE

OFFICE OF THE SECRETARY OF STATE  
JESSE WHITE • Secretary of State

January 5, 2011

Honorable Jillayne Rock  
Secretary of the Senate  
Room 401  
Capitol Building  
Springfield, IL 62706

Dear Ms. Rock:

This office is forwarding herewith a copy of a Notification of Vacancy from the Legislative Committee of the Republican Party of the 53<sup>rd</sup> Legislative District, declaring the existence of a vacancy in the Office of State Senator for the 48<sup>th</sup> Legislative District of the 96<sup>th</sup> and 97<sup>th</sup> General Assembly, as a result of the resignation of **Senator Dan Rutherford**, effective January 9, 2011.

Also enclosed is the copy of the Legislative Committee's Certificate of Appointment for **Shane Cultra, 400 N. Poplar, Onarga, Illinois**, who was appointed to fill the vacancy in the Office of State Senator in the 53<sup>rd</sup> Legislative District for the 96<sup>th</sup> and 97<sup>th</sup> General Assembly.

Yours truly,

[January 10, 2011]

s/JESSE WHITE  
Secretary of State

OFFICE OF THE SECRETARY OF STATE  
JESSE WHITE • Secretary of State

NOTICE

Changes in the Ninety-Sixth and Ninety-Seventh General Assembly

SENATE

Appointment

Shane Cultra  
400 N. Poplar  
Onarga, IL  
53<sup>rd</sup> Legislative District  
Appointed: January 9, 2011  
Filed: January 5, 2011

Vacancy

Dan Rutherford  
53<sup>rd</sup> Legislative District  
Resigned: January 9, 2011  
Filed: January 5, 2011

cc: Communications Department  
House Speaker Madigan  
House Republican Leader Cross  
Legal Department  
Legislative Affairs  
Office of the Governor  
Secretary of State  
Senate President Cullerton  
Senate Republican Leader Radogno  
State Board of Elections

**CERTIFICATE OF LEGISLATIVE OR REPRESENTATIVE COMMITTEE ORGANIZATION**

53<sup>RD</sup> LEGISLATIVE DISTRICT )

STATE OF ILLINOIS  
COUNTY OF McLEAN

This is to certify that, in accordance with 10 ILCS 5/8-5, the Legislative Committee of the Republican Party of the Legislative District met on 11-13-10 in the City of Bloomington, County of McLean and organized by electing the following officers in conformity with the Election Laws of this State.

John W. Parrott, Jr.  
P.O. Box 790  
3316 Monterey Rd.  
Bloomington, IL 61704

Susan J. Thornton  
1450 E. US 6  
P.O. Box 1  
Ottawa, IL 61350

SIGNED: s/John W. Parrott, Jr.  
Chairman

ATTEST s/Susan J. Thornton  
Secretary

[January 10, 2011]

**NOTIFICATION OF VACANCY**

Legislative Committee of the	)	LaSalle
Republican Party	)	Woodford
of the 53 <sup>rd</sup> Legislative District	)	Tazewell
	)	Ford
STATE OF ILLINOIS	)	McLean
COUNTY OF	)	Champaign
		Vermilion
		Iroquois
		Livingston

WHEREAS, State Senator Dan Rutherford, a member of the Republican Party has resigned as Senator in the General Assembly for the 53<sup>rd</sup> Legislative District effective January 9, 2011: and

WHEREAS, Senator Rutherford was the duly elected State Senator for the 53<sup>rd</sup> Legislative District for the 96<sup>th</sup> and 97<sup>th</sup> General Assembly; and

NOW, THEREFORE, the Legislative Committee of the Republican Party of the 53<sup>rd</sup> Legislative District does hereby find and declare that the office of State Senator in the General Assembly for the 53<sup>rd</sup> Legislative District is vacant for the remainder of the 96<sup>th</sup> & for the 97<sup>th</sup> General Assembly.

SIGNED: s/John W. Parrott, Jr.  
[McLean County]  
Chairman

SIGNED: s/Susan J. Thornton  
[ County]  
Secretary

DATED: 12-18-10

**CERTIFICATE OF APPOINTMENT TO FILL VACANCY IN THE OFFICE OF SENATOR IN THE GENERAL ASSEMBLY IN THE FIFTY-THIRD LEGISLATIVE DISTRICT**

Legislative Committee of the Republican	)
Party of the 53 <sup>rd</sup> Legislative District	)
	)
	)
STATE OF ILLINOIS	)
COUNTY OF McLEAN (see below)	)

WHEREAS, a vacancy has occurred in the office of State Senator in the General Assembly in the 53<sup>rd</sup> Legislative District of the State of Illinois as a result of the resignation on January 9, 2011 of Dan Rutherford, a duly elected member of the Republican Party from the 53<sup>rd</sup> Legislative District of the State of Illinois for the 96<sup>th</sup> & 97<sup>th</sup> General Assembly; and

WHEREAS, the Legislative Committee of the Republican Party of the 53<sup>rd</sup> Legislative District has met within the boundaries of the 53<sup>rd</sup> Legislative District and voted to fill the vacancy in said office, as required by 10 ILCS 5/25-6.

NOW, THEREFORE, BE IT RESOLVED that the Legislative Committee of the Republican Party of the 53<sup>rd</sup> Legislative District hereby appoints Shane Cultra of 400 N. Poplar, Onarga, Illinois, a member of the Republican Party, to the office of State Senator in the General Assembly in the 53<sup>rd</sup> Legislative District for the remainder of the 96<sup>th</sup> General Assembly and for the 97<sup>th</sup> General Assembly;

AND BE IT FURTHER RESOLVED, that such appointment shall be effective on January 9, 2011 and upon the Appointee taking the oath of office.

[January 10, 2011]

<u>s/John W. Parrott, Jr.</u> [McLean County] Chairman	<u>18,317</u> Votes Cast	<u>s/Susan J. Thornton</u> [LaSalle County] Secretary	<u>908</u> Votes Cast
<u>s/John McGlasson</u> [Livingston County]	<u>12,751</u> Votes Cast	<u>s/Craig Golden</u> [Vermilion County]	<u>2,891</u> Votes Cast
<u>s/Alan Nudo (proxy for Barickman)</u> [Champaign County]	<u>13,775</u> Votes Cast	<u>s/James C. Cannon</u> [Woodford County]	<u>6,521</u> Votes Cast
<u>s/Lowell Schroeder</u> [Chairman County]	<u>19,335</u> Votes Cast	<u>s/Shane Cultra</u> [Iroquois County]	<u>10,014</u> Votes Cast
<u>s/Eric Thompson</u> [Ford County]	<u>          </u> Votes Cast		

Dated: 12-18-2010

Subscribed and sworn to before me on this 18<sup>th</sup> day of December, 2010.

s/Chris Gramm  
Notary Public

#### STATE OF ILLINOIS

I, Shane Cultra, do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of State Senator according to the best of my ability.

s/Shane Cultra  
Senator Shane Cultra

Subscribed and sworn to before me, this 9<sup>th</sup> day of January 2011

Tungate

s/Susan Sumner  
Judge Susan Sumner-Tungate

#### COMMUNICATION FROM THE MINORITY LEADER

**CHRISTINE RADOGNO**  
SENATE REPUBLICAN LEADER · 41st DISTRICT

January 10, 2011

Ms. Jillayne Rock  
Secretary of the Senate  
401 State House  
Springfield, Illinois 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(a), I am making the following changes to the minority membership of the following standing committees of the Senate:

**Senate Elections Committee:** Senator Shane Cultra shall replace Senator Dan Rutherford as a member.

[January 10, 2011]

**Senate Executive Appointments Committee:** Senator Shane Cultra shall replace Senator Dan Rutherford as a member.

**Senate Financial Institutions Committee and any subcommittees:** Senator Shane Cultra shall replace Senator Dan Rutherford as a member and Senator John Millner to serve as Minority Spokesperson.

**Senate Redistricting Committee:** Senator Shane Cultra shall replace Senator Dan Rutherford as a member.

**Senate Telecommunications & Technology Committee:** Senator Shane Cultra shall replace Senator Dan Rutherford as a member.

These changes shall take effect immediately.

Sincerely,  
s/Christine Radogno  
Senate Republican Leader

cc: Senate President John Cullerton  
Assistant Secretary of the Senate Scott Kaiser

#### **PRESENTATION OF RESOLUTIONS**

##### **SENATE RESOLUTION NO. 1149**

Offered by Senator Lauzen and all Senators:  
Mourns the death of Eunice M. Conn of Polo.

##### **SENATE RESOLUTION NO. 1150**

Offered by Senator Koehler and all Senators:  
Mourns the death of Russel Roy Dagit of Pekin.

##### **SENATE RESOLUTION NO. 1151**

Offered by Senator Hunter and all Senators:  
Mourns the death of Alice Mae Johnson of Chicago.

##### **SENATE RESOLUTION NO. 1152**

Offered by Senator E. Jones, III and all Senators:  
Mourns the death of Alene O. Fleming.

##### **SENATE RESOLUTION NO. 1153**

Offered by Senator Dillard and all Senators:  
Mourns the death of Curtis L. "Curt" Linne of Naperville.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

#### **MESSAGES FROM THE HOUSE**

A message from the House by Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1927

A bill for AN ACT concerning regulation.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1927

House Amendment No. 2 to SENATE BILL NO. 1927

[January 10, 2011]

House Amendment No. 3 to SENATE BILL NO. 1927  
Passed the House, as amended, January 7, 2011.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1927**

AMENDMENT NO. 1. Amend Senate Bill 1927 by replacing everything after the enacting clause with the following:

"Section 5. If and only if Senate Bill 3388 of the 96th General Assembly (as amended by House Amendment Nos. 1, 2, and 3) becomes law, then the Illinois Power Agency Act is amended by changing Section 1-10 as follows:

(20 ILCS 3855/1-10)

Sec. 1-10. Definitions.

"Agency" means the Illinois Power Agency.

"Agency loan agreement" means any agreement pursuant to which the Illinois Finance Authority agrees to loan the proceeds of revenue bonds issued with respect to a project to the Agency upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on those revenue bonds, and providing for maintenance, insurance, and other matters in respect of the project.

"Authority" means the Illinois Finance Authority.

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon dioxide emissions at the following levels: at least 50% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027).

"Clean coal SNG brownfield facility" means a facility that (1) has commenced construction by July 1, 2014 on an urban brownfield site in a municipality with at least 1,000,000 residents; (2) uses a gasification process to produce substitute natural gas; (3) uses coal as at least 50% of the total feedstock over the term of any sourcing agreement with a utility and the remainder of the feedstock may be either petroleum coke or coal, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million Btu content; and (4) captures and sequesters at least 85% of the total carbon dioxide emissions that the facility would otherwise emit.

"Clean coal SNG facility" means a facility that uses a gasification process to produce substitute natural gas, that sequesters at least 90% of the total carbon dioxide emissions that the facility would otherwise emit and that uses petroleum coke or coal as a feedstock, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million btu content; provided, however, a clean coal SNG brownfield facility shall not be a clean coal SNG facility.

"Commission" means the Illinois Commerce Commission.

"Costs incurred in connection with the development and construction of a facility" means:

(1) the cost of acquisition of all real property, fixtures, and improvements in connection therewith and equipment, personal property, and other property, rights, and easements acquired that are deemed necessary for the operation and maintenance of the facility;

(2) financing costs with respect to bonds, notes, and other evidences of indebtedness of the Agency;

(3) all origination, commitment, utilization, facility, placement, underwriting, syndication, credit enhancement, and rating agency fees;

(4) engineering, design, procurement, consulting, legal, accounting, title insurance, survey, appraisal, escrow, trustee, collateral agency, interest rate hedging, interest rate swap,

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capitalized interest, contingency, as required by lenders, and other financing costs, and other expenses for professional services; and

(5) the costs of plans, specifications, site study and investigation, installation, surveys, other Agency costs and estimates of costs, and other expenses necessary or incidental to determining the feasibility of any project, together with such other expenses as may be necessary or incidental to the financing, insuring, acquisition, and construction of a specific project and starting up, commissioning, and placing that project in operation.

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

"Director" means the Director of the Illinois Power Agency.

"Demand-response" means measures that decrease peak electricity demand or shift demand from peak to off-peak periods.

"Energy efficiency" means measures that reduce the amount of electricity or natural gas required to achieve a given end use.

"Electric utility" has the same definition as found in Section 16-102 of the Public Utilities Act.

"Facility" means an electric generating unit or a co-generating unit that produces electricity along with related equipment necessary to connect the facility to an electric transmission or distribution system.

"Governmental aggregator" means one or more units of local government that individually or collectively procure electricity to serve residential retail electrical loads located within its or their jurisdiction.

"Local government" means a unit of local government as defined in Article VII of Section 1 of the Illinois Constitution.

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

"Person" means any natural person, firm, partnership, corporation, either domestic or foreign, company, association, limited liability company, joint stock company, or association and includes any trustee, receiver, assignee, or personal representative thereof.

"Project" means the planning, bidding, and construction of a facility.

"Public utility" has the same definition as found in Section 3-105 of the Public Utilities Act.

"Real property" means any interest in land together with all structures, fixtures, and improvements thereon, including lands under water and riparian rights, any easements, covenants, licenses, leases, rights-of-way, uses, and other interests, together with any liens, judgments, mortgages, or other claims or security interests related to real property.

"Renewable energy credit" means a tradable credit that represents the environmental attributes of a certain amount of energy produced from a renewable energy resource.

"Renewable energy resources" includes energy and its associated renewable energy credit or renewable energy credits from wind, solar thermal energy, photovoltaic cells and panels, biodiesel, crops and untreated and unadulterated organic waste biomass, tree waste, hydropower that does not involve new construction or significant expansion of hydropower dams, and other alternative sources of environmentally preferable energy. For purposes of this Act, landfill gas produced in the State is considered a renewable energy resource. "Renewable energy resources" does not include the incineration or burning of tires, garbage, general household, institutional, and commercial waste, industrial lunchroom or office waste, landscape waste other than tree waste, railroad crossties, utility poles, or construction or demolition debris, other than untreated and unadulterated waste wood.

