

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 420 be amended to read as follows:

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 2 "SECTION 1. IC 5-28-2-6 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2009]: **Sec. 6. For purposes of IC 5-28-17, "small business"**
- 5 **means a business entity that satisfies the following requirements:**
- 6 **(1) On at least fifty percent (50%) of the working days of the**
- 7 **business entity occurring during the preceding calendar year,**
- 8 **the business entity employed at least two (2) but not more**
- 9 **than one hundred (100) employees.**
- 10 **(2) The majority of the employees of the business entity work**
- 11 **in Indiana.**
- 12 SECTION 2. IC 5-28-5-6.5 IS ADDED TO THE INDIANA CODE
- 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 14 1, 2009]: **Sec. 6.5. The board, in consultation with the office of**
- 15 **energy and defense development, shall establish the office of small**
- 16 **business energy advancement to carry out the corporation's duties**
- 17 **under IC 5-28-17. The office of energy and defense development**
- 18 **shall provide staff support to the office of small business energy**
- 19 **advancement.**
- 20 SECTION 3. IC 5-28-17-1, AS ADDED BY P.L.4-2005, SECTION
- 21 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 22 2009]: **Sec. 1. (a) The corporation shall do the following to carry out**
- 23 **this chapter:**
- 24 **(1) Contribute to the strengthening of the economy of Indiana by**

- 1 encouraging the organization and development of new business
 2 enterprises, including technologically oriented enterprises.
- 3 (2) Submit an annual report to the governor and to the general
 4 assembly not later than November 1 of each year. The annual
 5 report must:
- 6 (A) include detailed information on the structure, operation,
 7 and financial status of the corporation; and
- 8 (B) be in an electronic format under IC 5-14-6.
- 9 The board shall conduct an annual public hearing to receive
 10 comment from interested parties regarding the annual report, and
 11 notice of the hearing shall be given at least fourteen (14) days
 12 before the hearing in accordance with IC 5-14-1.5-5(b).
- 13 (3) Approve and administer loans from the microenterprise
 14 partnership program fund established by IC 5-28-18.
- 15 (4) Conduct activities for nontraditional entrepreneurs under
 16 IC 5-28-18.
- 17 (5) Establish and administer the small and minority business
 18 financial assistance program under IC 5-28-20.
- 19 (6) Establish and administer the microenterprise partnership
 20 program under IC 5-28-19.
- 21 **(7) Assist small businesses in obtaining state and federal**
 22 **energy tax incentives.**
- 23 **(8) Establish a statewide network of public, private, and**
 24 **educational resources to inform small businesses of the state**
 25 **and federal programs under which they may obtain financial**
 26 **assistance or realize reduced costs.**
- 27 (b) The corporation may do the following to carry out this chapter:
- 28 (1) Receive money from any source, enter into contracts, and
 29 expend money for any activities appropriate to its purpose.
- 30 (2) Do all other things necessary or incidental to carrying out the
 31 corporation's functions under this chapter.
- 32 (3) Establish programs to identify entrepreneurs with marketable
 33 ideas and to support the organization and development of new
 34 business enterprises, including technologically oriented
 35 enterprises.
- 36 (4) Conduct conferences and seminars to provide entrepreneurs
 37 with access to individuals and organizations with specialized
 38 expertise.
- 39 (5) Establish a statewide network of public, private, and
 40 educational resources to assist the organization and development
 41 of new enterprises.
- 42 (6) Operate a small business assistance center to provide small
 43 businesses, including minority owned businesses and businesses
 44 owned by women, with access to managerial and technical
 45 expertise and to provide assistance in resolving problems
 46 encountered by small businesses.

- 1 (7) Cooperate with public and private entities, including the
 2 Indiana Small Business Development Center Network and the
 3 federal government marketing program, in exercising the powers
 4 listed in this subsection.
- 5 (8) Establish and administer the small and minority business
 6 financial assistance program under IC 5-28-20.
- 7 (9) Approve and administer loans from the microenterprise
 8 partnership program fund established by IC 5-28-18.
- 9 (10) Coordinate state funded programs that assist the organization
 10 and development of new enterprises.
- 11 **(11) Consult and cooperate with the office of energy and**
 12 **defense development in the establishment of the office of small**
 13 **business energy advancement under IC 5-28-5-6.5.**

14 SECTION 4. IC 5-28-17-3 IS ADDED TO THE INDIANA CODE
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 16 1, 2009]: **Sec. 3. The office of small business energy advancement**
 17 **established under IC 5-28-5-6.5 shall provide free access to the**
 18 **office's services through:**

- 19 (1) a toll free telephone number; and
 20 (2) an Internet web page maintained on the web site of the
 21 office of energy and defense development.

22 SECTION 5. IC 6-3.1-33 IS ADDED TO THE INDIANA CODE
 23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 24 JANUARY 1, 2010]:

25 **Chapter 33. Renewable Energy Technology Manufacturer Tax**
 26 **Credit**

27 **Sec. 1. This chapter applies only to taxable years beginning after**
 28 **December 31, 2010.**

29 **Sec. 2. As used in this chapter, "corporation" refers to the**
 30 **Indiana economic development corporation established by**
 31 **IC 5-28-3-1.**

32 **Sec. 3. As used in this chapter, "director" has the meaning set**
 33 **forth in IC 6-3.1-13-3.**

34 **Sec. 4. As used in this chapter, "highly compensated employee"**
 35 **has the meaning set forth in Section 414(q) of the Internal Revenue**
 36 **Code.**

37 **Sec. 5. As used in this chapter, "new employee" has the meaning**
 38 **set forth in IC 6-3.1-13-6.**

39 **Sec. 6. As used in this chapter, "qualified investment" means the**
 40 **amount of a taxpayer's expenditures in Indiana that are reasonable**
 41 **and necessary for the manufacture or assembly of renewable**
 42 **energy technology.**

43 **Sec. 7. As used in this chapter, "renewable energy technology"**
 44 **means the following:**

- 45 (1) Solar panels that convert sunlight into electricity.
 46 (2) Solar technologies that use optical techniques to generate
 47 heat to power turbines or heat engines for the production of

