

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WITHDRAWN	Noes _____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

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

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

15 SECTION 4. IC 5-28-17-3 IS ADDED TO THE INDIANA CODE

16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

17 1, 2009]: **Sec. 3. The office of small business energy advancement**

18 **established under IC 5-28-5-6.5 shall provide free access to the**

19 **office's services through:**

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

23 SECTION 6. IC 6-3.1-33 IS ADDED TO THE INDIANA CODE

24 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE

25 JANUARY 1, 2010]:

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

27 **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, "corporation" refers to the**

31 **Indiana economic development corporation established by**

32 **IC 5-28-3-1.**

33 **Sec. 3. As used in this chapter, "director" has the meaning set**

34 **forth in IC 6-3.1-13-3.**

35 **Sec. 4. As used in this chapter, "highly compensated employee"**

36 **has the meaning set forth in Section 414(q) of the Internal Revenue**

37 **Code.**

38 **Sec. 5. As used in this chapter, "new employee" has the meaning**

39 **set forth in IC 6-3.1-13-6.**

40 **Sec. 6. As used in this chapter, "qualified investment" means the**

41 **amount of a taxpayer's expenditures in Indiana that are reasonable**

42 **and necessary for the manufacture or assembly of renewable**

43 **energy technology.**

44 **Sec. 7. As used in this chapter, "renewable energy technology"**

45 **means the following:**

- 46 (1) Solar panels that convert sunlight into electricity.
- 47 (2) Solar technologies that use optical techniques to generate

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

1 nine (9) consecutive taxable years, beginning with the taxable year
2 immediately following the taxable year in which the taxpayer
3 makes the qualified 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
9 investment; and

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

12 in the same taxable year.

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

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

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

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

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

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

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

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

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

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

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

47 (8) The average wage that will be paid by the taxpayer to the

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

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

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

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

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

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

1 employees in each taxable year that a tax credit is available
2 that equals at least one hundred fifty percent (150%) of the
3 hourly minimum wage under IC 22-2-2-4 or its equivalent.

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

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

9 (B) ten (10) years.

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

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

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

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

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

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

1 electronic format under IC 5-14-6 to the executive director of the
2 legislative services agency for distribution to the members of the
3 general assembly.

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

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

25 SECTION 7. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE
26 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
27 JANUARY 1, 2010]:

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

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

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

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

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

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

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

46 **Sec. 5.** As used in this chapter, "qualified capital investment"
47 means an expenditure for depreciable property that conforms to

1 the terms and conditions of a credit award by the IEDC under this
2 chapter. The term does not include an expenditure for inventory.

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

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

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

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

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

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

41 The amount of the credit is:

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

47 **Sec. 9.** (a) A taxpayer may carry forward an unused credit

1 provided by this chapter for the number of years determined by
2 the IEDC, not to exceed nine (9) consecutive taxable years,
3 beginning with the taxable year after the taxable year in which the
4 taxpayer makes the qualified capital investment.

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

8 (c) A taxpayer may:

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

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

13 in the same taxable year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 **Sec. 17.** Notwithstanding the other provisions of this chapter,

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

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

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

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

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

29 **(2) ends on the earlier of the following dates:**

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

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

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

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

39 **(2) failed to;**

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

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

46 SECTION 9. IC 8-1-8.4 IS ADDED TO THE INDIANA CODE AS
 47 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON

- 1 PASSAGE]:
- 2 **Chapter 8.4. Electric Line Facilities Projects**
- 3 **Sec. 1. As used in this chapter, "commission" refers to the**
- 4 **Indiana utility regulatory commission created by IC 8-1-1-2.**
- 5 **Sec. 2. As used in this chapter, "electric line facilities" means**
- 6 **the following:**
- 7 **(1) Overhead or underground electric transmission lines.**
- 8 **(2) Overhead or underground electric distribution lines.**
- 9 **(3) Electric substations.**
- 10 **Sec. 3. As used in this chapter, "electric line facilities project"**
- 11 **means an addition to or the construction, operation, maintenance,**
- 12 **reconstruction, relocation, upgrading, or removal of electric line**
- 13 **facilities.**
- 14 **Sec. 4. As used in this chapter, "electricity supplier" means a**
- 15 **public utility that furnishes retail electric service to the public.**
- 16 **Sec. 5. As used in this chapter, "public utility" has the meaning**
- 17 **set forth in IC 8-1-2-1.**
- 18 **Sec. 6. As used in this chapter, "regional transmission**
- 19 **organization" refers to the regional transmission organization**
- 20 **approved by the Federal Energy Regulatory Commission for the**
- 21 **control area in which an electricity supplier operates electric line**
- 22 **facilities.**
- 23 **Sec. 7. As used in this chapter, "renewable energy resources"**
- 24 **has the meaning set forth in IC 8-1-37-4.**
- 25 **Sec. 8. This chapter applies to an electricity supplier that**
- 26 **complies with the schedule set forth in IC 8-1-37-5(b).**
- 27 **Sec. 9. (a) The commission shall encourage electric line facilities**
- 28 **projects by creating the following financial incentives for electric**
- 29 **line facilities that are reasonable and necessary:**
- 30 **(1) The timely recovery of costs, by means of a periodic rate**
- 31 **adjustment mechanism, incurred by an electricity supplier in**
- 32 **connection with an electric line facilities project that**
- 33 **transmits or distributes electricity generated from renewable**
- 34 **energy resources.**
- 35 **(2) The timely recovery of costs, by means of a periodic rate**
- 36 **adjustment mechanism, incurred by an electricity supplier**
- 37 **taking service under a tariff of, or being assessed costs by the:**
- 38 **(A) regional transmission organization; or**
- 39 **(B) Federal Energy Regulatory Commission.**
- 40 **(b) The commission shall determine a reasonable schedule**
- 41 **under which an electricity supplier may recover costs under this**
- 42 **section. In making a determination under this subsection, the**
- 43 **commission shall consider the impact of the cost recovery on**
- 44 **ratepayers of the electricity supplier.**
- 45 **Sec. 10. (a) Subject to subsection (h), an electricity supplier must**
- 46 **submit an application to the commission for approval of an electric**
- 47 **line facilities project for which the electricity supplier seeks to**