"Revenue bond" means any bond, note, or other evidence of indebtedness issued by the Authority, the principal and interest of which is payable solely from revenues or income derived from any project or activity of the Agency.

"Sequester" means permanent storage of carbon dioxide by injecting it into a saline aquifer, a depleted gas reservoir, or an oil reservoir, directly or through an enhanced oil recovery process that may involve intermediate storage, regardless of whether these activities are conducted by a clean coal facility, clean coal SNG facility, clean coal SNG brownfield facility, the clean coal SNG facility located in Jefferson County, or a party with which a clean coal facility, clean coal SNG facility, ~~or~~ clean coal SNG brownfield facility, or the clean coal SNG facility located in Jefferson County, has contracted for such purposes.

"Sourcing agreement" means (i) in the case of an electric utility, an agreement between the owner of a clean coal facility and such electric utility, which agreement shall have terms and conditions meeting the requirements of paragraph (3) of subsection (d) of Section 1-75, (ii) in the case of an alternative retail electric supplier, an agreement between the owner of a clean coal facility and such alternative retail electric supplier, which agreement shall have terms and conditions meeting the requirements of Section 16-115(d)(5) of the Public Utilities Act, and (iii) in case of a gas utility, an agreement between the owner of a clean coal SNG brownfield facility and the gas utility, which agreement shall have the terms and

conditions meeting the requirements of subsection (h-1) of Section 9-220 of the Public Utilities Act.

"Substitute natural gas" or "SNG" means a gas manufactured by gasification of hydrocarbon feedstock, which is substantially interchangeable in use and distribution with conventional natural gas.

"Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, 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 program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided natural gas utility costs, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases.

(Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09; 95-1027, eff. 6-1-09; 96-33, eff. 7-10-09; 96-159, eff. 8-10-09; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10; 09600SB3388ham001 and ham003.)

Section 7. If and only if Senate Bill 3388 of the 96th General Assembly (as amended by House Amendment Nos. 1, 2, and 3) becomes law, then the Illinois Procurement Code is amended by changing Section 1-10 as follows:

(30 ILCS 500/1-10)

Sec. 1-10. Application.

(a) This Code applies only to procurements for which contractors were first solicited on or after July 1, 1998. This Code shall not be construed to affect or impair any contract, or any provision of a contract, entered into based on a solicitation prior to the implementation date of this Code as described in Article 99, including but not limited to any covenant entered into with respect to any revenue bonds or similar instruments. All procurements for which contracts are solicited between the effective date of Articles 50 and 99 and July 1, 1998 shall be substantially in accordance with this Code and its intent.

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

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

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

(3) Purchase of care.

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

(5) Collective bargaining contracts.

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

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

(8) Contracts for services to Northern Illinois University by a person, acting as an independent contractor, who is qualified by education, experience, and technical ability and is selected by negotiation for the purpose of providing non-credit educational service activities or products by means of specialized programs offered by the university.

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

(10) Procurement expenditures by the Illinois Health Information Exchange Authority involving private funds from the Health Information Exchange Fund. "Private funds" means gifts, donations, and private grants.

(c) This Code does not apply to the electric power procurement process provided for under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act.

(d) Except for Section 20-160 and Article 50 of this Code, and as expressly required by Section 9.1 of

the Illinois Lottery Law, the provisions of this Code do not apply to the procurement process provided for under Section 9.1 of the Illinois Lottery Law.

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

(f) This Code does not apply to the process used by the Illinois Power Agency to retain a mediator to mediate sourcing agreement disputes between gas utilities and the clean coal SNG brownfield facility, as defined in Section 1-10 of the Illinois Power Agency Act, as required under subsection (h-1) of Section 9-220 of the Public Utilities Act.

(g) This Code does not apply to the process used by the Illinois Power Agency to retain a mediator to mediate contract disputes between gas utilities and the clean coal SNG facility located in Jefferson County as required under subsection (h) of Section 9-220 of the Public Utilities Act and does not apply to the process used by the Illinois Commerce Commission to retain an expert to assist in determining the actual incurred costs of the clean coal SNG facility and the reasonableness of those costs as required under subsection (h) of Section 9-220 of the Public Utilities Act.

(Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07; 95-876, eff. 8-21-08; 96-840, eff. 12-23-09; 96-1331, eff. 7-27-10; 09600SB3388ham001 and ham003.)

Section 10. If and only if Senate Bill 3388 of the 96th General Assembly (as amended by House Amendment Nos. 1, 2, and 3) becomes law, then the Public Utilities Act is amended by changing Sections 3-123 and 9-220 and by adding Sections 3-124, 3-125, and 3-126 as follows:

(220 ILCS 5/3-123)

Sec. 3-123. Clean coal SNG brownfield facility; sequester; SNG facility; sourcing agreement; substitute natural gas or SNG. As used in this Act:

"Clean coal SNG facility" shall have the same meaning as provided in Section 1-10 of the Illinois Power Agency Act.

"Clean coal SNG brownfield facility" shall have the same meaning as provided in Section 1-10 of the Illinois Power Agency Act.

"Sequester" shall have the same meaning as provided in Section 1-10 of the Illinois Power Agency Act.

"SNG facility" means a facility that produces substitute natural gas from feedstock that includes coal through a gasification process, including a clean coal facility, the clean coal SNG brownfield facility, and the clean coal SNG facility located in Jefferson County ~~described in subsection (h) of Section 9-220 of this Act.~~

"Sourcing agreement" means an agreement between the owner of a clean coal SNG brownfield facility and the gas utility that has the terms and conditions meeting the requirements of subsection (h-1) of Section 9-220 of this Act.

"Substitute natural gas" or "SNG" shall have the same meaning as provided in Section 1-10 of the Illinois Power Agency Act.

(Source: 09600SB3388ham001.)

(220 ILCS 5/3-124 new)

Sec. 3-124. Adjusted final capitalized plant cost. "Adjusted final capitalized plant cost" means the final capitalized plant cost reduced by the following, without duplication and to the extent not already accounted for or reflected on the books of the facility: (i) any State of Illinois Financial Assistance, (ii) any U.S. Financial Assistance, and (iii) any quantifiable benefit from a U.S. Clean Coal Gasification Program received by the facility during a period equal to the shorter of (x) the life of such program or (y) the term of the agreement, such quantifiable benefit to be discounted at a rate of 14% per annum over such period.

(220 ILCS 5/3-125 new)

Sec. 3-125. Final capitalized plant cost. "Final capitalized plant cost" means the total capitalized asset cost of the plant of the clean coal SNG facility located in Jefferson County as reflected on the balance sheet of the facility at the time of the commercial production date, with such capitalized cost to be accrued in accordance with generally accepted accounting principles, and includes, without limitation, the following items: major equipment, the SNG pipeline from the plant to the receiving pipeline, water lines, railroad improvements, access road improvements, all coal transportation assets, including the slurry line, slurry prep plant, carbon dioxide capture metering and compression, licensing fees, all costs

incurred in the management planning, oversight and execution of the construction and start-up of the plant, and all fees and costs payable under engineering, procurement, and design contracts for the construct of the plant accrued as of the time of the commercial production date, but does not include capitalized financing costs including capitalized interest during construction and all fees associated with financing, coal reserve leasing costs, marketing, training, any and all costs payable under the contract miner agreement, the cost of coal mining equipment and similar costs, and any other costs, including general and administrative costs, not reasonably incurred in connection with the design, construction, testing, start-up, or commissioning of the plant in preparation for commercial production date.

(220 ILCS 5/3-126 new)

Sec. 3-126. Total capitalized asset cost. "Total capitalized asset cost" means the gross book value of the plant, as determined in accordance with generally accepted accounting principles at the commercial production date.

(220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

Sec. 9-220. Rate changes based on changes in fuel costs.

(a) Notwithstanding the provisions of Section 9-201, the Commission may authorize the increase or decrease of rates and charges based upon changes in the cost of fuel used in the generation or production of electric power, changes in the cost of purchased power, or changes in the cost of purchased gas through the application of fuel adjustment clauses or purchased gas adjustment clauses. The Commission may also authorize the increase or decrease of rates and charges based upon expenditures or revenues resulting from the purchase or sale of emission allowances created under the federal Clean Air Act Amendments of 1990, through such fuel adjustment clauses, as a cost of fuel. For the purposes of this paragraph, cost of fuel used in the generation or production of electric power shall include the amount of any fees paid by the utility for the implementation and operation of a process for the desulfurization of the flue gas when burning high sulfur coal at any location within the State of Illinois irrespective of the attainment status designation of such location; but shall not include transportation costs of coal (i) except to the extent that for contracts entered into on and after the effective date of this amendatory Act of 1997, the cost of the coal, including transportation costs, constitutes the lowest cost for adequate and reliable fuel supply reasonably available to the public utility in comparison to the cost, including transportation costs, of other adequate and reliable sources of fuel supply reasonably available to the public utility, or (ii) except as otherwise provided in the next 3 sentences of this paragraph. Such costs of fuel shall, when requested by a utility or at the conclusion of the utility's next general electric rate proceeding, whichever shall first occur, include transportation costs of coal purchased under existing coal purchase contracts. For purposes of this paragraph "existing coal purchase contracts" means contracts for the purchase of coal in effect on the effective date of this amendatory Act of 1991, as such contracts may thereafter be amended, but only to the extent that any such amendment does not increase the aggregate quantity of coal to be purchased under such contract. Nothing herein shall authorize an electric utility to recover through its fuel adjustment clause any amounts of transportation costs of coal that were included in the revenue requirement used to set base rates in its most recent general rate proceeding. Cost shall be based upon uniformly applied accounting principles. Annually, the Commission shall initiate public hearings to determine whether the clauses reflect actual costs of fuel, gas, power, or coal transportation purchased to determine whether such purchases were prudent, and to reconcile any amounts collected with the actual costs of fuel, power, gas, or coal transportation prudently purchased. In each such proceeding, the burden of proof shall be upon the utility to establish the prudence of its cost of fuel, power, gas, or coal transportation purchases and costs. The Commission shall issue its final order in each such annual proceeding for an electric utility by December 31 of the year immediately following the year to which the proceeding pertains, provided, that the Commission shall issue its final order with respect to such annual proceeding for the years 1996 and earlier by December 31, 1998.

(b) A public utility providing electric service, other than a public utility described in subsections (e) or (f) of this Section, may at any time during the mandatory transition period file with the Commission proposed tariff sheets that eliminate the public utility's fuel adjustment clause and adjust the public utility's base rate tariffs by the amount necessary for the base fuel component of the base rates to recover the public utility's average fuel and power supply costs per kilowatt-hour for the 2 most recent years for which the Commission has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years. Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of

this Section, the Commission shall review and shall by order approve, or approve as modified, the proposed tariff sheets within 60 days after the date of the public utility's filing. The Commission may modify the public utility's proposed tariff sheets only to the extent the Commission finds necessary to achieve conformance to the requirements of this subsection (b). During the 5 years following the date of the Commission's order, but in any event no earlier than January 1, 2007, a public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file proposed tariff sheets seeking, or otherwise petition the Commission for, reinstatement of a fuel adjustment clause.

(c) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service, other than a public utility described in subsection (e) or (f) of this Section, may at any time during the mandatory transition period file with the Commission proposed tariff sheets that establish the rate per kilowatt-hour to be applied pursuant to the public utility's fuel adjustment clause at the average value for such rate during the preceding 24 months, provided that such average rate results in a credit to customers' bills, without making any revisions to the public utility's base rate tariffs. The proposed tariff sheets shall establish the fuel adjustment rate for a specific time period of at least 3 years but not more than 5 years, provided that the terms and conditions for any reinstatement earlier than 5 years shall be set forth in the proposed tariff sheets and subject to modification or approval by the Commission. The Commission shall review and shall by order approve the proposed tariff sheets if it finds that the requirements of this subsection are met. The Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for the period that the factor established pursuant to this subsection is in effect.

(d) A public utility providing electric service, or a public utility providing gas service may file with the Commission proposed tariff sheets that eliminate the public utility's fuel or purchased gas adjustment clause and adjust the public utility's base rate tariffs to provide for recovery of power supply costs or gas supply costs that would have been recovered through such clause; provided, that the provisions of this subsection (d) shall not be available to a public utility described in subsections (e) or (f) of this Section to eliminate its fuel adjustment clause. Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, the Commission shall review and shall by order approve, or approve as modified in the Commission's order, the proposed tariff sheets within 240 days after the date of the public utility's filing. The Commission's order shall approve rates and charges that the Commission, based on information in the public utility's filing or on the record if a hearing is held by the Commission, finds will recover the reasonable, prudent and necessary jurisdictional power supply costs or gas supply costs incurred or to be incurred by the public utility during a 12 month period found by the Commission to be appropriate for these purposes, provided, that such period shall be either (i) a 12 month historical period occurring during the 15 months ending on the date of the public utility's filing, or (ii) a 12 month future period ending no later than 15 months following the date of the public utility's filing. The public utility shall include with its tariff filing information showing both (1) its actual jurisdictional power supply costs or gas supply costs for a 12 month historical period conforming to (i) above and (2) its projected jurisdictional power supply costs or gas supply costs for a future 12 month period conforming to (ii) above. If the Commission's order requires modifications in the tariff sheets filed by the public utility, the public utility shall have 7 days following the date of the order to notify the Commission whether the public utility will implement the modified tariffs or elect to continue its fuel or purchased gas adjustment clause in force as though no order had been entered. The Commission's order shall provide for any reconciliation of power supply costs or gas supply costs, as the case may be, and associated revenues through the date that the public utility's fuel or purchased gas adjustment clause is eliminated. During the 5 years following the date of the Commission's order, a public utility whose fuel or purchased gas adjustment clause has been eliminated pursuant to this subsection shall not file proposed tariff sheets seeking, or otherwise petition the Commission for, reinstatement or adoption of a fuel or purchased gas adjustment clause. Nothing in this subsection (d) shall be construed as limiting the Commission's authority to eliminate a public utility's fuel adjustment clause or purchased gas adjustment clause in accordance with any other applicable provisions of this Act.