- 1 electricity.
- 2 (3) Wind turbines that convert wind energy into electricity.
- 3 (4) Electrochemical devices, known as fuel cells, that combine
- 4 hydrogen and oxygen to produce electricity.
- 5 (5) Anaerobic digestion systems in which organic waste is
- 6 composted to produce gases that are burned as fuel to
- 7 produce electricity.
- 8 (6) Geothermal energy systems, including geothermal systems
- 9 for:
- 10 (A) the generation of electricity; or
- 11 (B) heating and cooling.
- 12 **Sec. 8. As used in this chapter, "state tax liability" means a**
- 13 **taxpayer's total tax liability that is incurred under:**
- 14 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- 15 (2) IC 6-5.5 (the financial institutions tax); and
- 16 (3) IC 27-1-18-2 (the insurance premiums tax);
- 17 **as computed after the application of the credits that under**
- 18 **IC 6-3.1-1-2 are to be applied before the credit provided by this**
- 19 **chapter.**
- 20 **Sec. 9. As used in this chapter, "taxpayer" means an individual,**
- 21 **a corporation, a partnership, or another entity that has state tax**
- 22 **liability.**
- 23 **Sec. 10. The corporation may make credit awards under this**
- 24 **chapter to:**
- 25 (1) foster job creation and higher wages;
- 26 (2) reduce dependency upon energy sources imported into the
- 27 United States; and
- 28 (3) reduce air pollution;
- 29 **as the result of the manufacture or assembly of renewable energy**
- 30 **technology in Indiana.**
- 31 **Sec. 11. Each taxable year, a taxpayer that:**
- 32 (1) is awarded a tax credit under this chapter by the
- 33 corporation; and
- 34 (2) complies with the conditions set forth in this chapter and
- 35 the agreement entered into by the corporation and the
- 36 taxpayer under this chapter;
- 37 **is entitled to a credit against the taxpayer's state tax liability for**
- 38 **the taxable year.**
- 39 **Sec. 12. The amount of the tax credit provided by this chapter**
- 40 **for a taxable year is an amount equal to:**
- 41 (1) a percentage determined by the corporation, not to exceed
- 42 fifteen percent (15%); multiplied by
- 43 (2) the amount of the qualified investment made by the
- 44 taxpayer in Indiana during the taxable year.
- 45 **Sec. 13. (a) A taxpayer may carry forward an unused credit for**
- 46 **the number of years determined by the corporation, not to exceed**
- 47 **nine (9) consecutive taxable years, beginning with the taxable year**

1 immediately following the taxable year in which the taxpayer
2 makes the qualified investment.

3 (b) The amount that a taxpayer may carry forward to a
4 particular taxable year under this section equals the unused part
5 of a credit allowed under this chapter.

6 (c) A taxpayer may:

7 (1) claim a tax credit under this chapter for a qualified
8 investment; and

9 (2) carry forward a remainder for one (1) or more different
10 qualified investments;

11 in the same taxable year.

12 (d) The total amount of each tax credit claimed under this
13 chapter may not exceed fifteen percent (15%) of the qualified
14 investment for which the tax credit is claimed.

15 (e) A taxpayer may not carry back an unused credit provided by
16 this chapter to a taxable year before the taxable year in which the
17 taxpayer makes the qualified investment. A taxpayer may not
18 claim a refund for an unused credit provided by this chapter.

19 Sec. 14. A person that proposes a project to manufacture or
20 assemble renewable energy technology that would create new jobs,
21 increase wage levels, or involve substantial capital investment in
22 Indiana may apply to the corporation before the taxpayer makes
23 the qualified investment to enter into an agreement for a tax credit
24 under this chapter. The corporation shall prescribe the form of the
25 application.

26 Sec. 15. After receipt of an application, the corporation may
27 enter into an agreement with the applicant for a credit under this
28 chapter if the corporation determines that all the following
29 conditions exist:

30 (1) The applicant's project will raise the total earnings of
31 employees of the applicant in Indiana.

32 (2) The applicant's project is economically sound and will
33 benefit the people of Indiana by increasing opportunities for
34 employment and strengthening the economy of Indiana.

35 (3) The manufacture or assembly of renewable energy
36 technology by the applicant will reduce air pollution.

37 (4) The manufacture or assembly of renewable energy
38 technology by the applicant will reduce dependence by the
39 United States on foreign energy sources.

40 (5) Receiving the tax credit is a major factor in the applicant's
41 decision to go forward with the project.

42 (6) Awarding the tax credit will result in an overall positive
43 fiscal impact to the state, as certified by the budget agency
44 using the best available data.

45 (7) The credit is not prohibited by section 16 of this chapter.

46 (8) The average wage that will be paid by the taxpayer to the
47 applicant's employees (excluding highly compensated

1 employees) at the location after the credit is given will be at
2 least equal to one hundred fifty percent (150%) of the hourly
3 minimum wage under IC 22-2-2-4 or its equivalent.

4 **Sec. 16.** A person is not entitled to claim the credit provided by
5 this chapter for any jobs that the person relocates from one (1) site
6 in Indiana to another site in Indiana. Determinations under this
7 section shall be made by the corporation.

8 **Sec. 17.** The corporation shall certify the amount of the qualified
9 investment that is eligible for a credit under this chapter. In
10 determining the credit amount that should be awarded, the
11 corporation shall grant a credit only for the amount of the
12 qualified investment that is directly related to expanding:

- 13 (1) the workforce in Indiana; or
14 (2) the capital investment in Indiana.

15 **Sec. 18.** The corporation shall enter into an agreement with an
16 applicant that is awarded a credit under this chapter. The
17 agreement must include all the following:

- 18 (1) A detailed description of the project that is the subject of
19 the agreement.
20 (2) The first taxable year for which the credit may be claimed.
21 (3) The amount of the taxpayer's state tax liability for each
22 tax in the taxable year of the taxpayer that immediately
23 preceded the first taxable year in which the credit may be
24 claimed.
25 (4) The maximum tax credit amount that will be allowed for
26 each taxable year.
27 (5) A requirement that the taxpayer shall maintain operations
28 at the project location for at least ten (10) years during the
29 term that the tax credit is available.
30 (6) A specific method for determining the number of new
31 employees employed during a taxable year who are
32 performing jobs not previously performed by an employee.
33 (7) A requirement that the taxpayer shall annually report to
34 the corporation the number of new employees who are
35 performing jobs not previously performed by an employee,
36 the average wage of the new employees, the average wage of
37 all employees at the location where the qualified investment
38 is made, and any other information the director needs to
39 perform the director's duties under this chapter.
40 (8) A requirement that the director is authorized to verify
41 with the appropriate state agencies the amounts reported
42 under subdivision (7), and that after doing so shall issue a
43 certificate to the taxpayer stating that the amounts have been
44 verified.
45 (9) A requirement that the taxpayer shall pay an average
46 wage to all its employees other than highly compensated
47 employees in each taxable year that a tax credit is available

1 that equals at least one hundred fifty percent (150%) of the
2 hourly minimum wage under IC 22-2-2-4 or its equivalent.

3 (10) A requirement that the taxpayer will keep the qualified
4 investment property that is the basis for the tax credit in
5 Indiana for at least the lesser of:

6 (A) the useful life of the qualified investment for federal
7 income tax purposes; or

8 (B) ten (10) years.

9 (11) A requirement that the taxpayer will maintain at the
10 location where the qualified investment is made during the
11 term of the tax credit a total payroll that is at least equal to
12 the payroll level that existed before the qualified investment
13 was made.

14 (12) A requirement that the taxpayer shall provide written
15 notification to the director and the corporation not more than
16 thirty (30) days after the taxpayer makes or receives a
17 proposal that would transfer the taxpayer's state tax liability
18 obligations to a successor taxpayer.

19 (13) Any other performance conditions that the corporation
20 determines are appropriate.