- 1 receive a financial incentive created under section 9 of this chapter.
- 2 (b) The commission shall prescribe the form for an application
3 submitted under this section.
- 4 (c) Upon receipt of an application under subsection (a), the
5 commission shall review the application for completeness. The
6 commission may request additional information from an applicant
7 as needed. The commission may not review an application
8 submitted after December 31, 2020, unless authorized to do so by
9 the general assembly before January 1, 2021.
- 10 (d) The commission, after notice and hearing, shall issue a
11 determination of an electric line facilities project's eligibility for
12 the financial incentives described in section 8 of this chapter not
13 later than one hundred eighty (180) days after the date of the
14 application. A determination under this subsection must include a
15 finding that the applicant electricity supplier is in compliance with
16 the schedule set forth in IC 8-1-37-5(b).
- 17 (e) Subject to subsections (g) and (h), the commission shall
18 approve an application by an electricity supplier for an electric line
19 facilities project that is reasonable and necessary. An electric line
20 facilities project is presumed to be reasonable and necessary if the
21 electric line facilities project:
- 22 (1) is consistent with, or part of, a plan developed by the:
- 23 (A) regional transmission organization; or
24 (B) Federal Energy Regulatory Commission; or
- 25 (2) transmits or distributes electricity generated from
26 renewable energy resources.
- 27 However, an electricity supplier may seek approval from the
28 commission at the electricity supplier's next general rate
29 proceeding to include in the electricity supplier's basic rates the
30 recoverable costs sought in an application approved under this
31 subsection.
- 32 (f) This section does not relieve an electricity supplier of the
33 duty to obtain any certificate required under IC 8-1-8.5 or
34 IC 8-1-8.7.
- 35 (g) The commission shall not approve a financial incentive for
36 that part of an electric line facilities project that exceeds the lesser
37 of:
- 38 (1) seven percent (7%) of the electricity supplier's rate base
39 approved by the commission in the electricity supplier's most
40 recent general rate proceeding; or
41 (2) one hundred fifty million dollars (\$150,000,000).
- 42 (h) The commission may not approve a financial incentive under
43 section 9 of this chapter for a particular electricity supplier if the
44 commission has approved a financial incentive under section 9 of
45 this chapter in the preceding twelve (12) months for that electricity
46 supplier, unless the commission determines that approving a
47 particular financial incentive for an electricity supplier on a more

1 timely basis will benefit the electricity supplier's ratepayers.
 2 (i) A financial incentive that the commission approves before
 3 January 1, 2021, or that an electricity supplier applies for before
 4 January 1, 2021, and that is subsequently approved, expires on the
 5 earlier of the following dates:

- 6 (1) The date on which the electricity supplier accrues the full
 7 recovery amount authorized by the commission.
- 8 (2) The date specified by the commission in its approval of the
 9 financial incentive.