(e) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission proposed tariff sheets that eliminate, effective January 1, 1997, the public utility's fuel adjustment clause without adjusting its base rates, and such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after

January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour basis of such charges over a period not to exceed 6 months; provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(f) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 500,000 customers but fewer than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission proposed tariff sheets that eliminate, effective January 1, 1997, the public utility's fuel adjustment clause and adjust its base rates by the amount necessary for the base fuel component of the base rates to recover 91% of the public utility's average fuel and power supply costs for the 2 most recent years for which the Commission, as of January 1, 1997, has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years, provided, that such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour basis of such charges over a period not to exceed 6 months. Provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(g) The Commission shall have authority to promulgate rules and regulations to carry out the provisions of this Section.

(h) Any Illinois gas utility may enter into a contract on or before March 31, 2011 for up to 10 years of supply with any company for the purchase of substitute natural gas (SNG) produced from coal through the gasification process if the company has commenced construction of a coal gasification facility by July 1, 2012 in Jefferson County and commencement of construction shall mean that material physical site work has occurred, such as site clearing and excavation, water runoff prevention, water retention reservoir preparation, or foundation development. The contract shall contain the following provisions: (i) at least 90% of feedstock ~~the only coal~~ to be used in the gasification process shall be coal with a ~~has~~ high volatile bituminous rank and greater than 1.7 pounds of sulfur per million Btu content; (ii) at the time the contract term commences, the price per million Btu may not exceed \$7.95 in 2008 dollars, adjusted annually based on the change in the Annual Consumer Price Index for All Urban Consumers for the Midwest Region as published in April by the United States Department of Labor, Bureau of Labor Statistics (or a suitable Consumer Price Index calculation if this Consumer Price Index is not available) for the previous calendar year; provided that the price per million Btu shall not exceed \$9.95 at any time during the contract; (iii) the utility's ~~aggregate long-term~~ supply contracts for the purchase of SNG do ~~does~~ not exceed 25% of the annual system supply requirements of the utility as of 2008 and the quantity of SNG supplied to a utility may not exceed 16 million MMBtus per year; and (iv) the contract costs pursuant to subsection (h-10) of this Section shall not include any lobbying expenses, charitable contributions, advertising, organizational memberships, carbon dioxide pipeline or sequestration expenses, or marketing expenses per year.

Any gas utility that is providing service to more than 150,000 customers on the effective date of this amendatory Act of the 96th General Assembly shall either elect to enter into a contract on or before March 31, 2011 for 10 years of SNG supply with the owner of a clean coal SNG gasification facility

located in Jefferson County or to file biennial rate proceedings before the Commission in the years 2011, 2013, and 2015, with such filings made no later than August 1 of the years 2011, 2013 and 2015 consistent with all requirements of 83 Ill. Adm. Code 255 and 285 as though the gas utility were filing for an increase in its rates, without regard to whether such filing would produce an increase, a decrease, or no change in the gas utility's rates, and the Commission shall review the gas utility's filing and shall issue its order in accordance with the provisions of Section 9-201 of this Act.

Within 7 days after the effective date of this amendatory Act of the 96th General Assembly, the owner of the clean coal SNG facility in Jefferson County shall submit to the Illinois Power Agency and each gas utility that is providing service to more than 150,000 customers on the effective date of this amendatory Act of the 96th General Assembly a copy of a draft contract. Within 30 days after the receipt of the draft contract, each such gas utility shall provide the Illinois Power Agency and the owner of the clean coal SNG facility located in Jefferson County with its comments and recommended revisions to the draft contract. Within 7 days after the receipt of the gas utility's comments and recommended revisions, the owner of the facility shall submit its responsive comments and a further revised draft of the contract to the Illinois Power Agency. The Illinois Power Agency shall review the draft contract and comments.

During its review of the draft contract, the Illinois Power Agency shall:

(1) review and confirm in writing that the terms stated in this subsection (h) are incorporated in the SNG contract;

(2) review and approve the SNG pricing formula included in the contracts, ensuring that the formula, at the time the contract term commences: (A) starts with a price of \$6.50 per MMBtu adjusted by the adjusted final capitalized plant cost; (B) takes into account budgeted miscellaneous net revenue after cost allowance, including sale of SNG produced by the clean coal SNG facility located in Jefferson County above the nameplate capacity of the facility and other by-products produced by the facility, as approved by the Illinois Power Agency; (C) does not include carbon dioxide transportation or sequestration expenses; and (D) includes all provisions required under this subsection (h);

(3) review and approve the amount of budgeted miscellaneous net revenue after cost allowance, including sale of SNG produced by the clean coal SNG facility located in Jefferson County above the nameplate capacity of the facility and other by-products produced by the facility, to be included in the pricing formula. The Illinois Power Agency shall approve the amount of budgeted miscellaneous net revenue to be included in the pricing formula if it determines the budgeted amount to be reasonable and accurate; and

(4) allocate the nameplate capacity of the clean coal SNG facility located in Jefferson County by total therms sold to ultimate customers by each gas utility in 2008 and adjusted only as required to take into account adverse consolidation, derivative, or lease impacts to the balance sheet or income statement of any purchasing utility, while requiring that no utility shall be required to purchase more than 42% of the projected annual output of the facility.

If the parties to the contract do not agree on the terms therein, then the Illinois Power Agency shall retain an independent mediator to mediate the dispute between the parties. If the parties are in agreement on the terms of the contract, then the Illinois Power Agency shall approve the contract. If after mediation the parties have failed to come to agreement, then the Illinois Power Agency shall revise the draft contract as necessary to confirm that the contract contains only terms that are reasonable and equitable. The Illinois Power Agency shall adopt and make public a policy detailing the process for retaining a mediator under this subsection (h). Any mediator retained to mediate disputes between the clean coal SNG facility located in Jefferson County and a gas utility shall be retained no later than 60 days after the effective date of this amendatory Act of the 96th General Assembly.

The Illinois Power Agency shall complete all of its responsibilities under this subsection (h) by March 15, 2011. The clean coal SNG facility located in Jefferson County shall pay a reasonable fee as required by the Illinois Power Agency for its services under this subsection (h) and shall pay the mediator's reasonable fees, if any. A gas utility and its customers shall have no obligation to reimburse the clean coal SNG facility located in Jefferson County or the Illinois Power Agency of any such costs.

Within 30 days after commercial production of SNG has begun, the Commission shall initiate a review to determine: (1) whether the final capitalized plant cost of the clean coal SNG facility located in Jefferson County reflects actual incurred costs and (2) whether such incurred costs were reasonable. In determining the actual incurred costs included in the final capitalized plant cost and the reasonableness of those costs, the Commission may in its discretion retain independent, qualified, and experienced experts to assist in its determination. The expert shall not own or control any direct or indirect interest in the clean coal SNG facility located in Jefferson County and shall have no contractual relationship with the clean coal SNG facility located in Jefferson County. If an expert is retained by the Commission, then

the clean coal SNG facility located in Jefferson County shall pay the expert's reasonable fees. The fees shall not be passed on to a utility or its customers. The Commission shall adopt and make public a policy detailing the process for retaining experts under this subsection (h).

Within 30 days after completion of its review, the Commission shall initiate a formal proceeding on the final capitalized plant cost of the clean coal SNG facility located in Jefferson County at which comments and testimony may be submitted by any interested parties and the public. If the Commission finds that the final capitalized plant cost includes costs that were not actually incurred or costs that were unreasonably incurred, then the Commission shall disallow the amount of non-incurred or unreasonable costs from the SNG price under contracts entered into under this subsection (h). If the Commission disallows any costs, then the Commission shall adjust the SNG price using the price formula in the contract approved by the Illinois Power Agency under this subsection (h) to reflect the disallowed costs and shall enter an order specifying the revised price. In addition, the Commission's order shall direct the clean coal SNG facility located in Jefferson County to issue refunds of such sums as shall represent the difference between actual gross revenues and the gross revenue that would have been obtained based upon the same volume, from the price revised by the Commission. Any refund shall include interest calculated at a rate determined by the Commission and shall be returned according to procedures prescribed by the Commission.

Nothing in this subsection (h) shall preclude any party affected by a decision of the Commission under this subsection (h) from seeking judicial review of the Commission's decision.

(h-1) Any Illinois gas utility may enter into a sourcing agreement for up to 30 years of supply with the clean coal SNG brownfield facility if the clean coal SNG brownfield facility has commenced construction. Any gas utility that is providing service to more than 150,000 customers on the effective date of this amendatory Act of the 96th General Assembly shall either elect to file biennial rate proceedings before the Commission in the years 2011, 2013, and 2015 or enter into a sourcing agreement or sourcing agreements with a clean coal SNG brownfield facility for 30 years for either (i) 43,500,000,000 cubic feet per year times a percentage calculated by dividing 100 by the number of utilities entering into sourcing agreements with the clean coal SNG brownfield facility or (ii) such lesser amount as may be available from the clean coal SNG brownfield facility.

Provided, however, that the Illinois Power Agency may allocate the purchase obligations more proportionately based upon total therms sold to ultimate customers, if it is demonstrated with certainty that such alternative allocation will not result in adverse consolidation, derivative, or lease impacts to the balance sheet or income statement of any purchasing utility. In any event, no utility shall be required to purchase more than 42% of the projected annual output of the clean coal SNG brownfield facility, with the remainder of such utility's obligation to be divided proportionately between the other utilities.

A gas utility electing to file biennial rate proceedings before the Commission must file a notice of its election with the Commission within 60 days after the effective date of this amendatory Act of the 96th General Assembly or its right to make the election is irrevocably waived. A gas utility electing to file biennial rate proceedings shall make such filings no later than August 1 of the years 2011, 2013, and 2015, consistent with all requirements of 83 Ill. Adm. Code 255 and 285 as though the gas utility were filing for an increase in its rates, without regard to whether such filing would produce an increase, a decrease, or no change in the gas utility's rates, and the Commission shall review the gas utility's filing and shall issue its order in accordance with the provisions of Section 9-201 of this Act.

Within 15 days after the effective date of this amendatory Act of the 96th General Assembly, the owner of the clean coal SNG brownfield facility shall submit to the Illinois Power Agency and each gas utility that is providing service to more than 150,000 customers on the effective date of this amendatory Act of the 96th General Assembly a copy of a draft sourcing agreement. Within 45 days after receipt of the draft sourcing agreement, each such gas utility shall provide the Illinois Power Agency and the owner of a clean coal SNG brownfield facility with its comments and recommended revisions to the draft sourcing agreement. Within 15 days after the receipt of the gas utility's comments and recommended revisions, the owner of the clean coal SNG brownfield facility shall submit its responsive comments and a further revised draft of the sourcing agreement to the Illinois Power Agency. The Illinois Power Agency shall review the draft sourcing agreement and comments.

If the parties to the sourcing agreement do not agree on the terms therein, then the Illinois Power Agency shall retain an independent mediator to mediate the dispute between the parties. If the parties are in agreement on the terms of the sourcing agreement, the Illinois Power Agency shall approve the final draft sourcing agreement. If after mediation the parties have failed to come to agreement, then the Illinois Power Agency shall revise the draft sourcing agreement as necessary to confirm that the final draft sourcing agreement contains only terms that are reasonable and equitable. The Illinois Power Agency shall adopt and make public a policy detailing the process for retaining a mediator under this



subsection (h-1). Any mediator retained to assist with mediating disputes between the parties regarding the sourcing agreement shall be retained no later than 60 days after the effective date of this amendatory Act of the 96th General Assembly.

Upon approval of a final draft agreement, the Illinois Power Agency shall submit the final draft agreement to the Capital Development Board and the Commission no later than 90 days after the effective date of this amendatory Act of the 96th General Assembly. The gas utility and the clean coal SNG brownfield facility shall pay a reasonable fee as required by the Illinois Power Agency for its services under this subsection (h-1) and shall pay the mediator's reasonable fees, if any. The Illinois Power Agency shall adopt and make public a policy detailing the process for retaining a mediator under this Section.

The sourcing agreement between a gas utility and the clean coal SNG brownfield facility shall contain the following provisions:

(1) Any and all coal used in the gasification process must be coal that has high volatile bituminous rank and greater than 1.7 pounds of sulfur per million Btu content.

(2) Coal and petroleum coke are feedstocks for the gasification process, with coal comprising at least 50% of the total feedstock over the term of the sourcing agreement and with the feedstocks to be procured in accordance with requirements of Section 1-78 of the Illinois Power Agency Act.

(3) The sourcing agreement once entered into terminates no more than 30 years after the commencement of the commercial production of SNG at the clean coal SNG brownfield facility.

(4) The clean coal SNG brownfield facility guarantees a minimum of \$100,000,000 in consumer savings, calculated in real 2010 dollars at the conclusion of the term of the sourcing agreement by comparing the delivered SNG price to the Chicago City-gate price on a weighted daily basis for each day over the entire term of the sourcing agreement, to be provided in accordance with subsection (h-2) of this Section.

(5) Prior to the clean coal SNG brownfield facility issuing a notice to proceed to construction, the clean coal SNG brownfield facility shall establish a consumer protection reserve account for the benefit of the customers of the utilities that have entered into sourcing agreements with the clean coal SNG brownfield facility pursuant to this subsection (h-1), with cash principal in the amount of \$150,000,000. This cash principal shall only be recoverable through the consumer protection reserve account and not as a cost to be recovered in the delivered SNG price pursuant to subsection (h-3) of this Section. The consumer protection reserve account shall be maintained and administered by an independent trustee that is mutually agreed upon by the clean coal SNG brownfield facility, the utilities, and the Commission in an interest-bearing account in accordance with subsection (h-2) of this Section.