21 **Sec. 19.** A taxpayer claiming a credit under this chapter shall
22 submit to the department of state revenue a copy of the director's
23 certificate of verification under this chapter for the taxable year.
24 However, failure to submit a copy of the certificate does not
25 invalidate a claim for a credit.

26 **Sec. 20.** If the director determines that a taxpayer who has
27 received a credit under this chapter is not complying with the
28 requirements of the tax credit agreement or all the provisions of
29 this chapter, the director shall, after giving the taxpayer an
30 opportunity to explain the noncompliance, notify the Indiana
31 economic development corporation and the department of state
32 revenue of the noncompliance and request an assessment. The
33 department of state revenue, with the assistance of the director,
34 shall state the amount of the assessment, which may not exceed the
35 sum of any previously allowed credits under this chapter. After
36 receiving the notice, the department of state revenue shall make an
37 assessment against the taxpayer under IC 6-8.1.

38 **Sec. 21.** On or before March 31 each year, the director shall
39 submit a report to the corporation on the tax credit program
40 established by this chapter. The report must include information
41 on the number of agreements that were entered into under this
42 chapter during the preceding calendar year, a description of the
43 project that is the subject of each agreement, an update on the
44 status of projects under agreements entered into before the
45 preceding calendar year, and the sum of the credits awarded under
46 this chapter. A copy of the report shall be transmitted in an
47 electronic format under IC 5-14-6 to the executive director of the

1 legislative services agency for distribution to the members of the
2 general assembly.

3 **Sec. 22.** On a biennial basis, the corporation shall provide for an
4 evaluation of the tax credit program established by this chapter.
5 The evaluation must include an assessment of the effectiveness of
6 the program in creating new jobs and increasing wages in Indiana
7 and of the revenue impact of the program and may include a
8 review of the practices and experiences of other states with similar
9 programs. The director shall submit a report on the evaluation to
10 the governor, the president pro tempore of the senate, and the
11 speaker of the house of representatives after June 30 and before
12 November 1 in each odd-numbered year. The report provided to
13 the president pro tempore of the senate and the speaker of the
14 house of representatives must be in an electronic format under
15 IC 5-14-6.

16 **Sec. 23.** Notwithstanding the other provisions of this chapter,
17 the corporation may not approve a credit for a qualified
18 investment made after December 31, 2012. However, this section
19 may not be construed to prevent a taxpayer from carrying an
20 unused tax credit attributable to a qualified investment made
21 before January 1, 2013, forward to a taxable year beginning after
22 December 31, 2012, in the manner provided by section 13 of this
23 chapter.

24 SECTION 6. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE
25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
26 JANUARY 1, 2010]:

27 **Chapter 34. Business Renewable Energy Investment Tax Credit**

28 **Sec. 1.** This chapter applies only to taxable years beginning after
29 December 31, 2010.

30 **Sec. 2.** As used in this chapter, "business entity" means:

- 31 (1) an individual engaged in a trade or business;
- 32 (2) a partnership;
- 33 (3) a limited liability company;
- 34 (4) a limited liability partnership; or
- 35 (5) a corporation.

36 **Sec. 3.** As used in this chapter, "IEDC" refers to the Indiana
37 economic development corporation established by IC 5-28-3-1.

38 **Sec. 4.** As used in this chapter, "pass through entity" means:

- 39 (1) a corporation that is exempt from the adjusted gross
40 income tax under IC 6-3-2-2.8(2);
- 41 (2) a partnership;
- 42 (3) a trust;
- 43 (4) a limited liability company; or
- 44 (5) a limited liability partnership.

45 **Sec. 5.** As used in this chapter, "qualified capital investment"
46 means an expenditure for depreciable property that conforms to
47 the terms and conditions of a credit award by the IEDC under this

1 chapter. The term does not include an expenditure for inventory.

2 Sec. 6. As used in this chapter, "renewable or alternative energy
3 technology" means the following:

- 4 (1) Solar panels that convert sunlight into electricity.
5 (2) Solar technologies that use optical techniques to generate
6 heat to power turbines or heat engines for the production of
7 electricity.
8 (3) Wind turbines that convert wind energy into electricity.
9 (4) Electrochemical devices, known as fuel cells, that combine
10 hydrogen and oxygen to produce electricity.
11 (5) Anaerobic digestion systems in which organic waste is
12 composted to produce gases that are burned as fuel to
13 produce electricity.
14 (6) Geothermal energy systems, including geothermal systems
15 for:
16 (A) the generation of electricity; or
17 (B) heating and cooling.
18 (7) Commercial building technologies that contribute to
19 certification under any of the following standards or rating
20 systems:
21 (A) Green Globes.
22 (B) Leadership in Energy and Environmental Design
23 (LEED).
24 (C) An American National Standards Institute (ANSI)
25 green building standard.

26 Sec. 7. As used in this chapter, "state tax liability" means a
27 taxpayer's total tax liability that is incurred under:

- 28 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
29 (2) IC 27-1-18-2 (the insurance premiums tax); and
30 (3) IC 6-5.5 (the financial institutions tax);

31 as computed after the application of the credits that under
32 IC 6-3.1-1-2 are to be applied before the credit provided by this
33 chapter.

34 Sec. 8. Each taxable year beginning after December 31, 2010, a
35 business entity that meets the terms of a credit award agreement
36 entered into under section 14 of this chapter is entitled to a credit
37 against the business entity's state tax liability for amounts that the
38 business entity expends during the taxable year for a qualified
39 capital investment in renewable or alternative energy technology.
40 The amount of the credit is:

- 41 (1) the percentage awarded to the business entity by the
42 IEDC, not to exceed ten percent (10%); multiplied by
43 (2) the amount of the business entity's qualified capital
44 investment in renewable or alternative energy technology for
45 the taxable year.

46 Sec. 9. (a) A taxpayer may carry forward an unused credit
47 provided by this chapter for the number of years determined by

1 the IEDC, not to exceed nine (9) consecutive taxable years,
2 beginning with the taxable year after the taxable year in which the
3 taxpayer makes the qualified capital investment.

4 (b) The amount that a taxpayer may carry forward to a
5 particular taxable year under this section equals the unused part
6 of a credit allowed under this chapter.

7 (c) A taxpayer may:

8 (1) claim a tax credit under this chapter for a qualified capital
9 investment; and

10 (2) carry forward a remainder for one (1) or more different
11 qualified capital investments;

12 in the same taxable year.

13 (d) A taxpayer may not carry back an unused credit provided
14 by this chapter to a taxable year before the taxable year in which
15 the taxpayer makes the qualified capital investment. A taxpayer
16 may not claim a refund for an unused credit provided by this
17 chapter.

18 **Sec. 10. If a pass through entity does not have state tax liability**
19 **against which the tax credit provided by this chapter may be**
20 **applied, a shareholder or partner of the pass through entity is**
21 **entitled to a tax credit equal to:**

22 (1) the amount of the tax credit determined for the pass
23 through entity for the taxable year; multiplied by

24 (2) the percentage of the pass through entity's distributive
25 income to which the shareholder or partner is entitled.