(6) The clean coal SNG brownfield facility shall identify and sell economically viable by-products produced by the facility.

(7) 50% of all additional net revenue, defined as miscellaneous net revenue after cost allowance for costs associated with additional net revenue that are not otherwise recoverable pursuant to subsection (h-3) of this Section, including net revenue from sales of substitute natural gas derived from the facility above the nameplate capacity of the facility and other by-products produced by the facility, shall be credited to the consumer protection reserve account pursuant to subsection (h-2) of this Section.

(8) The delivered SNG price per million Btu to be paid monthly by the utility to the clean coal SNG brownfield facility, which shall be based only upon the following: (A) a capital recovery charge, operations and maintenance costs, and sequestration costs, only to the extent approved by the Commission pursuant to paragraphs (1), (2), and (3) of subsection (h-3) of this Section; (B) the actual delivered and processed fuel costs pursuant to paragraph (4) of subsection (h-3) of this Section; (C) actual costs of SNG transportation pursuant to paragraph (6) of subsection (h-3) of this Section; (D) certain taxes and fees imposed by the federal government, the State, or any unit of local government as provided in paragraph (6) of subsection (h-3) of this Section; and (E) the credit, if any, from the consumer protection reserve account pursuant to subsection (h-2) of this Section. The delivered SNG price per million Btu shall proportionately reflect these elements over the term of the sourcing agreement.

(9) A formula to translate the recoverable costs and charges under subsection (h-3) of this Section into the delivered SNG price per million Btu.

(10) Title to the SNG shall pass at a mutually-agreeable point in Illinois, and may provide that, rather than the utility taking title to the SNG, a mutually-agreed upon third-party gas marketer pursuant to a contract approved by the Illinois Power Agency or its designee, may take title

to the SNG pursuant to an agreement between the utility, the owner of the clean coal SNG brownfield facility, and the third-party gas marketer.

(11) A utility may exit the sourcing agreement without penalty if the clean coal SNG brownfield facility does not commence construction by July 1, 2014.

(12) A utility is responsible to pay only the Commission determined unit price cost of SNG that is purchased by the utility. Nothing in the sourcing agreement will obligate a utility to invest capital in a clean coal SNG brownfield facility.

(13) The quality of SNG must, at a minimum, be equivalent to the equality required for an interstate pipeline gas before a utility is required to accept and pay for SNG gas.

(14) Nothing in the sourcing agreement will require a utility to construct any facilities to accept delivery of SNG. Provided, however, if a utility is required by law or otherwise elects to connect the clean coal SNG brownfield facility to an interstate pipeline, then the utility shall be entitled to recover pursuant to its tariffs all just and reasonable costs that are prudently incurred. Any costs incurred by the utility to receive, deliver, manage, or otherwise accommodate purchases under the SNG sourcing agreement will be fully recoverable through a utility's purchased gas adjustment clause rider mechanism.

(15) Remedies for the clean coal SNG brownfield facility's failure to deliver a designated amount for a designated period.

(h-2) Consumer protection reserve account. The clean coal SNG brownfield facility shall guarantee a minimum of \$100,000,000 in consumer savings, calculated in real 2010 dollars at the conclusion of the term of the sourcing agreement by comparing the delivered SNG price to the Chicago City-gate price on a weighted daily basis for each day over the entire term of the sourcing agreement. Prior to the clean coal SNG brownfield facility issuing a notice to proceed to construction, the clean coal SNG brownfield facility shall establish a consumer protection reserve account for the benefit of the retail customers of the utilities that have entered into sourcing agreements with the clean coal SNG brownfield facility pursuant to subsection (h-1), with cash principal in the amount of \$150,000,000. Such cash principal shall only be recovered through the consumer protection reserve account and not as a cost to be recovered in the delivered SNG price pursuant to subsection (h-3) of this Section. The consumer protection reserve account shall be maintained and administered by an independent trustee that is mutually agreed upon by the clean coal SNG brownfield facility, the utilities, and the Commission in an interest-bearing account in accordance with the following:

(1) The clean coal SNG brownfield facility monthly shall calculate the difference between the monthly delivered SNG price and the Chicago City-gate price, by comparing the delivered SNG price, which shall include the cost of transportation to the delivery point, if any, to the Chicago City-gate price on a weighted daily basis for each day of the prior month based upon a mutually-agreed upon published index.

(2) During the first 2 years of operation of the facility:

(A) to the extent the monthly delivered SNG price, is greater than the Chicago

City-gate price, the consumer protection reserve account shall be used to provide a credit to reduce the SNG price by an amount equal to the difference between the monthly delivered SNG price and the Chicago City-gate price; and

(B) to the extent the monthly delivered SNG price is less than or equal to the Chicago City-gate price, the utility shall credit the difference between the monthly delivered SNG price and the monthly Chicago City-gate price, if any, to the consumer protection reserve account. Such credit issued pursuant to this paragraph (B) shall be deemed prudent and reasonable and not subject to a Commission prudence review;

(3) After 2 years of operation of the facility, and monthly, on an on-going basis, thereafter:

(A) to the extent that the monthly delivered SNG price is less than or equal to the Chicago City-gate price, calculated using the weighted average of the daily Chicago City-gate price on a daily basis over the entire month, the utility shall credit the difference, if any, to the consumer protection reserve account. Such credit issued pursuant to this subparagraph (A) shall be deemed prudent and reasonable and not subject to a Commission prudence review;

(B) any amounts in the consumer protection reserve account in excess of \$100,000,000 shall be distributed to the clean coal SNG brownfield facility; provided, however, that under no circumstances shall the total cumulative amount distributed to the clean coal SNG brownfield facility under this subparagraph (B) exceed \$150,000,000;

(C) to the extent the monthly delivered SNG price is greater than the Chicago City-gate price, after distributing the amounts pursuant to subparagraph (B) of this paragraph (3), if

any, the consumer protection reserve account shall be used to provide a credit to reduce the SNG price by an amount equal to the difference between the monthly delivered SNG price and the Chicago City-gate price;

(D) if retail customers have realized net consumer savings, calculated by comparing the delivered SNG price to the weighted average of the daily Chicago City-gate price on a daily basis over the entire term of the sourcing agreement to date, then after distributing the amounts pursuant to subparagraphs (B) and (C) of this paragraph (3), 50% of any additional amounts in the consumer protection reserve account in excess of \$100,000,000 shall be distributed to the clean coal SNG brownfield facility, with the remaining 50% of any such additional amounts being credited to retail customers; provided, however, that if retail customers have not realized such net consumer savings, no such distribution shall be made to the clean coal SNG brownfield facility, and 100% of such additional amounts shall be credited to the retail customers to the extent the consumer protection reserve account exceeds \$100,000,000.

(4) 50% of all additional net revenue, defined as miscellaneous net revenue after cost allowance for costs associated with additional net revenue that are not otherwise recoverable pursuant to subsection (h-3) of this Section, including net revenue from sales of substitute natural gas derived from the facility above the nameplate capacity of the facility and other by-products produced by the facility, shall be credited to the consumer protection reserve account.

(5) At the conclusion of the term of the sourcing agreement, to the extent retail customers have not saved the minimum of \$100,000,000 in consumer savings as guaranteed in this subsection (h-2), amounts in the consumer protection reserve account shall be credited to retail customers to the extent the retail customers have saved the minimum of \$100,000,000; 50% of any additional amounts in the consumer protection reserve account shall be distributed to the company, and the remaining 50% shall be distributed to retail customers.

(6) If, at the conclusion of the term of the sourcing agreement, the customers have not saved the minimum \$100,000,000 in savings as guaranteed in this subsection (h-2) and the consumer protection reserve account has been depleted, then the clean coal SNG brownfield facility shall be liable for any remaining amount owed to the retail customers to the extent that the customers are provided with the \$100,000,000 in savings as guaranteed in this subsection (h-2). The retail customers shall have first priority in recovering that debt above any creditors, except the original senior secured lender to the extent that the original senior secured lender has any senior secured debt outstanding, including any clean coal SNG brownfield facility parent companies or affiliates.

(7) The clean coal SNG brownfield facility, the utilities, and the trustee shall work together to take commercially reasonable steps to minimize the tax impact of these transactions, while preserving the consumer benefits.

(8) The clean coal SNG brownfield facility shall each month, starting in the facility's first year of commercial operation, file with the Commission, in such form as the Commission shall require, a report as to the consumer protection reserve account. The monthly report must contain the following information:

- (A) the extent the monthly delivered SNG price is greater than, less than, or equal to the Chicago City-gate price;
- (B) the amount credited or debited to the consumer protection reserve account during the month;
- (C) the amounts credited to consumers and distributed to the clean coal SNG brownfield facility during the month;
- (D) the total amount of the consumer protection reserve account at the beginning and end of the month;
- (E) the total amount of consumer savings to date; and
- (F) any other additional information the Commission shall require.

When any report is erroneous or defective or appears to the Commission to be erroneous or defective, the Commission may notify the clean coal SNG brownfield facility to amend the report within 30 days, and, before or after the termination of the 30-day period, the Commission may examine the trustee of the consumer protection reserve account or the officers, agents, employees, books, records, or accounts of the clean coal SNG brownfield facility and correct such items in the report as upon such examination the Commission may find defective or erroneous. All reports shall be under oath.

All reports made to the Commission by the clean coal SNG brownfield and the contents of the reports shall be open to public inspection and shall be deemed a public record under the Freedom of Information Act. Such reports shall be preserved in the office of the Commission. The Commission

shall publish an annual summary of the reports prior to February 1 of the following year. The annual summary shall be made available to the public on the Commission's website and shall be submitted to the General Assembly.

Any facility that fails to file a report required under this paragraph (8) to the Commission within the time specified or to make specific answer to any question propounded by the Commission within 30 days from the time it is lawfully required to do so, or within such further time not to exceed 90 days as may in its discretion be allowed by the Commission, shall pay a penalty of \$500 to the Commission for each day it is in default.

Any person who willfully makes any false report to the Commission or to any member, officer, or employee thereof, any person who willfully in a report withholds or fails to provide material information to which the Commission is entitled under this paragraph (8) and which information is either required to be filed by statute, rule, regulation, order, or decision of the Commission or has been requested by the Commission, and any person who willfully aids or abets such person shall be guilty of a Class A misdemeanor.

(h-3) Recoverable costs and revenue by the clean coal SNG brownfield facility.

(1) A capital recovery charge approved by the Commission shall be recoverable by the clean coal SNG brownfield facility under a sourcing agreement. The capital recovery charge shall be comprised of capital costs and a reasonable rate of return. "Capital costs" means costs to be incurred in connection with the construction and development of a facility, as defined Section 1-10 of the Illinois Power Agency Act, and such other costs as the Capital Development Board deems appropriate to be recovered in the capital recovery charge.

(A) Capital costs. The Capital Development Board shall calculate a range of capital costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement. In making this determination, the Capital Development Board shall review the final draft of the sourcing agreement and the rate of return approved by the Commission. In addition, the Capital development Board may: (i) review the facility cost report, if any, of the clean coal SNG brownfield facility; (ii) consult as much as it deems necessary with the clean coal SNG brownfield facility; and (iii) conduct whatever research and investigation it deems necessary.

The Capital Development Board shall retain an engineering expert to assist in determining both the range of capital costs and the range of operations and maintenance costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement. Provided, however, that such expert shall: (i) not have been involved in the clean coal SNG brownfield facility's facility cost report, if any, (ii) not own or control any direct or indirect interest in the initial clean coal facility; and (iii) have no contractual relationship with the clean coal SNG brownfield facility. In order to qualify as an independent expert, a person or company must have:

- (i) direct previous experience conducting front-end engineering and design studies for large-scale energy facilities and administering large-scale energy operations and maintenance contracts, which may be particularized to the specific type of financing associated with the clean coal SNG brownfield facility;
- (ii) an advanced degree in economics, mathematics, engineering, or a related area of study;
- (iii) ten years of experience in the energy sector, including construction and risk management experience;
- (iv) expertise in assisting companies with obtaining financing for large-scale energy projects, which may be particularized to the specific type of financing associated with the clean coal SNG brownfield facility;
- (v) expertise in operations and maintenance which may be particularized to the specific type of operations and maintenance associated with the clean coal SNG brownfield facility;
- (vi) expertise in credit and contract protocols;
- (vii) adequate resources to perform and fulfill the required functions and responsibilities; and
- (viii) the absence of a conflict of interest and inappropriate bias for or against an affected gas utility or the clean coal SNG brownfield facility.

The clean coal SNG brownfield facility and the Illinois Power Agency shall cooperate with the Capital Development Board in any investigation it deems necessary. The Capital Development Board shall make its final determination of the range of capital costs confidentially and shall submit that range to the Commission in a confidential filing within 120 days after the

effective date of this amendatory Act of the 96th General Assembly. The clean coal SNG brownfield facility shall submit to the Commission its estimate of the capital costs to be recovered under the sourcing agreement. Only after the clean coal SNG brownfield facility has submitted this estimate shall the Commission publicly announce the range of capital costs submitted by the Capital Development Board.

In the event that the estimate submitted by the clean coal SNG brownfield facility is within or below the range submitted by the Capital Development Board, the clean coal SNG brownfield facility's estimate shall be approved by the Commission as the amount of capital costs to be recovered under the sourcing agreement. In the event that the estimate submitted by the clean coal SNG brownfield facility is above the range submitted by the Capital Development Board, the amount of capital costs at the lowest end of the range submitted by the Capital Development Board shall be approved by the Commission as the amount of capital costs to be recovered under the sourcing agreement. Within 15 days after the Capital Development Board has submitted its range and the clean coal SNG brownfield facility has submitted its estimate, the Commission shall approve the capital costs for the clean coal SNG brownfield facility.

The Capital Development Board shall monitor the construction of the clean coal SNG brownfield facility for the full duration of construction to assess potential cost overruns. The Capital Development Board, in its discretion, may retain an expert to facilitate such monitoring. The clean coal SNG brownfield facility shall pay a reasonable fee as required by the Capital Development Board for the Capital Development Board's services under this subsection (h-3) to be deposited into the Capital Development Board Revolving Fund, and such fee shall not be passed through to a utility or its customers. If an expert is retained by the Capital Development Board for monitoring of construction, then the clean coal SNG brownfield facility must pay for the expert's reasonable fees and such costs shall not be passed through to a utility or its customers.

(B) Rate of Return. No later than 30 days after the date on which the Illinois Power Agency submits a final draft sourcing agreement, the Commission shall hold a public hearing to determine the rate of return to be recovered under the sourcing agreement. Rate of return shall be comprised of the clean coal SNG brownfield facility's actual cost of debt, including mortgage-style amortization, and a reasonable return on equity. The Commission shall post notice of the hearing on its website no later than 10 days prior to the date of the hearing. The Commission shall provide the public and all interested parties, including the gas utilities, the Attorney General, and the Illinois Power Agency, an opportunity to be heard.

In determining the return on equity, the Commission shall select a commercially reasonable return on equity taking into account the return on equity being received by developers of similar facilities in or outside of Illinois, the need to balance an incentive for clean-coal technology with the need to protect ratepayers from high gas prices, the risks being borne by the clean coal SNG brownfield facility in the final draft sourcing agreement, and any other information that the Commission may deem relevant. The Commission may establish a return on equity that varies with the amount of savings, if any, to customers during the term of the sourcing agreement, comparing the delivered SNG price to a daily weighted average price of natural gas, based upon an index. The Illinois Power Agency shall recommend a return on equity to the Commission using the same criteria. Within 60 days after receiving the final draft sourcing agreement from the Illinois Power Agency, the Commission shall approve the rate of return for the clean coal brownfield facility. Within 30 days after obtaining debt financing for the clean coal SNG brownfield facility, the clean coal SNG brownfield facility shall file a notice with the Commission identifying the actual cost of debt.

(2) Operations and maintenance costs approved by the Commission shall be recoverable by the clean coal SNG brownfield facility under the sourcing agreement. The operations and maintenance costs mean costs that have been incurred for the administration, supervision, operation, maintenance, preservation, and protection of the clean coal SNG brownfield facility's physical plant.

The Capital Development Board shall calculate a range of operations and maintenance costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement. In making this determination, the Capital Development Board shall review the final draft of the sourcing agreement and the rate of return approved by the Commission. In addition, the Capital Development Board may: (i) review the facility cost report, if any, of the clean coal SNG brownfield facility; (ii) consult as much as it deems necessary with the clean coal SNG brownfield facility; and (iii) conduct whatever research and investigation it deems necessary. As set forth in subparagraph (A) of paragraph (1) of this subsection (h-3), the Capital Development Board shall retain an independent engineering expert to assist in determining both the range of operations

and maintenance costs that it believes would be reasonable for the clean coal SNG brownfield to recover under the sourcing agreement. The clean coal SNG brownfield facility and the Illinois Power Agency shall cooperate with the Capital Development Board in any investigation it deems necessary. The Capital Development Board shall make its final determination of the range of operations and maintenance costs confidentially and shall submit that range to the Commission in a confidential filing within 120 days after the effective date of this amendatory Act of the 96th General Assembly.

The clean coal SNG brownfield facility shall submit to the Commission its estimate of the operations and maintenance costs to be recovered under the sourcing agreement. Only after the clean coal SNG brownfield facility has submitted this estimate shall the Commission publicly announce the range of operations and maintenance costs submitted by the Capital Development Board. In the event that the estimate submitted by the clean coal SNG brownfield facility is within or below the range submitted by the Capital Development Board, the clean coal SNG brownfield facility's estimate shall be approved by the Commission as the amount of operations and maintenance costs to be recovered under the sourcing agreement. In the event that the estimate submitted by the clean coal SNG brownfield facility is above the range submitted by the Capital Development Board, the amount of operations and maintenance costs at the lowest end of the range submitted by the Capital Development Board shall be approved by the Commission as the amount of operations and maintenance costs to be recovered under the sourcing agreement. Within 15 days after the Capital Development Board has submitted its range and the clean coal SNG brownfield facility has submitted its estimate, the Commission shall approve the operations and maintenance costs for the clean coal SNG brownfield facility.

The clean coal SNG brownfield facility shall pay for the independent engineering expert's reasonable fees and such costs shall not be passed through to a utility or its customers. The clean coal SNG brownfield facility shall pay a reasonable fee as required by the Capital Development Board for the Capital Development Board's services under this subsection (h-3) to be deposited into the Capital Development Board Revolving Fund, and such fee shall not be passed through to a utility or its customers.

(3) Sequestration costs approved by the Commission shall be recoverable by the clean coal SNG brownfield facility. "Sequestration costs" means costs to be incurred by the clean coal SNG brownfield facility in accordance with its Commission-approved carbon capture and sequestration plan to:

- (A) capture carbon dioxide;
- (B) build, operate, and maintain a sequestration site in which carbon dioxide may be injected;
- (C) build, operate, and maintain a carbon dioxide pipeline; and
- (D) transport the carbon dioxide to the sequestration site or a pipeline.

The Commission shall assess the prudence of the sequestration costs for the clean coal SNG brownfield facility before construction commences at the sequestration site or pipeline. Any revenues the clean coal SNG brownfield facility receives as a result of the capture, transportation, or sequestration of carbon dioxide shall be first credited against all sequestration costs, with the positive balance, if any, treated as additional net revenue.

The Commission may, in its discretion, retain an expert to assist in its review of sequestration costs. The clean coal SNG brownfield facility shall pay for the expert's reasonable fees if an expert is retained by the Commission, and such costs shall not be passed through to a utility or its customers. Once made, the Commission's determination of the amount of recoverable sequestration costs shall not be increased unless the clean coal SNG brownfield facility can show by clear and convincing evidence that (i) the costs were not reasonably foreseeable; (ii) the costs were due to circumstances beyond the clean coal SNG brownfield facility's control; and (iii) the clean coal SNG brownfield facility took all reasonable steps to mitigate the costs. If the Commission determines that sequestration costs may be increased, the Commission shall provide for notice and a public hearing for approval of the increased sequestration costs.

(4) Actual delivered and processed fuel costs shall be set by the Illinois Power Agency through a SNG feedstock procurement, pursuant to Sections 1-20, 1-77, and 1-78 of the Illinois Power Agency Act, to be performed at least every 5 years and purchased by the clean coal SNG brownfield facility pursuant to feedstock procurement contracts developed by the Illinois Power Agency, with coal comprising at least 50% of the total feedstock over the term of the sourcing agreement and petroleum coke comprising the remainder of the SNG feedstock. If the Commission fails to approve a feedstock procurement plan or fails to approve the results of a feedstock procurement event, then the fuel shall be purchased by the company month-by-month on the spot market and those actual

delivered and processed fuel costs shall be recoverable under the sourcing agreement. If a supplier defaults under the terms of a procurement contract, then the Illinois Power Agency shall immediately initiate a feedstock procurement process to obtain a replacement supply, and, prior to the conclusion of that process, fuel shall be purchased by the company month-by-month on the spot market and those actual delivered and processed fuel costs shall be recoverable under the sourcing agreement.

(5) Taxes and fees imposed by the federal government, the State, or any unit of local government applicable to the clean coal SNG brownfield facility, excluding income tax, shall be recoverable by the clean coal SNG brownfield facility under the sourcing agreement to the extent such taxes and fees were not applicable to the facility on the date of this amendatory Act of the 96th General Assembly.

(6) The actual transportation costs, in accordance with the applicable utility's tariffs, and third-party marketer costs incurred by the company, if any, associated with transporting the SNG from the clean coal SNG brownfield facility to the Chicago City-gate to sell such SNG into the natural gas markets shall be recoverable under the sourcing agreement.

(7) Unless otherwise provided, within 30 days after a decision of the Commission on recoverable costs under this Section, any interested party to the Commission's decision may apply for a rehearing with respect to the decision. The Commission shall receive and consider the application for rehearing and shall grant or deny the application in whole or in part within 20 days after the date of the receipt of the application by the Commission. If no rehearing is applied for within the required 30 days or an application for rehearing is denied, then the Commission decision shall be final. If an application for rehearing is granted, then the Commission shall hold a rehearing within 30 days after granting the application. The decision of the Commission upon rehearing shall be final.

Any person affected by a decision of the Commission under this subsection (h-3) may have the decision reviewed only under and in accordance with the Administrative Review Law. Unless otherwise provided, the provisions of the Administrative Review Law, all amendments and modifications to that Law, and the rules adopted pursuant to that Law shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Commission under this subsection (h-3). The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(8) The Capital Development Board shall adopt and make public a policy detailing the process for retaining experts under this Section. Any experts retained to assist with calculating the range of capital costs or operations and maintenance costs shall be retained no later than 45 days after the effective date of this amendatory Act of the 96th General Assembly.

(h-4) No later than 60 days after the Illinois Power Agency submits the final draft sourcing agreement pursuant to subsection (h-1), the Commission shall approve a sourcing agreement containing the capital costs, rate of return, and operations and maintenance costs. Once the sourcing agreement is approved, then the gas utility subject to that sourcing agreement shall have 45 days after the date of the Commission's approval to enter into the sourcing agreement.

(h-5) The Attorney General, on behalf of the people of the State of Illinois, may specifically enforce the requirements of this subsection (h-5). ~~Sourcing All contracts under subsection (h) of this Act and all sourcing agreements under subsection (h-1) of this Act, regardless of duration, shall require the owner of any facility supplying SNG under the contract or sourcing agreement to provide documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon dioxide emissions from the facility that have been captured and sequestered and reporting any quantities of carbon dioxide released from the site or sites at which carbon dioxide emissions were sequestered in prior years, based on continuous monitoring of those sites. If, in any year, the owner of the facility described in subsection (h) of this Act fails to demonstrate that the facility captured and sequestered at least 90% of the total carbon dioxide emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, then the owner of the facility must offset excess emissions. Any such carbon dioxide offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable; provided that the owner of the facility described in subsection (h) of this Act shall not be obligated to acquire carbon dioxide emission offsets to the extent that the cost of acquiring such offsets would exceed \$40 million in any given year. No costs of any purchases of carbon offsets may be recovered from a utility or its customers. All carbon offsets purchased for this purpose must be permanently retired.~~

If, in any year, the owner of a clean coal SNG brownfield facility fails to demonstrate that the clean coal SNG brownfield facility captured and sequestered at least 85% of the total carbon dioxide emissions that the facility would otherwise emit, then the owner of the clean coal SNG brownfield facility must pay

a penalty of \$20 per ton of excess carbon emissions up to \$20,000,000, which shall be deposited into the Energy Efficiency Trust Fund and distributed pursuant to subsection (b) of Section 6-6 of the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997. Provided, however, to the extent that the owner of the clean coal SNG brownfield facility can demonstrate that the failure was as a result of acts of God (including fire, flood, earthquake, tornado, lightning, hurricane, or other natural disaster); any amendment, modification, or abrogation of any applicable law or regulation that would prevent performance; war; invasion; act of foreign enemies; hostilities (regardless of whether war is declared); civil war; rebellion; revolution; insurrection; military or usurped power or confiscation; terrorist activities; civil disturbances; riots; nationalization; sabotage; blockage; or embargo, the owner of the clean coal SNG brownfield facility shall not be subject to a penalty if and only if (i) it promptly provides notice of its failure to the Commission; (ii) as soon as practicable and consistent with any order or direction from the Commission, it submits to the Commission proposed modifications to its carbon capture and sequestration plan; and (iii) it carries out its proposed modifications in the manner and time directed by the Commission. If the Commission finds that the facility has not satisfied each of these requirements, then the facility shall be subject to the penalty. If the owner of a clean coal SNG brownfield facility demonstrates that the clean coal SNG brownfield facility captured and sequestered more than 85% of the total carbon emissions that the facility would otherwise emit, the owner of the clean coal SNG brownfield facility may credit such additional amounts to reduce the amount of any future penalty to be paid. The penalty resulting from the failure to capture and sequester at least the minimum amount of carbon dioxide shall not be passed on to a utility or its customers.

In addition to any penalty for the clean coal SNG brownfield facility's failure to capture and sequester at least its minimum sequestration requirement, the Attorney General, on behalf of the People of the State of Illinois, shall bring an action for specific performance of this subsection (h-5). Such action may be filed in any circuit court in Illinois. By entering into a sourcing agreement pursuant to subsection (h-1) of this Section, the clean coal SNG brownfield facility agrees to waive any objections to venue or to the jurisdiction of the court with regard to the Attorney General's action for specific performance under this subsection (h-5).

~~In addition, carbon dioxide emission credits equivalent to 50% of the amount of credits associated with the required sequestration of carbon dioxide from the facility must be permanently retired. Compliance with the sequestration requirements and the offset purchase requirements specified in this subsection (h-5) for the facility described in subsection (h) of this Act shall be assessed annually by an independent expert retained by the owner of the facility described in subsection (h) of this Act, with the advance written approval of the Attorney General. Compliance with the sequestration requirements and penalty requirements specified in this subsection (h-5) for the clean coal SNG brownfield facility shall be assessed annually by the Commission, which may in its discretion retain an expert to facilitate its assessment. If an expert is retained by the Commission, then the clean coal SNG brownfield facility shall pay for the expert's reasonable fees, and such costs shall not be passed through to a utility or its customers. A SNG facility operating pursuant to this subsection (h-5) shall not forfeit its designation as a clean coal SNG facility or a clean coal SNG brownfield facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased or requisite penalties are paid.~~

Responsibility for compliance with the sequestration requirements specified in this subsection (h-5) for the clean coal SNG brownfield facility shall reside solely with the clean coal SNG brownfield facility regardless of whether the facility has contracted with another party to capture, transport, or sequester carbon dioxide.