26 **Sec. 11. The IEDC may approve credit awards under this**
27 **chapter to encourage business entities to make capital investments**
28 **in renewable or alternative energy technology in Indiana.**

29 **Sec. 12. A business entity may apply to the IEDC for a credit**
30 **award under this chapter for a proposed capital investment in**
31 **renewable or alternative energy technology in Indiana. The IEDC**
32 **shall prescribe the form of the application.**

33 **Sec. 13. (a) The IEDC may not make a credit award under this**
34 **chapter unless the proposed capital investment in renewable or**
35 **alternative energy technology conforms with the following**
36 **requirements:**

37 (1) The proposed capital investment is located in Indiana.

38 (2) The proposed capital investment consists of depreciable
39 property that implements a renewable or alternative energy
40 technology.

41 (b) The IEDC may make a credit award under this chapter only
42 for proposed capital investments in renewable or alternative
43 energy technology. The IEDC may not make credit awards under
44 this chapter for investments in renewable or alternative energy
45 technology that are accomplished before the date on which the
46 business entity's application is submitted to the IEDC. If an
47 investment in renewable or alternative energy technology is

1 partially completed before the date on which the business entity's
2 application is submitted to the IEDC, the IEDC may make a credit
3 award for the part of the investment that occurs on or after the
4 date on which the business entity's application is submitted to the
5 IEDC.

6 Sec. 14. (a) After receipt of an application, the IEDC shall
7 review the application to determine whether the requirements of
8 section 13 of this chapter are met. If the IEDC determines that the
9 proposed capital investment in renewable or alternative energy
10 technology is not eligible for a credit award, the IEDC promptly
11 shall issue a letter notifying the applicant that the application is
12 denied.

13 (b) If the IEDC determines that a proposed capital investment
14 in renewable or alternative energy technology is eligible for a
15 credit award, the IEDC promptly shall prepare a credit award
16 agreement that specifies the terms of the credit award. The credit
17 award agreement must contain the following provisions:

18 (1) An award of the credit percentage to be applied under
19 section 8 of this chapter.

20 (2) A provision that requires the applicant business entity to
21 remain for ten (10) years at the location where the renewable
22 or alternative energy technology is installed.

23 (3) Any other reasonable provision that the IEDC determines
24 is advisable.

25 After the IEDC has prepared the credit award agreement, the
26 IEDC promptly shall send a letter of notification along with the
27 credit award agreement to the applicant business entity.

28 (c) A business entity is not eligible for the credit provided by this
29 chapter unless the business entity enters into a credit award
30 agreement with the IEDC.

31 Sec. 15. The department may require a taxpayer claiming a
32 credit under this chapter to submit supporting documentation with
33 the taxpayer's return.

34 Sec. 16. If the IEDC suspects that a taxpayer who has received
35 a credit under this chapter is not complying with the requirements
36 of the taxpayer's credit award agreement or this chapter, the IEDC
37 shall give the taxpayer an opportunity to explain the
38 noncompliance. If the IEDC determines that the taxpayer is not
39 complying with the requirements of the credit award agreement or
40 this chapter, the IEDC shall notify the department of the
41 noncompliance and request an assessment. The department, with
42 the assistance of the IEDC, shall determine the amount of the
43 assessment, which may not exceed the sum of any previously
44 allowed credits under this chapter, and shall make an assessment
45 against the taxpayer under IC 6-8.1.

46 Sec. 17. Notwithstanding the other provisions of this chapter,
47 the IEDC may not approve an application for a credit award under

1 this chapter after December 31, 2012. However, this section does
 2 not prevent a taxpayer from carrying forward an unused tax credit
 3 attributable to a qualified capital investment made before January
 4 1, 2013, to a taxable year beginning after December 31, 2012, in the
 5 manner provided by section 9 of this chapter.

6 SECTION 7. IC 8-1-2-23.1 IS ADDED TO THE INDIANA CODE
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 8 1, 2009]: Sec. 23.1. (a) This section applies to a public utility that
 9 complies with the schedule set forth in IC 8-1-37-5(b).

10 (b) For purposes of section 23 of this chapter, the construction,
 11 addition, extension, or improvement of a public utility's plant or
 12 equipment to provide electric or gas service to a customer that
 13 produces biodiesel, ethanol, or any other biofuel is in fact used and
 14 useful in the public service.

15 (c) This subsection applies to a public utility's general rate
 16 proceeding that immediately follows the public utility's investment
 17 in a construction, an addition, an extension, or an improvement
 18 described in subsection (b). A public utility may accrue for
 19 recovery in the rate proceeding depreciation and a return, not to
 20 exceed a total of fifty million dollars (\$50,000,000), on the public
 21 utility's investment at the rate of return authorized by the
 22 commission in the public utility's general rate proceeding
 23 immediately preceding the investment. The accrual of a return by
 24 a public utility under this subsection:

25 (1) begins on the date the public utility initially records the
 26 investment in the public utility's books or records, as
 27 determined by the commission; and

28 (2) ends on the earlier of the following dates:

29 (A) The date on which the public utility accrues the full
 30 return determined under this subsection.

31 (B) The date rates are placed in effect after a general rate
 32 proceeding that recognizes an investment by a public
 33 utility in the public utility's rate base.

34 (d) Notwithstanding subsection (c), the commission shall revoke
 35 a cost recovery approved under this chapter for an electricity
 36 supplier that the commission determines has:

37 (1) elected to; and

38 (2) failed to;

39 comply with the schedule set forth in IC 8-1-37-5(b).

40 (e) This section expires December 31, 2020, unless reauthorized
 41 by the general assembly before December 31, 2020. However, a
 42 return accrued under this section before January 1, 2021, expires
 43 on the appropriate date determined under subsection (c)(2) even if
 44 the expiration date occurs after December 31, 2020.

45 SECTION 8. IC 8-1-8.4 IS ADDED TO THE INDIANA CODE AS
 46 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 47 PASSAGE]:

1 **Chapter 8.4. Electric Line Facilities Projects**

2 **Sec. 1. As used in this chapter, "commission" refers to the**
3 **Indiana utility regulatory commission created by IC 8-1-1-2.**

4 **Sec. 2. As used in this chapter, "electric line facilities" means**
5 **the following:**

6 **(1) Overhead or underground electric transmission lines.**

7 **(2) Overhead or underground electric distribution lines.**

8 **(3) Electric substations.**

9 **Sec. 3. As used in this chapter, "electric line facilities project"**
10 **means an addition to or the construction, operation, maintenance,**
11 **reconstruction, relocation, upgrading, or removal of electric line**
12 **facilities.**

13 **Sec. 4. As used in this chapter, "electricity supplier" means a**
14 **public utility that furnishes retail electric service to the public.**

15 **Sec. 5. As used in this chapter, "public utility" has the meaning**
16 **set forth in IC 8-1-2-1.**