(h-6) The Attorney General, on behalf of the people of the State of Illinois, may specifically enforce the requirements of this subsection (h-6). All contracts, regardless of duration, shall require the owner of any facility supplying SNG under the contract to provide documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon dioxide emissions from the facility that have been captured and sequestered and reporting any quantities of carbon dioxide released from the site or sites at which carbon dioxide emissions were sequestered in prior years, based on continuous monitoring of those sites.

If, in any year, the owner of the clean coal SNG facility located in Jefferson County fails to demonstrate that the SNG facility captured and sequestered at least 90% of the total carbon dioxide emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, then the owner of the clean coal SNG facility located in Jefferson County must pay a penalty of \$20 per ton of excess carbon emissions up to \$20,000,000, which shall be deposited into the Energy Efficiency Trust Fund and distributed pursuant to the subsection (b) of Section 6-6 of the Renewable Energy, Energy Efficiency, and Coal



Resources Development Law of 1997. Provided, however, to the extent that the owner of the facility described in subsection (h) of this Act can demonstrate that the failure was as a result of acts of God, (including fire, flood, earthquake, tornado, lightning, hurricane, or other natural disaster); any amendment, modification, or abrogation of any applicable law or regulation that would prevent performance; war; invasion; act of foreign enemies; hostilities (regardless of whether war is declared); civil war; rebellion; revolution; insurrection; military or usurped power or confiscation; terrorist activities; civil disturbance; riots; nationalization; sabotage; blockage; or embargo, the owner of the facility described in subsection (h) of this Act shall not be subject to a penalty if and only if (i) it promptly provides notice of its failure to the Commission; (ii) as soon as practicable and consistent with any order or direction from the Commission, it submits to the Commission proposed modifications to its carbon capture and sequestration plan; and (iii) it carries out its proposed modifications in the manner and time directed by the Commission.

If the Commission finds that the facility has not satisfied each of these requirements, then the facility shall be subject to the penalty. If the owner of the clean coal SNG facility located in Jefferson County captured and sequestered more than 90% of the total carbon emissions that the facility would otherwise emit, then the owner of the facility may credit such additional amounts to reduce the amount of any future penalty to be paid. The penalty resulting from the failure to capture and sequester at least the minimum amount of carbon dioxide shall not be passed on to a utility or its customers.

In addition to any penalty for the clean coal facility located in Jefferson County failing to capture and sequester at least its minimum sequestration requirement, the Attorney General, on behalf of the People of the State of Illinois, shall bring an action for specific performance of this subsection (h-6). Such action may be filed in any circuit court in Illinois. By entering into a contract pursuant to subsection (h) of this Section, the clean coal SNG facility located in Jefferson County agrees to waive any objections to venue or to the jurisdiction of the court with regard to the Attorney General's action for specific performance under this subsection (h-6).

Compliance with the sequestration requirements and any penalty requirements specified in this subsection (h-6) for the clean coal SNG facility located in Jefferson County shall be assessed annually by the Commission, which may in its discretion retain an expert to facilitate its assessment. If any expert is retained by the Commission, then the clean coal SNG facility located in Jefferson County shall pay for the expert's reasonable fees, and such costs shall not be passed through to the utility or its customers.

In addition, carbon dioxide emission credits received by the clean coal SNG facility located in Jefferson County in connection with sequestration of carbon dioxide from the facility must be sold in a timely fashion with any revenue, less applicable fees and expenses and any expenses required to be paid by facility for carbon dioxide transportation or sequestration, deposited into the reconciliation account within 30 days after receipt of such funds by the owner of the clean coal SNG facility located in Jefferson County.

The clean coal SNG facility located in Jefferson County is prohibited from transporting or sequestering carbon dioxide unless the owner of the carbon dioxide pipeline that transfers the carbon dioxide from the facility and the owner of the sequestration site where the carbon dioxide captured by the facility is stored has acquired all applicable permits under applicable State and federal laws, statutes, rules, or regulations prior to the transfer or sequestration of carbon dioxide. The responsibility for compliance with the sequestration requirements specified in this subsection (h-6) for the clean coal SNG facility located in Jefferson County shall reside solely with the clean coal SNG facility located in Jefferson County regardless of the whether the facility has contracted with another party to capture, transport or sequester carbon dioxide.

(h-7) Sequestration permitting, oversight, and investigations.

(1) No clean coal facility or clean coal SNG brownfield facility may transport or sequester carbon dioxide unless the Commission approves the method of carbon dioxide transportation or sequestration. Such approval shall be required regardless of whether the facility has contracted with another to transport or sequester the carbon dioxide. Nothing in this subsection (h-7) shall release the owner or operator of a carbon dioxide sequestration site or carbon dioxide pipeline from any other permitting requirements under applicable State and federal laws, statutes, rules, or regulations.

(2) The Commission shall review carbon dioxide transportation and sequestration methods proposed by a clean coal facility or a clean coal SNG brownfield facility and shall approve those methods it deems reasonable and cost-effective. For purposes of this review, "cost-effective" means a commercially reasonable price for similar carbon dioxide transportation or sequestration techniques. In determining whether sequestration is reasonable and cost-effective, the Commission may consult with the Illinois State Geological Survey and retain third parties to assist in its determination, provided

that such third parties shall not own or control any direct or indirect interest in the facility that is proposing the carbon dioxide transportation or the carbon dioxide sequestration method and shall have no contractual relationship with that facility. If a third party is retained by the Commission, then the facility proposing the carbon dioxide transportation or sequestration method shall pay for the expert's reasonable fees, and these costs shall not be passed through to a utility or its customers.

No later than 6 months prior to the date upon which the owner intends to commence construction of a clean coal facility or the clean coal SNG brownfield facility, the owner of the facility shall file with the Commission a carbon dioxide transportation or sequestration plan. The Commission shall hold a public hearing within 30 days after receipt of the facility's carbon dioxide transportation or sequestration plan. The Commission shall post notice of the review on its website upon submission of a carbon dioxide transportation or sequestration method and shall accept written public comments. The Commission shall take the comments into account when making its decision.

The Commission may not approve a carbon dioxide sequestration method if the owner or operator of the sequestration site has not received (i) an Underground Injection Control permit from the Illinois Environmental Protection Agency pursuant to the Environmental Protection Act; (ii) an Underground Injection Control permit from the Illinois Department of Natural Resources pursuant to the Illinois Oil and Gas Act; or (iii) a permit similar to items (i) or (ii) from the state in which the sequestration site is located if the sequestration will take place outside of Illinois. The Commission shall approve or deny the carbon dioxide transportation or sequestration method within 90 days after the receipt of all required information.

(3) At least annually, the Illinois Environmental Protection Agency shall inspect all carbon dioxide sequestration sites in Illinois. The Illinois Environmental Protection Agency may, as often as deemed necessary, monitor and conduct investigations of those sites. The owner or operator of the sequestration site must cooperate with the Illinois Environmental Protection Agency investigations of carbon dioxide sequestration sites.

If the Illinois Environmental Protection Agency determines at any time a site creates conditions that warrant the issuance of a seal order under Section 34 of the Environmental Protection Act, then the Illinois Environmental Protection Agency shall seal the site pursuant to the Environmental Protection Act. If the Illinois Environmental Protection Agency determines at any time a carbon dioxide sequestration site creates conditions that warrant the institution of a civil action for an injunction under Section 43 of the Environmental Protection Act, then the Illinois Environmental Protection Agency shall request the State's Attorney or the Attorney General institute such action. The Illinois Environmental Protection Agency shall provide notice of any such actions as soon as possible on its website. The SNG facility shall incur all reasonable costs associated with any such inspection or monitoring of the sequestration sites, and these costs shall not be recoverable from utilities or their customers.

(4) At least annually, the Commission shall inspect all carbon dioxide pipelines in Illinois that transport carbon dioxide to ensure the safety and feasibility of those pipelines. The Commission may, as often as deemed necessary, monitor and conduct investigations of those pipelines. The owner or operator of the pipeline must cooperate with the Commission investigations of the carbon dioxide pipelines.

In circumstances whereby a carbon dioxide pipeline creates a substantial danger to the environment or to the public health of persons or to the welfare of persons where such danger is to the livelihood of such persons, the State's Attorney or Attorney General, upon the request of the Commission or on his or her own motion, may institute a civil action for an immediate injunction to halt any discharge or other activity causing or contributing to the danger or to require such other action as may be necessary. The court may issue an ex parte order and shall schedule a hearing on the matter not later than 3 working days after the date of injunction. The Commission shall provide notice of any such actions as soon as possible on its website. The SNG facility shall incur all reasonable costs associated with any such inspection or monitoring of the sequestration sites, and these costs shall not be recoverable from a utility or its customers.

(h-9) The clean coal SNG brownfield facility shall have the right to recover prudently incurred increased costs or reduced revenue resulting from any new or amendatory legislation or other action. The State of Illinois pledges that the State will not enact any law or take any action to:

- (1) break, or repeal the authority for, sourcing agreements approved by the Commission and entered into between public utilities and the clean coal SNG brownfield facility;
- (2) deny public utilities full cost recovery for their costs incurred under those sourcing agreements; or
- (3) deny the clean coal SNG brownfield facility full cost and revenue recovery as

provided under those sourcing agreements that are recoverable pursuant to subsection (h-3) of this Section.

These pledges are for the benefit of the parties to those sourcing agreements and the issuers and holders of bonds or other obligations issued or incurred to finance or refinance the clean coal SNG brownfield facility. The clean coal SNG brownfield facility is authorized to include and refer to these pledges in any financing agreement into which it may enter in regard to those sourcing agreements.

The State of Illinois retains and reserves all other rights to enact new or amendatory legislation or take any other action, without impairment of the right of the clean coal SNG brownfield facility to recover prudently incurred increased costs or reduced revenue resulting from the new or amendatory legislation or other action, including, but not limited to, such legislation or other action that would (i) directly or indirectly raise the costs the clean coal SNG brownfield facility must incur; (ii) directly or indirectly place additional restrictions, regulations, or requirements on the clean coal SNG brownfield facility; (iii) prohibit sequestration in general or prohibit a specific sequestration method or project; or (iv) increase minimum sequestration requirements for the clean coal SNG brownfield facility to the extent technically feasible. The clean coal SNG brownfield facility shall have the right to recover prudently incurred increased costs or reduced revenue resulting from the new or amendatory legislation or other action as described in this subsection (h-9).

(h-10) Contract costs for SNG incurred by an Illinois gas utility are reasonable and prudent and recoverable through the purchased gas adjustment clause and are not subject to review or disallowance by the Commission. Contract costs are costs incurred by the utility under the terms of a contract that incorporates the terms stated in subsection (h) of this Section as confirmed in writing by the Illinois Power Agency as set forth in subsection (h) (~~h-20~~) of this Section, which confirmation shall be deemed conclusive, or as a consequence of or condition to its performance under the contract, including (i) amounts paid for SNG under the SNG contract and (ii) costs of transportation and storage services of SNG purchased from interstate pipelines under federally approved tariffs. Any contract, the terms of which have been confirmed in writing by the Illinois Power Agency as set forth in subsection (h) (~~h-20~~) of this Section and the performance of the parties under such contract cannot be grounds for challenging prudence or cost recovery by the utility through the purchased gas adjustment clause, and in such cases, the Commission is directed not to consider, and has no authority to consider, any attempted challenges.

The contracts entered into by Illinois gas utilities pursuant to subsection (h) of this Section shall provide that the utility retains the right to terminate the contract without further obligation or liability to any party if the contract has been impaired as a result of any legislative, administrative, judicial, or other governmental action that is taken that eliminates all or part of the prudence protection of this subsection (h-10) or denies the recoverability of all or part of the contract costs through the purchased gas adjustment clause. Should any Illinois gas utility exercise its right under this subsection (h-10) to terminate the contract, all contract costs incurred prior to termination are and will be deemed reasonable, prudent, and recoverable as and when incurred and not subject to review or disallowance by the Commission. Any order, issued by the State requiring or authorizing the discontinuation of the merchant function, defined as the purchase and sale of natural gas by an Illinois gas utility for the ultimate consumer in its service territory shall include provisions necessary to prevent the impairment of the value of any contract hereunder over its full term.

(h-11) All costs incurred by an Illinois gas utility in procuring SNG, including procuring SNG from a clean coal SNG brownfield facility or a third-party marketer pursuant to subsection (h-1), are reasonable and prudent and recoverable through the purchased gas adjustment clause and are not subject to review or disallowance by the Commission. Sourcing agreement costs are costs incurred by the utility under the terms of a sourcing agreement that incorporates the terms stated in subsection (h-1) of this Section as approved by the Commission as set forth in subsection (h-4) of this Section, which approval shall be deemed conclusive, or as a consequence of or condition to its performance under the contract, including (i) amounts paid for SNG under the SNG contract and (ii) costs of transportation and storage services of SNG purchased from interstate pipelines under federally approved tariffs. Any sourcing agreement, the terms of which have been approved by the Commission as set forth in subsection (h-4) of this Section, and the performance of the parties under the sourcing agreement cannot be grounds for challenging prudence or cost recovery by the utility through the purchased gas adjustment clause, and in these cases, the Commission is directed not to consider, and has no authority to consider, any attempted challenges.

(h-15) Reconciliation account. The clean coal SNG facility located in Jefferson County shall establish a reconciliation account for the benefit of the retail customers of the utilities that have entered into contracts with the clean coal SNG facility located in Jefferson County pursuant to subsection (h). The reconciliation account shall be maintained and administered by an independent trustee that is mutually

agreed upon by the owners of the clean coal SNG facility located in Jefferson County, the utilities, and the Commission in an interest-bearing account in accordance with the following:

(1) The clean coal SNG facility located in Jefferson County shall conduct an analysis annually within 60 days after receiving the necessary cost information, which shall be provided by the gas utility within 6 months after the end of the preceding calendar year, to determine (i) the average annual contract SNG cost, which shall be calculated as the total amount paid for SNG purchased from the clean coal SNG facility located in Jefferson County over the preceding 12 months, plus the cost to the utility of the required transportation and storage services of SNG, divided by the total number of MMBtus of SNG actually purchased from the clean coal SNG facility located in Jefferson County in the preceding 12 months under the utility contract; (ii) the average annual natural gas purchase cost, which shall be calculated as the total annual supply costs paid for natural gas (excluding any SNG) purchased by such utility over the preceding 12 months plus the costs of transportation and storage services of such natural gas (excluding such costs for SNG), divided by the total number of MMBtus of natural gas (excluding SNG) actually purchased by the utility during the year; (iii) the cost differential, which shall be the difference between the average annual contract SNG cost and the average annual natural gas purchase cost; and (iv) the revenue share target which shall be the cost differential multiplied by the total amount of SNG purchased over the preceding 12 months under such utility contract.

(A) To the extent the annual average contract SNG cost is less than the annual average natural gas purchase cost the utility shall credit an amount equal to the revenue share target to the reconciliation account. Such credit payment shall be made within 30 days after the completed analysis in this subsection (h-15) and pursuant to this subparagraph (A) shall be deemed prudent and reasonable and not subject to Commission prudence review.

(B) To the extent the annual average contract SNG cost is greater than the annual average natural gas purchase cost the reconciliation account shall be used to provide a credit equal to the revenue share target to the utilities to be used to reduce the utility's natural gas costs through the purchased gas adjustment clause. Such payment shall be made within 30 days after the completed analysis pursuant to this subsection (h-15).

(2) At the conclusion of the term of the SNG contracts pursuant to subsection (h) and the completion of the final annual analysis pursuant to this subsection (h-15), to the extent the facility owes any amount to retail customers, amounts in the account shall be credited to retail customers to the extent the owed amount is repaid; 50% of any additional amount in the reconciliation account shall be distributed to the utilities to be used to reduce the utilities' natural gas costs through the purchase gas adjustment clause with the remaining amount distributed to the clean coal SNG facility located in Jefferson County. Such payment shall be made within 30 days after the last completed analysis pursuant to this subsection (h-15). If the facility has repaid all owed amounts, if any, to retail customers and has distributed 50% of any additional amount in the account to the utilities, then the owners of the clean coal SNG facility located in Jefferson County shall have no further obligation to the utility or the retail customers.

If, at the conclusion of the term of the contracts pursuant to subsection (h) and the completion of the final annual analysis pursuant to this subsection (h-15), the facility owes any amount to retail customers and the account has been depleted, then the clean coal SNG facility located in Jefferson County shall be liable for any remaining amount owed to the retail customers. The clean coal SNG facility located in Jefferson County shall market the daily production of SNG and distribute on a monthly basis 5% of the amounts collected with respect to such future sales to the utilities in proportion to each utility's SNG contract to be used to reduce the utility's natural gas costs through the purchase gas adjustment clause; such payments to the utility shall continue until either 15 years after the conclusion of the contract or such time as the sum of such payments equals the remaining amount owed to the retail customers at the end of the contract, whichever is earlier. If the debt to the retail customers is not repaid within 15 years after the conclusion of the contract, then the owner of the clean coal SNG facility located in Jefferson County must sell the facility, and all proceeds from that sale must be used to repay any amount owed to the retail customers under this subsection (h-15).

The retail customers shall have first priority in recovering that debt above any creditors, except the secured lenders to the extent that the secured lenders have any secured debt outstanding, including any parent companies or affiliates of the clean coal SNG facility located in Jefferson County.

(3) 50% of all additional net revenue, defined as miscellaneous net revenue after cost allowance and above the budgeted estimate established for revenue pursuant to subsection (h), including sale of substitute natural gas derived from the clean coal SNG facility located in Jefferson County above the nameplate capacity of the facility and other by-products produced by the facility, shall be credited to the reconciliation account on an annual basis with such payment made within 30 days after the end of each

calendar year during the term of the contract.

(4) The clean coal SNG facility located in Jefferson County shall each year, starting in the facility's first year of commercial operation, file with the Commission, in such form as the Commission shall require, a report as to the reconciliation account. The annual report must contain the following information:

(A) the revenue share target amount;

(B) the amount credited or debited to the reconciliation account during the year;

(C) the amount credited to the utilities to be used to reduce the utilities natural gas costs though the purchase gas adjustment clause;

(D) the total amount of reconciliation account at the beginning and end of the year;

(E) the total amount of consumer saving to date; and

(F) any additional information the Commission may require.

When any report is erroneous or defective or appears to the Commission to be erroneous or defective, the Commission may notify the clean coal SNG facility located in Jefferson County to amend the report within 30 days; before or after the termination of the 30-day period, the Commission may examine the trustee of the reconciliation account or the officers, agents, employees, books records, or accounts of the clean coal SNG facility located in Jefferson County and correct such items in the report as upon such examination the Commission may find defective or erroneous. All reports shall be under oath.

All reports made to the Commission by the clean coal SNG facility located in Jefferson County and the contents of the reports shall be open to public inspection and shall be deemed a public record under the Freedom of Information Act. Such reports shall be preserved in the office of the Commission. The Commission shall publish an annual summary of the reports prior to February 1 of the following year. The annual summary shall be made available to the public on the Commission's website and shall be submitted to the General Assembly.

Any facility that fails to file the report required under this paragraph (4) to the Commission within the time specified or to make specific answer to any question propounded by the Commission within 30 days after the time it is lawfully required to do so, or within such further time not to exceed 90 days as may be allowed by the Commission in its discretion, shall pay a penalty of \$500 to the Commission for each day it is in default.

Any person who willfully makes any false report to the Commission or to any member, officer, or employee thereof, any person who willfully in a report withholds or fails to provide material information to which the Commission is entitled under this paragraph (4) and which information is either required to be filed by statute, rule, regulation, order, or decision of the Commission or has been requested by the Commission, and any person who willfully aids or abets such person shall be guilty of a Class A misdemeanor. With respect to each contract entered into by the company with an Illinois utility in accordance with the terms stated in subsection (h) of this Section, within 60 days following the completion of purchases of SNG, the Illinois Power Agency shall conduct an analysis to determine (i) the average contract SNG cost, which shall be calculated as the total amount paid to a company for SNG over the contract term, plus the cost to the utility of the required transportation and storage services of SNG, divided by the total number of MMBtus of SNG actually purchased under the utility contract; (ii) the average natural gas purchase cost, which shall be calculated as the total annual supply costs paid for natural gas (excluding SNG) purchased by such utility over the contract term, plus the costs of transportation and storage services of such natural gas (excluding such costs for SNG), divided by the total number of MMBtus of natural gas (excluding SNG) actually purchased by the utility during the contract term; (iii) the cost differential, which shall be the difference between the average contract SNG cost and the average natural gas purchase cost; and (iv) the revenue share target, which shall be the cost differential multiplied by the total amount of SNG purchased under such utility contract. If the average contract SNG cost is equal to or less than the average natural gas purchase cost, then the company shall have no further obligation to the utility. If the average contract SNG cost for such SNG contract is greater than the average natural gas purchase cost for such utility, then the company shall market the daily production of SNG and distribute on a monthly basis 5% of amounts collected with respect to such future sales to the utilities in proportion to each utility's SNG purchases from the company during the term of the SNG contract to be used to reduce the utility's natural gas costs through the purchased gas adjustment clause; such payments to the utility shall continue until such time as the sum of such payments equals the revenue share target of that utility. The company or utilities shall have no obligation to repay the revenue share target except as provided for in this subsection (h-15).

(h-20) The General Assembly authorizes the Illinois Finance Authority to issue bonds to the maximum extent permitted to finance coal gasification facilities described in this Section, which constitute both "industrial projects" under Article 801 of the Illinois Finance Authority Act and "clean

coal and energy projects" under Sections 825-65 through 825-75 of the Illinois Finance Authority Act.

Administrative costs incurred by the Illinois Finance Authority in performance of this subsection (h-20) shall be subject to reimbursement by the clean coal SNG facility located in Jefferson County on terms as the Illinois Finance Authority and the clean coal SNG facility located in Jefferson County may agree. The utility and its customers shall have no obligation to reimburse the clean coal SNG facility located in Jefferson County or the Illinois Finance Authority of any such costs. The General Assembly authorizes the Illinois Finance Authority to issue bonds to the maximum extent permitted to finance coal gasification facilities described in this Section, which constitute both "industrial projects" under Article 801 of the Illinois Finance Authority Act and "clean coal and energy projects" under Sections 825-65 through 825-75 of the Illinois Finance Authority Act. The General Assembly further authorizes the Illinois Power Agency to become party to agreements and take such actions as necessary to enable the Illinois Power Agency or its designate to (i) review and confirm in writing that the terms stated in subsection (h) of this Section are incorporated in the SNG contract, and (ii) conduct an analysis pursuant to subsection (h-15) of this Section. Administrative costs incurred by the Illinois Finance Authority and Illinois Power Agency in performance of this subsection (h-20) shall be subject to reimbursement by the company on terms as the Illinois Finance Authority, the Illinois Power Agency, and the company may agree. The utility and its customers shall have no obligation to reimburse the company, the Illinois Finance Authority, or the Illinois Power Agency for any such costs.

(h-25) The State of Illinois pledges that the State may not enact any law or take any action to (1) break or repeal the authority for SNG purchase contracts entered into between public gas utilities and the clean coal SNG facility located in Jefferson County pursuant to subsection (h) of this Section or (2) deny public gas utilities their full cost recovery for contract costs, as defined in subsection (h-10), that are incurred under such SNG purchase contracts. These pledges are for the benefit of the parties to such SNG purchase contracts and the issuers and holders of bonds or other obligations issued or incurred to finance or refinance the clean coal SNG facility located in Jefferson County. The beneficiaries are authorized to include and refer to these pledges in any finance agreement into which they may enter in regard to such contracts.

(h-30) The State of Illinois retains and reserves all other rights to enact new or amendatory legislation or take any other action, including, but not limited to, such legislation or other action that would (1) directly or indirectly raise the costs that the clean coal SNG facility must incur; (2) directly or indirectly place additional restrictions, regulations, or requirements on the clean coal SNG facility; (3) prohibit sequestration in general or prohibit a specific sequestration method or project; or (4) increase minimum sequestration requirements.

(i) If a gas utility or an affiliate of a gas utility has an ownership interest in any entity that produces or sells synthetic natural gas, Article VII of this Act shall apply.

(Source: P.A. 95-1027, eff. 6-1-09; 96-1364, eff. 7-28-10; 09600SB3388ham001, ham002, and ham003.)

Section 95. Rulemaking. The Illinois Power Agency and the Commission shall have rulemaking authority to implement the provisions of this amendatory Act of the 96th General Assembly.

Section 97. Inseparability. The provisions of this Act are mutually dependent and inseparable. If any provision is held invalid, then this entire Act, including all new and amendatory provisions, is invalid.

Section 99. Effective date. This Act takes effect upon becoming law or on the effective date of Senate Bill 3388 of the 96th General Assembly, whichever is later."

#### **AMENDMENT NO. 2 TO SENATE BILL 1927**

AMENDMENT NO. 2. Amend Senate Bill 1927, AS AMENDED, with reference to page and line numbers of House Amendment No. 1 as follows:

on page 12, line 20, by replacing "process" with "processes"; and

on page 12, line 23, by replacing "as required" with "and to retain an expert to assist in the review of contracts"; and

on page 12, line 24, by replacing "and" with ". This Code"; and

on page 27, line 4, by deleting "gasification"; and

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on page 28, line 10, by deleting "and approve"; and

on page 28, line 11, by replacing "contracts, ensuring" with "contract and approve that formula if the Illinois Power Agency determines"; and

on page 28, by replacing line 22 with "subsection (h): If the Illinois Power Agency does not approve of the SNG pricing formula, then the Illinois Power Agency shall modify the formula to ensure that it meets the requirements of this subsection (h)"; and

by replacing line 25 on page 29 through line 5 on page 30 with "Illinois Power Agency may, in its discretion, retain an independent, qualified, and experienced expert to assist in its obligations under this subsection (h). The Illinois Power Agency shall adopt and make public policies detailing the processes for retaining a mediator and an expert under this subsection (h). Any mediator or expert retained under this subsection (h) shall be retained no later than 60 days after the effective date of this amendatory Act of the 96th General Assembly"; and

on page 30, line 11, after "mediator's", by inserting "and expert's"; and

on page 64, line 9, after "contracts" by inserting "entered into under subsection (h) of this Section".

#### AMENDMENT NO. 3 TO SENATE BILL 1927

AMENDMENT NO. 3. Amend Senate Bill 1927, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 26, by replacing lines 19 through 21 with the following:

~~"supply requirements of the utility as of 2008 and the quantity of SNG supplied to a utility may not exceed 16 million MMBtus; and (iv) the contract costs pursuant to subsection";~~ and

on page 29, by replacing lines 7 through 15 with the following:

(4) allocate the nameplate capacity of the clean coal SNG facility located in Jefferson County by total therms sold to ultimate customers by each gas utility in 2008; provided, however, no utility shall be required to purchase more than 42% of the projected annual output of the facility. Additionally, the Illinois Power Agency shall further adjust the allocation only as required to take into account (A) adverse consolidation, derivative, or lease impacts to the balance sheet or income statement of any gas utility or (B) the physical capacity of the gas utility to accept SNG."; and

on page 86, line 21, by replacing "Commission" with "Illinois Commerce Commission".

Under the rules, the foregoing **Senate Bill No. 1927**, with House Amendments numbered 1, 2 and 3, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of the following joint resolution, to-wit:

#### SENATE JOINT RESOLUTION NO. 132

Concurred in by the House, January 7, 2011.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendments to a bill of the following title, to-wit:

#### HOUSE BILL 5178

A bill for AN ACT concerning revenue.

Which amendments are as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5178

Senate Amendment No. 2 to HOUSE BILL NO. 5178

Concurred in by the House, January 7, 2011.