17 **Sec. 6. As used in this chapter, "regional transmission**
18 **organization" refers to the regional transmission organization**
19 **approved by the Federal Energy Regulatory Commission for the**
20 **control area in which an electricity supplier operates electric line**
21 **facilities.**

22 **Sec. 7. As used in this chapter, "renewable energy resources"**
23 **has the meaning set forth in IC 8-1-37-4.**

24 **Sec. 8. This chapter applies to an electricity supplier that**
25 **complies with the schedule set forth in IC 8-1-37-5(b).**

26 **Sec. 9. (a) The commission shall encourage electric line facilities**
27 **projects by creating the following financial incentives for electric**
28 **line facilities that are reasonable and necessary:**

29 **(1) The timely recovery of costs, by means of a periodic rate**
30 **adjustment mechanism, incurred by an electricity supplier in**
31 **connection with an electric line facilities project that**
32 **transmits or distributes electricity generated from renewable**
33 **energy resources.**

34 **(2) The timely recovery of costs, by means of a periodic rate**
35 **adjustment mechanism, incurred by an electricity supplier**
36 **taking service under a tariff of, or being assessed costs by, the:**

37 **(A) regional transmission organization; or**

38 **(B) Federal Energy Regulatory Commission.**

39 **(b) The commission shall determine a reasonable schedule**
40 **under which an electricity supplier may recover costs under this**
41 **section. In making a determination under this subsection, the**
42 **commission shall consider the impact of the cost recovery on**
43 **ratepayers of the electricity supplier.**

44 **Sec. 10. (a) Subject to subsection (h), an electricity supplier must**
45 **submit an application to the commission for approval of an electric**
46 **line facilities project for which the electricity supplier seeks to**
47 **receive a financial incentive created under section 9 of this chapter.**

1 **(b) The commission shall prescribe the form for an application**
 2 **submitted under this section.**

3 **(c) Upon receipt of an application under subsection (a), the**
 4 **commission shall review the application for completeness. The**
 5 **commission may request additional information from an applicant**
 6 **as needed. The commission may not review an application**
 7 **submitted after December 31, 2020, unless authorized to do so by**
 8 **the general assembly before January 1, 2021.**

9 **(d) The commission, after notice and hearing, shall issue a**
 10 **determination of an electric line facilities project's eligibility for**
 11 **the financial incentives described in section 9 of this chapter not**
 12 **later than one hundred eighty (180) days after the date of the**
 13 **application. A determination under this subsection must include a**
 14 **finding that the applicant electricity supplier is in compliance with**
 15 **the schedule set forth in IC 8-1-37-5(b).**

16 **(e) Subject to subsections (g) and (h), the commission shall**
 17 **approve an application by an electricity supplier for an electric line**
 18 **facilities project that is reasonable and necessary. An electric line**
 19 **facilities project is presumed to be reasonable and necessary if the**
 20 **electric line facilities project:**

21 **(1) is consistent with, or part of, a plan developed by the:**

22 **(A) regional transmission organization; or**

23 **(B) Federal Energy Regulatory Commission; or**

24 **(2) transmits or distributes electricity generated from**
 25 **renewable energy resources.**

26 **However, an electricity supplier may seek approval from the**
 27 **commission at the electricity supplier's next general rate**
 28 **proceeding to include in the electricity supplier's basic rates the**
 29 **recoverable costs sought in an application approved under this**
 30 **subsection.**

31 **(f) This section does not relieve an electricity supplier of the**
 32 **duty to obtain any certificate required under IC 8-1-8.5 or**
 33 **IC 8-1-8.7.**

34 **(g) The commission shall not approve a financial incentive for**
 35 **that part of an electric line facilities project that exceeds the lesser**
 36 **of:**

37 **(1) seven percent (7%) of the electricity supplier's rate base**
 38 **approved by the commission in the electricity supplier's most**
 39 **recent general rate proceeding; or**

40 **(2) one hundred fifty million dollars (\$150,000,000).**

41 **(h) The commission may not approve a financial incentive under**
 42 **section 9 of this chapter for a particular electricity supplier if the**
 43 **commission has approved a financial incentive under section 9 of**
 44 **this chapter in the preceding twelve (12) months for that electricity**
 45 **supplier, unless the commission determines that approving a**
 46 **particular financial incentive for an electricity supplier on a more**
 47 **timely basis will benefit the electricity supplier's ratepayers.**

1 (i) **A financial incentive that the commission approves before**
 2 **January 1, 2021, or that an electricity supplier applies for before**
 3 **January 1, 2021, and that is subsequently approved, expires on the**
 4 **earlier of the following dates:**

5 (1) **The date on which the electricity supplier accrues the full**
 6 **recovery amount authorized by the commission.**

7 (2) **The date specified by the commission in its approval of the**
 8 **financial incentive.**

9 **Sec. 11. The commission shall revoke all financial incentives**
 10 **approved under this chapter for an electricity supplier that the**
 11 **commission determines has:**

12 (1) **elected to; and**

13 (2) **failed to;**

14 **comply with the schedule set forth in IC 8-1-37-5(b).**

15 SECTION 9. IC 8-1-8.8-2, AS AMENDED BY P.L.175-2007,
 16 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2009]: Sec. 2. As used in this chapter, "clean coal and energy
 18 projects" means any of the following:

19 (1) Any of the following projects:

20 (A) Projects at new energy production or generating facilities
 21 that employ the use of clean coal technology and that produce
 22 energy, including substitute natural gas, primarily from coal,
 23 or gases derived from coal, from the geological formation
 24 known as the Illinois Basin.

25 (B) Projects to provide advanced technologies that reduce
 26 regulated air emissions from existing energy production or
 27 generating plants that are fueled primarily by coal or gases
 28 from coal from the geological formation known as the Illinois
 29 Basin, such as flue gas desulfurization and selective catalytic
 30 reduction equipment.

31 (C) Projects to provide electric transmission facilities to serve
 32 a new energy production or generating facility **or a low**
 33 **carbon dioxide emitting or noncarbon dioxide emitting**
 34 **energy production or generating facility.**

35 (D) Projects that produce substitute natural gas from Indiana
 36 coal by construction and operation of a coal gasification
 37 facility.

38 (E) **Projects or potential projects that employ the use of**
 39 **low carbon dioxide emitting or noncarbon dioxide emitting**
 40 **energy production or generating technologies to produce**
 41 **electricity.**

42 (2) Projects to develop alternative energy sources, including
 43 renewable energy projects ~~and~~ **or** coal gasification facilities.

44 (3) The purchase of fuels **or energy** produced by a coal
 45 gasification facility **or by a low carbon dioxide emitting or**
 46 **noncarbon dioxide emitting energy production or generating**

1 **facility.**
 2 (4) Projects described in subdivisions (1) through ~~(3)~~ (2) that use
 3 coal bed methane.

4 SECTION 10. IC 8-1-8.8-6, AS AMENDED BY P.L.175-2007,
 5 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2009]: Sec. 6. As used in this chapter, "eligible business"
 7 means an energy utility (as defined in IC 8-1-2.5-2) or owner of a coal
 8 gasification facility that:

- 9 (1) proposes to construct or repower a new energy production or
 10 generating facility;
 11 (2) proposes to construct or repower a project described in section
 12 2(1) or 2(2) of this chapter;
 13 (3) undertakes a project to develop alternative energy sources,
 14 including renewable energy projects or **coal gasification**
 15 **facilities; or**
 16 (4) purchases fuels **or energy** produced by a coal gasification
 17 facility **or by a low carbon dioxide emitting or noncarbon**
 18 **dioxide emitting energy production or generating facility.**

19 SECTION 11. IC 8-1-8.8-7.5 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2009]: **Sec. 7.5. (a) As used in this chapter,**
 22 **"low carbon dioxide emitting or noncarbon dioxide emitting**
 23 **energy production or generating facility" means an energy**
 24 **production or generation facility, including transmission lines and**
 25 **equipment described in subsection (b), that is:**

- 26 (1) **installed or constructed at the site of a facility that supplies**
 27 **electricity to Indiana retail customers as of July 1, 2009; and**
 28 (2) **intended to produce:**
 29 (A) **no carbon dioxide as a byproduct of the production or**
 30 **generation of energy; or**
 31 (B) **less carbon dioxide per megawatt hour of electricity**
 32 **generated than is produced per megawatt hour of**
 33 **electricity generated by a coal fired or other fossil fuel**
 34 **based energy production or generating facility.**
 35 (b) **The term includes the transmission lines and other**
 36 **associated equipment employed specifically to serve a low carbon**
 37 **dioxide emitting or noncarbon dioxide emitting energy production**
 38 **or generating facility.**

39 SECTION 12. IC 8-1-8.8-8, AS AMENDED BY P.L.175-2007,
 40 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2009]: Sec. 8. (a) As used in this chapter, "new energy
 42 **production or generating facility" refers to a generation or coal**
 43 **gasification facility that satisfies all of the following:**

- 44 (1) The facility produces energy primarily from coal or gases from
 45 coal from the geological formation known as the Illinois Basin.
 46 (2) The facility is a:

- 1 (A) newly constructed or newly repowered energy ~~generation~~
- 2 plant; or
- 3 (B) newly constructed ~~generation~~ capacity expansion at an
- 4 existing ~~facility; plant;~~
- 5 dedicated primarily to serving Indiana retail customers.
- 6 (3) The repowering, construction, or expansion of the facility was
- 7 begun by an Indiana utility after July 1, 2002.
- 8 (4) Except for a facility that is a clean coal and energy project
- 9 under section 2(2) of this chapter, the facility has an aggregate
- 10 rated electric generating capacity of at least one hundred (100)
- 11 megawatts for all units at one (1) site or a generating capacity of
- 12 at least four hundred thousand (400,000) pounds per hour of
- 13 steam.

14 (b) The term includes the transmission lines, gas transportation
 15 facilities, and associated equipment employed specifically to serve a
 16 new energy generating or coal gasification facility.

17 SECTION 13. IC 8-1-8.8-8.5 IS ADDED TO THE INDIANA
 18 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2009]: **Sec. 8.5. As used in this chapter,**
 20 **"qualified utility system expenses" means any preconstruction**
 21 **costs associated with the study, analysis, or development of a:**

- 22 (1) **new energy production or generating facility; or**
- 23 (2) **new low carbon dioxide emitting or noncarbon dioxide**
- 24 **emitting energy production or generating facility;**
- 25 **including siting, design, licensing, and permitting costs.**

26 SECTION 14. IC 8-1-8.8-9, AS AMENDED BY P.L.175-2007,
 27 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2009]: Sec. 9. As used in this chapter, "qualified utility system
 29 property" means any:

- 30 (1) **new energy production or generating or coal gasification**
- 31 **facility; or**
- 32 (2) **new low carbon dioxide emitting or noncarbon dioxide**
- 33 **emitting energy production or generating facility;**

34 used, or to be used, in whole or in part, by an energy utility to provide
 35 retail energy service (as defined in IC 8-1-2.5-3) regardless of whether
 36 that service is provided under IC 8-1-2.5 or another provision of this
 37 article.

38 SECTION 15. IC 8-1-8.8-11 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) The commission
 40 shall encourage clean coal and energy projects by creating the
 41 following financial incentives for clean coal and energy projects, if the
 42 projects are found to be reasonable and necessary:

- 43 (1) The timely recovery of costs incurred during construction and
- 44 operation of projects described in section 2(1) or 2(2) of this
- 45 chapter.
- 46 (2) The authorization of up to three (3) percentage points on the

1 return on shareholder equity that would otherwise be allowed to
2 be earned on projects described in subdivision (1).

3 (3) Financial incentives for the purchase of fuels **or energy**
4 **produced by a coal gasification facility or by a low carbon**
5 **dioxide emitting or noncarbon dioxide emitting energy**
6 **production or generating facility**, including cost recovery and
7 the incentive available under subdivision (2).

8 (4) Financial incentives for projects to develop alternative energy
9 sources, including renewable energy projects **or coal gasification**
10 **facilities.**

11 (5) Other financial incentives the commission considers
12 appropriate.

13 (b) An eligible business must file an application to the commission
14 for approval of a clean coal and energy project under this section. This
15 chapter does not relieve an eligible business of the duty to obtain any
16 certificate required under IC 8-1-8.5 or IC 8-1-8.7. An eligible business
17 seeking a certificate under IC 8-1-8.5 or IC 8-1-8.7 and this chapter for
18 one (1) project may file a single application for all necessary
19 certificates. If a single application is filed, the commission shall
20 consider all necessary certificates at the same time.

21 (c) The commission shall promptly review an application filed
22 under this section for completeness. The commission may request
23 additional information the commission considers necessary to aid in its
24 review.

25 (d) The commission shall, after notice and hearing, issue a
26 determination of a project's eligibility for the financial incentives
27 described in subsection (a) not later than one hundred twenty (120)
28 days after the date of the application, unless the commission finds that
29 the applicant has not cooperated fully in the proceeding.

30 SECTION 16. IC 8-1-8.8-12, AS AMENDED BY P.L.175-2007,
31 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2009]: Sec. 12. (a) The commission shall provide financial
33 incentives to eligible businesses for:

34 (1) new energy ~~producing and~~ **production or** generating
35 **facilities; and**

36 (2) **new low carbon dioxide emitting or noncarbon dioxide**
37 **emitting energy production or generating facilities;**

38 in the form of timely recovery of the costs incurred in connection with
39 the **study, analysis, development, siting, design, licensing,**
40 **permitting,** construction, repowering, expansion, operation, or
41 maintenance of the facilities.

42 (b) An eligible business seeking authority to timely recover the costs
43 described in subsection (a) must apply to the commission for approval
44 of a rate adjustment mechanism in the manner determined by the
45 commission.