[January 10, 2011]

MARK MAHONEY, Clerk of the House

A message from the House by  
Mr. Mahoney, Clerk:  
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendments to a bill of the following title, to-wit:

HOUSE BILL 5424

A bill for AN ACT concerning State government.

Which amendments are as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5424

Senate Amendment No. 2 to HOUSE BILL NO. 5424

Concurred in by the House, January 7, 2011.

MARK MAHONEY, Clerk of the House

A message from the House by  
Mr. Mahoney, Clerk:  
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 3778

A bill for AN ACT concerning local government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 3778

Passed the House, as amended, January 9, 2011.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 3778**

AMENDMENT NO. 1. Amend Senate Bill 3778 by replacing everything after the enacting clause with the following:

"Section 5. The Downstate Public Transportation Act is amended by changing Section 2-15.2 as follows:

(30 ILCS 740/2-15.2)

Sec. 2-15.2. Free services; eligibility.

(a) Notwithstanding any law to the contrary, no later than 60 days following the effective date of this amendatory Act of the 95th General Assembly and until subsection (b) is implemented, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, every participant, as defined in Section 2-2.02 (1)(a), shall be provided without charge to all senior citizen residents of the participant aged 65 and older, under such conditions as shall be prescribed by the participant.

(b) Notwithstanding any law to the contrary, no later than 180 days following the effective date of this amendatory Act of the 96th General Assembly, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, every participant, as defined in Section 2-2.02 (1)(a), shall be provided without charge to senior citizens aged 65 and older who meet the income eligibility limitation set forth in subsection (a-5) of Section 4 of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, under such conditions as shall be prescribed by the participant. The Department on Aging shall furnish all information reasonably necessary to determine eligibility, including updated lists of individuals who are eligible for services without charge under this Section. Nothing in this Section shall relieve the participant from providing reduced fares as may be required by federal law.

(Source: P.A. 95-708, eff. 1-18-08.)

Section 10. The Metropolitan Transit Authority Act is amended by changing Section 51 as follows:

(70 ILCS 3605/51)

Sec. 51. Free services; eligibility.

(a) Notwithstanding any law to the contrary, no later than 60 days following the effective date of this

[January 10, 2011]



amendatory Act of the 95th General Assembly and until subsection (b) is implemented, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, the Board shall be provided without charge to all senior citizens of the Metropolitan Region (as such term is defined in 70 ILCS 3615/1.03) aged 65 and older, under such conditions as shall be prescribed by the Board.

(b) Notwithstanding any law to the contrary, no later than 180 days following the effective date of this amendatory Act of the 96th General Assembly, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, the Board shall be provided without charge to senior citizens aged 65 and older who meet the income eligibility limitation set forth in subsection (a-5) of Section 4 of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, under such conditions as shall be prescribed by the Board. The Department on Aging shall furnish all information reasonably necessary to determine eligibility, including updated lists of individuals who are eligible for services without charge under this Section. Nothing in this Section shall relieve the Board from providing reduced fares as may be required by federal law.

(Source: P.A. 95-708, eff. 1-18-08.)

Section 15. The Local Mass Transit District Act is amended by changing Section 8.6 as follows:

(70 ILCS 3610/8.6)

Sec. 8.6. Free services; eligibility.

(a) Notwithstanding any law to the contrary, no later than 60 days following the effective date of this amendatory Act of the 95th General Assembly and until subsection (b) is implemented, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, every District shall be provided without charge to all senior citizens of the District aged 65 and older, under such conditions as shall be prescribed by the District.

(b) Notwithstanding any law to the contrary, no later than 180 days following the effective date of this amendatory Act of the 96th General Assembly, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, every District shall be provided without charge to senior citizens aged 65 and older who meet the income eligibility limitation set forth in subsection (a-5) of Section 4 of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, under such conditions as shall be prescribed by the District. The Department on Aging shall furnish all information reasonably necessary to determine eligibility, including updated lists of individuals who are eligible for services without charge under this Section. Nothing in this Section shall relieve the District from providing reduced fares as may be required by federal law.

(Source: P.A. 95-708, eff. 1-18-08.)

Section 20. The Regional Transportation Authority Act is amended by changing Sections 3A.15 and 3B.14 as follows:

(70 ILCS 3615/3A.15)

Sec. 3A.15. Free services; eligibility.

(a) Notwithstanding any law to the contrary, no later than 60 days following the effective date of this amendatory Act of the 95th General Assembly and until subsection (b) is implemented, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, the Suburban Bus Board shall be provided without charge to all senior citizens of the Metropolitan Region aged 65 and older, under such conditions as shall be prescribed by the Suburban Bus Board.

(b) Notwithstanding any law to the contrary, no later than 180 days following the effective date of this amendatory Act of the 96th General Assembly, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, the Suburban Bus Board shall be provided without charge to senior citizens aged 65 and older who meet the income eligibility limitation set forth in subsection (a-5) of Section 4 of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, under such conditions as shall be prescribed by the Suburban Bus Board. The Department on Aging shall furnish all information reasonably necessary to determine eligibility, including updated lists of individuals who are eligible for services without charge under this Section. Nothing in this Section shall relieve the Suburban Bus Board from providing reduced fares as may be required by federal law.

(Source: P.A. 95-708, eff. 1-18-08.)

(70 ILCS 3615/3B.14)

Sec. 3B.14. Free services; eligibility.

(a) Notwithstanding any law to the contrary, no later than 60 days following the effective date of this amendatory Act of the 95th General Assembly and until subsection (b) is implemented, any fixed route

public transportation services provided by, or under grant or purchase of service contracts of, the Commuter Rail Board shall be provided without charge to all senior citizens of the Metropolitan Region aged 65 and older, under such conditions as shall be prescribed by the Commuter Rail Board.

(b) Notwithstanding any law to the contrary, no later than 180 days following the effective date of this amendatory Act of the 96th General Assembly, any fixed route public transportation services provided by, or under grant or purchase of service contracts of, the Commuter Rail Board shall be provided without charge to senior citizens aged 65 and older who meet the income eligibility limitation set forth in subsection (a-5) of Section 4 of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, under such conditions as shall be prescribed by the Commuter Rail Board. The Department on Aging shall furnish all information reasonably necessary to determine eligibility, including updated lists of individuals who are eligible for services without charge under this Section. Nothing in this Section shall relieve the Commuter Rail Board from providing reduced fares as may be required by federal law.

(Source: P.A. 95-708, eff. 1-18-08.)

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

Under the rules, the foregoing **Senate Bill No. 3778**, with House Amendment No. 1, was referred to the Secretary's Desk.

#### **JOINT ACTION MOTIONS FILED**

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendments 1, 2 and 3 to Senate Bill 1927  
Motion to Concur in House Amendment 1 to Senate Bill 3778

#### **READING BILL FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME**

**House Bill No. 1760**, sponsored by Senator Forby, was taken up, read by title a first time and referred to the Committee on Assignments.

#### **PRESENTATION OF RESOLUTION**

Senator Cullerton offered the following Senate Resolution, which was referred to the Committee on Assignments:

#### **SENATE RESOLUTION NO. 1154**

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that a Committee of 3 members of the Senate be appointed, 2 members to be appointed by the President and one member to be appointed by the Minority Leader, to: (i) approve the final Journals of the Senate of the Ninety-Sixth General Assembly where such journals have not, prior to the adjournment sine die, been approved by the body as a whole and (ii) review, correct, and thereafter approve as final all Journals, transcripts, and exhibits of the Senate of the Ninety-Sixth General Assembly sitting as an impeachment tribunal for the trial of Governor Rod R. Blagojevich, pursuant to Senate Resolution 6 of the Ninety-Sixth General Assembly.

At the hour of 3:15 o'clock p.m., the Chair announced that the Senate stand at ease.

#### **AT EASE**

At the hour of 3:28 o'clock p.m., the Senate resumed consideration of business.

[January 10, 2011]

Senator Harmon, presiding.

**REPORT FROM COMMITTEE ON ASSIGNMENTS**

Senator Clayborne, Chairperson of the Committee on Assignments, during its January 10, 2011 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committee of the Senate:

Executive: **Motion to Concur in House Amendments 1, 2 and 3 to Senate Bill 1927**  
**Motion to Concur in House Amendment 1 to Senate Bill 3778**

Senator Clayborne, Chairperson of the Committee on Assignments, during its January 10, 2011 meeting, reported the following Senate Resolution has been assigned to the indicated Standing Committee of the Senate:

Executive: **Senate Resolution No. 1154.**

**COMMITTEE MEETING ANNOUNCEMENT**

The Chair announced the Committee on Executive to meet in Room 212 at 4:35 o'clock p.m.

**POSTING NOTICE WAIVED**

Senator Cullerton moved to waive the six-day posting requirement on **Senate Resolution No. 1154** so that the resolution may be heard in the Committee on Executive that is scheduled to meet today, January 10, 2011.

The motion prevailed.

**MESSAGE FROM THE HOUSE**

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 1760

A bill for AN ACT concerning regulation.

Passed the House, January 7, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bill No. 1760** was taken up, ordered printed and placed on first reading.

**MESSAGE FROM THE PRESIDENT**

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706  
217-782-2728

January 10, 2011

[January 10, 2011]

Ms. Jillayne Rock  
Secretary of the Senate  
Room 401 State House  
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Donne Trotter to temporarily replace Senator Rickey Hendon as a member of the Senate Executive Committee. This appointment is effective immediately and will automatically expire upon adjournment of the Senate Executive Committee.

Sincerely,  
s/John J. Cullerton  
Senate President

cc: Senate Minority Leader Christine Radogno

Senator Trotter asked and obtained unanimous consent to recess for the purpose of a Democrat caucus.

Senator Syverson asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 3:33 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

#### AFTER RECESS

At the hour of 5:42 o'clock p.m., the Senate resumed consideration of business.  
Senator Harmon, presiding.

#### REPORT FROM STANDING COMMITTEE

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred **Senate Resolution No. 1154**, reported the same back with the recommendation that the resolution be adopted. Under the rules, **Senate Resolution No. 1154** was placed on the Secretary's Desk.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendments 1, 2 and 3 to Senate Bill 1927; Motion to Concur in House Amendment 1 to Senate Bill 3778

Under the rules, the foregoing motions are eligible for consideration by the Senate.

#### PRESENTATION OF RESOLUTION

##### SENATE RESOLUTION NO. 1155

Offered by Senator Link and all Senators:  
Mourns the death of George William Patterson of Waukegan.

By unanimous consent, the foregoing resolution was referred to the Resolutions Consent Calendar.

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### INTRODUCTION OF BILL

**SENATE BILL NO. 3978.** Introduced by Senator Haine, a bill for AN ACT concerning government.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

### CONSIDERATION OF RESOLUTION ON SECRETARY'S DESK

Senator Cullerton moved that **Senate Resolution No. 1154**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Cullerton moved that Senate Resolution No. 1154 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Link	Righter
Bivins	Garrett	Luechtefeld	Risinger
Bomke	Haine	Maloney	Sandack
Bond	Harmon	Martinez	Sandoval
Burzynski	Holmes	McCarter	Schoenberg
Clayborne	Hunter	Millner	Silverstein
Collins	Hutchinson	Mulroe	Steans
Crotty	Jacobs	Muñoz	Sullivan
Cultra	Johnson	Murphy	Syverson
Delgado	Jones, E.	Noland	Trotter
Demuzio	Jones, J.	Pankau	Viverito
Dillard	Koehler	Radogno	Wilhelmi
Duffy	Kotowski	Raoul	Mr. President
Forby	Lightford	Rezin	

The motion prevailed.

And the resolution was adopted.

Senator Meeks asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **Senate Resolution No. 1154**.

### CONSIDERATION OF HOUSE AMENDMENT TO SENATE BILL ON SECRETARY'S DESK

On motion of Senator Trotter, **Senate Bill No. 3778**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Trotter moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 54; NAYS 2.

The following voted in the affirmative:

Althoff	Frerichs	Link	Rezin
Bivins	Garrett	Luechtefeld	Righter
Bomke	Haine	Maloney	Risinger
Bond	Harmon	Martinez	Sandoval

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Burzynski	Holmes	McCarter	Schoenberg
Clayborne	Hunter	Meeks	Steans
Collins	Hutchinson	Millner	Sullivan
Crotty	Johnson	Mulroe	Syverson
Cultra	Jones, E.	Muñoz	Trotter
Delgado	Jones, J.	Murphy	Viverito
Demuzio	Koehler	Noland	Wilhelmi
Dillard	Kotowski	Pankau	Mr. President
Duffy	Lauzen	Radogno	
Forby	Lightford	Raoul	

The following voted in the negative:

Sandack  
Silverstein

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 3778**.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Sandack asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **Senate Bill No. 3778**.

At the hour of 5:56 o'clock p.m., the Chair announced that the Senate stand at ease.

#### AT EASE

At the hour of 6:03 o'clock p.m., the Senate resumed consideration of business.  
Senator Harmon, presiding.

#### REPORT FROM COMMITTEE ON ASSIGNMENT

Senator Clayborne, Chairperson of the Committee on Assignments, during its January 10, 2011 meeting, reported the following Joint Action Motion has been assigned to the indicated Standing Committee of the Senate:

Judiciary: **Motion to Concur in House Amendment 1 to Senate Bill 3539**

#### COMMITTEE MEETING ANNOUNCEMENT

The Chair announced the Committee on Judiciary to meet in Room 400 at 8:00 o'clock a.m., Tuesday, May 11, 2011.

#### PRESENTATION OF RESOLUTION

##### SENATE RESOLUTION NO. 1156

Offered by Senator Muñoz and all Senators:

Mourns the death of Robert L. Myers, Sr., of Springfield.

By unanimous consent, the foregoing resolution was referred to the Resolutions Consent Calendar.

At the hour of 6:07 o'clock p.m., the Chair announced that the Senate stand adjourned until Tuesday, January 11, 2011, at 10:00 o'clock a.m.

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