46 (c) An application must include the following:

- 1 (1) A schedule for the completion of construction, repowering, or
- 2 expansion of the ~~new energy generating or coal gasification~~
- 3 facility for which rate relief is sought.
- 4 (2) Copies of the most recent integrated resource plan filed with
- 5 the commission, if applicable.
- 6 (3) The amount of capital investment by the eligible business in
- 7 the ~~new energy generating or coal gasification~~ facility.
- 8 (4) Other information the commission considers necessary.
- 9 (d) The commission shall allow an eligible business to recover:
- 10 (1) the costs associated with qualified utility system property; **and**
- 11 **(2) qualified utility system expenses;**
- 12 if the eligible business provides substantial documentation that the
- 13 expected costs ~~associated with qualified utility system property~~ and
- 14 **expenses and** the schedule for incurring those costs **and expenses** are
- 15 reasonable and necessary.
- 16 (e) The commission shall allow an eligible business to recover the
- 17 costs associated with the purchase of fuels **or energy** produced by a
- 18 coal gasification facility **or by a low carbon dioxide emitting or**
- 19 **noncarbon dioxide emitting energy production or generating**
- 20 **facility** if the eligible business provides substantial documentation that
- 21 the costs associated with the purchase are reasonable and necessary.
- 22 (f) A retail rate adjustment mechanism proposed by an eligible
- 23 business under this section may be based on actual or forecasted data.
- 24 If forecast data is used, the retail rate adjustment mechanism must
- 25 contain a reconciliation mechanism to correct for any variance between
- 26 the forecasted costs and the actual costs."
- 27 Delete pages 2 through 4.
- 28 Page 5, delete lines 1 through 19.
- 29 Page 5, line 34, delete "IC 8-1-8.2-6" and insert "**IC 8-1-8.4-6**".
- 30 Page 5, delete lines 35 through 42, begin a new paragraph and
- 31 insert:
- 32 "**Sec. 3. As used in this chapter, "renewable energy credit", or**
- 33 **"REC", means one (1) megawatt hour of electricity that is:**
- 34 **(1) generated from a renewable energy resource described in**
- 35 **section 4(a) of this chapter;**
- 36 **(2) quantifiable; and**
- 37 **(3) possessed by not more than one (1) entity at a time.**
- 38 **Sec. 4. (a) As used in this chapter, "renewable energy resources"**
- 39 **includes the following sources, technologies, and programs for the**
- 40 **production or conservation of electricity:**
- 41 **(1) Methane systems that convert waste products, including**
- 42 **animal, food, and plant waste, into electricity or fuel for the**
- 43 **production of electricity.**
- 44 **(2) Methane recovered from landfills or coal mines.**
- 45 **(3) Wind.**
- 46 **(4) Solar photovoltaic cells and panels.**

- 1 **(5) Clean coal and energy projects (as defined in IC 8-1-8.8-2),**
 2 **including plant efficiency measures.**
 3 **(6) Dedicated crops grown for energy production.**
 4 **(7) Energy from waste to energy facilities.**
 5 **(8) Noncarbon dioxide emitting or low carbon dioxide**
 6 **emitting electricity generating technologies placed in service**
 7 **after June 30, 2009.**
 8 **(9) Hydropower.**
 9 **(10) Demand side management or energy efficiency programs**
 10 **that:**
 11 **(A) reduce electricity consumption; or**
 12 **(B) implement load management or demand response**
 13 **technologies that shift a customer's electric load from**
 14 **periods of higher demand to periods of lower demand.**
 15 **(11) Combined heat and power systems that:**
 16 **(A) use natural gas or renewable energy resources as**
 17 **feedstock; and**
 18 **(B) achieve at least seventy percent (70%) overall**
 19 **efficiency.**
 20 **(12) Geothermal hot water district heating systems.**
 21 **(13) Electricity generated through net metering that is**
 22 **regulated under rules adopted by the commission or other**
 23 **Indiana law.**
 24 **(14) Energy storage facilities.**
 25 **(15) A renewable energy resource listed in IC 8-1-8.8-10 to the**
 26 **extent the renewable energy resource is not already described**
 27 **in this subsection.**
 28 **(b) Except as provided in subsection (a)(7), the term does not**
 29 **include energy from the incineration, burning, or heating of the**
 30 **following:**
 31 **(1) Garbage.**
 32 **(2) General household, institutional, or commercial waste.**
 33 **(3) Industrial lunchroom or office waste.**
 34 **(4) Landscape waste.**
 35 **(5) Construction or demolition debris.**
 36 **(6) Feedstock that is municipal, food, plant, industrial, or**
 37 **animal waste from outside Indiana.**
 38 **Sec. 5. (a) Each electricity supplier shall supply electricity under**
 39 **a schedule set forth in either subsection (b) or (c).**
 40 **(b) In order to qualify for a financial incentive under**
 41 **IC 8-1-2-23.1 or IC 8-1-8.4-9, an electricity supplier shall supply**
 42 **electricity that is generated from renewable energy resources**
 43 **described in section 4(a) of this chapter to Indiana customers as a**
 44 **percentage of the total electricity supplied by the electricity**
 45 **supplier to Indiana customers during a calendar year as follows:**
 46 **(1) Not later than the calendar year ending December 31,**
 47 **2010, at least three percent (3%).**

1 (2) Not later than the calendar year ending December 31,
2 2015, at least six percent (6%).

3 (3) Not later than the calendar year ending December 31,
4 2020, at least ten percent (10%).

5 (4) Not later than the calendar year ending December 31,
6 2025, at least fifteen percent (15%).

7 For purposes of this subsection, electricity is measured in
8 megawatt hours.

9 (c) An electricity supplier that elects not to comply with
10 subsection (b) shall supply electricity that is generated from
11 renewable energy resources described in section 4(a) of this
12 chapter to Indiana customers as a percentage of the total electricity
13 supplied by the electricity supplier to Indiana customers during a
14 calendar year as follows:

15 (1) Not later than the calendar year ending December 31,
16 2010, at least one and five-tenths percent (1.5%).

17 (2) Not later than the calendar year ending December 31,
18 2015, at least four percent (4%).

19 (3) Not later than the calendar year ending December 31,
20 2020, at least seven percent (7%).

21 (4) Not later than the calendar year ending December 31,
22 2025, at least ten percent (10%).

23 For purposes of this subsection, electricity is measured in
24 megawatt hours.

25 (d) An electricity supplier may own or purchase RECs or
26 carbon offset equivalents to comply with subsection (b) or (c), as
27 applicable.

28 (e) An electricity supplier may not use a renewable energy
29 resource described in section 4(a)(5), 4(a)(8), 4(a)(10), or 4(a)(11)
30 of this chapter to generate more than twenty-five percent (25%) of
31 the electricity that the electricity supplier is required to supply
32 under subsection (b) or (c), as applicable.

33 (f) If an electricity supplier exceeds the applicable percentage
34 under subsection (b) or (c) in a compliance year, the electricity
35 supplier may carry forward the amount of electricity that:

36 (1) exceeds the applicable percentage under subsection (a);
37 and

38 (2) is generated from renewable energy resources;
39 to comply with the requirement under subsection (b) or (c) for
40 either or both of the two (2) immediately succeeding compliance
41 years.

42 (g) The commission shall consider the costs incurred by an
43 electricity supplier in complying with subsection (b) or (c), as
44 applicable, as consistent with the requirements of IC 8-1-2-42(d)(1)
45 when ruling on a fuel cost charge requested by the electricity
46 supplier under IC 8-1-2-42(d)."

47 Delete pages 6 through 7.

- 1 Page 8, delete lines 1 through 3.
- 2 Page 8, line 7, delete "IC 8-1-2-23.1(d), IC 8-1-8.2-11, or section
3 9(c) of this chapter," and insert "**IC 8-1-2-23.1(d) or IC 8-1-8.4-11**".
- 4 Page 8, line 23, delete "shall" and insert "**may**".
- 5 Page 9, delete lines 15 through 42, begin a new paragraph and
6 insert:
- 7 **"Sec. 9. (a) The commission shall allow an electricity supplier
8 that complies with the schedule set forth in section 5(b) or 5(c) of
9 this chapter to recover reasonable and necessary costs incurred in:**
- 10 **(1) constructing, operating, or maintaining facilities to comply
11 with this chapter;**
- 12 **(2) generating electricity from, or purchasing electricity
13 generated from, a renewable energy resource;**
- 14 **(3) purchasing RECs or carbon offset equivalents; or**
- 15 **(4) complying with federal renewable energy resource
16 portfolio requirements;**
- 17 **by a periodic rate adjustment mechanism.**
- 18 **(b) The commission shall revoke a periodic rate adjustment
19 mechanism allowed under subsection (a) for an electricity supplier
20 that the commission determines:**
- 21 **(1) is required to; and**
- 22 **(2) has failed to;**
- 23 **comply with section 5(b) or 5(c) of this chapter.**
- 24 **(c) If the commission revokes a periodic rate adjustment
25 mechanism allowed to an electricity supplier under subsection (b),
26 the electricity supplier may request, in the electricity supplier's
27 next general rate case, recovery of reasonable and necessary costs
28 incurred by the electricity supplier in attempting to comply with
29 section 5(b) or 5(c) of this chapter, as applicable.**
- 30 **Sec. 10. (a) For purposes of calculating RECs to determine an
31 electricity supplier's compliance with section 5(b) or 5(c) of this
32 chapter, as applicable, the following apply:**
- 33 **(1) Except as provided in subdivision (2), one (1) megawatt
34 hour of electricity generated from renewable energy resources
35 in an Indiana facility equals one and five-tenths (1.5) REC.**
- 36 **(2) One (1) megawatt hour of electricity generated from a
37 renewable energy resource described in section 4(a)(1) or
38 4(a)(2) of this chapter that originates in Indiana equals two (2)
39 RECs.**
- 40 **(3) One (1) megawatt hour of electricity that is:**
- 41 **(A) generated from a renewable energy resource that is
42 directly interconnected to a regional transmission
43 organization whose members include an electricity
44 supplier; and**
- 45 **(B) imported into Indiana;**
- 46 **equals one (1) REC.**
- 47 **(b) An electricity supplier may not apportion all or part of a**

1 single megawatt of electricity among more than one (1):
 2 (1) renewable energy resource; or
 3 (2) category set forth in subsection (a);
 4 in order to comply with section 5(b) or 5(c) of this chapter, as
 5 applicable."

6 Page 10, delete lines 1 through 24.

7 Page 10, between lines 38 and 39, begin a new paragraph and insert:

8 "SECTION 18. [EFFECTIVE UPON PASSAGE] (a) As used in
 9 this SECTION, "commission" refers to the Indiana utility
 10 regulatory commission created by IC 8-1-1-2.

11 (b) Subject to subsections (c) and (d) and not later than July 1,
 12 2009, the commission shall adopt rules to amend the net metering
 13 and interconnection rules adopted by the commission and codified
 14 at 170 IAC 4-4.2. The commission shall adopt the rules required by
 15 this subsection in the same manner as emergency rules are adopted
 16 under IC 4-22-2-37.1. The rules adopted by the commission under
 17 this subsection must do the following:

18 (1) Require an electric utility to offer net metering to at least
 19 the following customer classes:

20 (A) Residential customers.

21 (B) Commercial customers.

22 (C) Industrial customers.

23 (D) Agricultural customers.

24 (E) Local governments.

25 (F) The state.

26 (G) Kindergarten through grade 12 schools.

27 (H) Postsecondary educational institutions (as described in
 28 IC 6-3-3-5).

29 (2) Allow a net metering customer to interconnect a
 30 generating facility with a nameplate capacity of one hundred
 31 (100) kilowatts or less to a distribution facility of an electric
 32 utility.

33 (3) Allow a net metering customer to interconnect a facility
 34 that generates electricity through any of the following
 35 technologies:

36 (A) Solar.

37 (B) Wind.

38 (C) Microhydroelectrical facilities.

39 (D) Microturbines using renewable fuels.

40 (E) Fuel cells using renewable fuels.

41 (F) Biogas, including anaerobic digestion.

42 (G) Methane gas from landfills.

43 (c) Rules adopted under subsection (b) expire on:

44 (1) the date the commission adopts rules under IC 4-22-2-24
 45 through IC 4-22-2-36; or

46 (2) January 1, 2011;

47 whichever is earlier.

1 **(d) Not later than June 1, 2009, the commission shall evaluate**
 2 **the net metering and interconnection rules adopted by the**
 3 **commission and codified at 170 IAC 4-4.2 for compliance with the**
 4 **requirements set forth in subsection (b). To the extent that any**
 5 **rules codified at 170 IAC 4-4.2 do not meet the requirements set**
 6 **forth in subsection (b), the rules are void. Not later than June 15,**
 7 **2009, the commission shall notify the publisher of the Indiana**
 8 **Administrative Code and Indiana Register of any rules codified at**
 9 **170 IAC 4-4.2 that are void under this subsection. The publisher**
 10 **shall remove the rules that are void under this subsection from the**
 11 **Indiana Administrative Code.**

12 **(e) Not later than November 1, 2009, the commission shall**
 13 **report to the regulatory flexibility committee established by**
 14 **IC 8-1-2.6-4 on the commission's progress under subsection (c)(1)**
 15 **in finally adopting, under IC 4-22-2-24 through IC 4-22-2-36, the**
 16 **emergency rules initially adopted by the commission under**
 17 **subsection (b).**

18 **(f) For purposes of subsection (b)(1), "electric utility" does not**
 19 **include the following:**

- 20 **(1) A corporation organized under IC 8-1-13.**
 21 **(2) A corporation organized under IC 23-17-1 that is an**
 22 **electric cooperative and that has at least one (1) member that**
 23 **is a corporation organized under IC 8-1-13.**

24 **(g) This SECTION expires January 1, 2011."**

25 Renumber all SECTIONS consecutively.

(Reference is to ESB 420 as printed April 10, 2009.)

Representative Koch