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

- 13 (1) elected to; and
 - 14 (2) failed to;
- 15 **comply with the schedule set forth in IC 8-1-37-5(b).**

16 SECTION 10. IC 8-1-8.8-2, AS AMENDED BY P.L.175-2007,
 17 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2009]: Sec. 2. As used in this chapter, "clean coal and energy
 19 projects" means any of the following:

- 20 (1) Any of the following projects:
 - 21 (A) Projects at new energy production or generating facilities
 22 that employ the use of clean coal technology and that produce
 23 energy, including substitute natural gas, primarily from coal,
 24 or gases derived from coal, from the geological formation
 25 known as the Illinois Basin.
 - 26 (B) Projects to provide advanced technologies that reduce
 27 regulated air emissions from existing energy production or
 28 generating plants that are fueled primarily by coal or gases
 29 from coal from the geological formation known as the Illinois
 30 Basin, such as flue gas desulfurization and selective catalytic
 31 reduction equipment.
 - 32 (C) Projects to provide electric transmission facilities to serve
 33 a new energy production or generating facility **or a low**
 34 **carbon dioxide emitting or noncarbon dioxide emitting**
 35 **energy production or generating facility.**
 - 36 (D) Projects that produce substitute natural gas from Indiana
 37 coal by construction and operation of a coal gasification
 38 facility.
 - 39 **(E) Projects or potential projects that employ the use of**
 40 **low carbon dioxide emitting or noncarbon dioxide emitting**
 41 **energy production or generating technologies to produce**
 42 **electricity.**
- 43 (2) Projects to develop alternative energy sources, including
 44 renewable energy projects ~~and~~ **or** coal gasification facilities.
- 45 (3) The purchase of fuels **or energy** produced by a coal
 46 gasification facility **or by a low carbon dioxide emitting or**

1 **noncarbon dioxide emitting energy production or generating**
2 **facility.**

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

5 SECTION 11. IC 8-1-8.8-6, AS AMENDED BY P.L.175-2007,
6 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2009]: Sec. 6. As used in this chapter, "eligible business"
8 means an energy utility (as defined in IC 8-1-2.5-2) or owner of a coal
9 gasification facility that:

10 (1) proposes to construct or repower a new energy production or
11 generating facility;

12 (2) proposes to construct or repower a project described in section
13 2(1) or 2(2) of this chapter;

14 (3) undertakes a project to develop alternative energy sources,
15 including renewable energy projects or **coal gasification**
16 **facilities; or**

17 (4) purchases fuels **or energy** produced by a coal gasification
18 facility **or by a low carbon dioxide emitting or noncarbon**
19 **dioxide emitting energy production or generating facility.**

20 SECTION 12. IC 8-1-8.8-7.5 IS ADDED TO THE INDIANA
21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2009]: **Sec. 7.5. (a) As used in this chapter,**
23 **"low carbon dioxide emitting or noncarbon dioxide emitting**
24 **energy production or generating facility"** means an energy
25 **production or generation facility, including transmission lines and**
26 **equipment described in subsection (b), that is:**

27 **(1) installed or constructed at the site of a facility that supplies**
28 **electricity to Indiana retail customers as of July 1, 2009; and**

29 **(2) intended to produce:**

30 **(A) no carbon dioxide as a byproduct of the production or**
31 **generation of energy; or**

32 **(B) less carbon dioxide per megawatt hour of electricity**
33 **generated than is produced per megawatt hour of**
34 **electricity generated by a coal fired or other fossil fuel**
35 **based energy production or generating facility.**

36 **(b) The term includes the transmission lines and other**
37 **associated equipment employed specifically to serve a low carbon**
38 **dioxide emitting or noncarbon dioxide emitting energy production**
39 **or generating facility.**

40 SECTION 13. IC 8-1-8.8-8, AS AMENDED BY P.L.175-2007,
41 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2009]: Sec. 8. (a) As used in this chapter, "new energy
43 **production or generating facility"** refers to a generation or coal
44 gasification facility that satisfies all of the following:

45 (1) The facility produces energy primarily from coal or gases from
46 coal from the geological formation known as the Illinois Basin.

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

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

18 SECTION 14. IC 8-1-8.8-8.5 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2009]: **Sec. 8.5. As used in this chapter,**
 21 **"qualified utility system expenses" mean any preconstruction costs**
 22 **associated with the study, analysis, or development of a:**

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

27 SECTION 15. IC 8-1-8.8-9, AS AMENDED BY P.L.175-2007,
 28 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2009]: Sec. 9. As used in this chapter, "qualified utility system
 30 property" means any:

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

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

39 SECTION 16. IC 8-1-8.8-11 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) The commission
 41 shall encourage clean coal and energy projects by creating the
 42 following financial incentives for clean coal and energy projects, if the
 43 projects are found to be reasonable and necessary:

- 44 (1) The timely recovery of costs incurred during construction and
- 45 operation of projects described in section 2(1) or 2(2) of this
- 46 chapter.

- 1 (2) The authorization of up to three (3) percentage points on the
 2 return on shareholder equity that would otherwise be allowed to
 3 be earned on projects described in subdivision (1).
- 4 (3) Financial incentives for the purchase of fuels **or energy**
 5 **produced by a coal gasification facility or by a low carbon**
 6 **dioxide emitting or noncarbon dioxide emitting energy**
 7 **production or generating facility**, including cost recovery and
 8 the incentive available under subdivision (2).
- 9 (4) Financial incentives for projects to develop alternative energy
 10 sources, including renewable energy projects **or coal gasification**
 11 **facilities.**
- 12 (5) Other financial incentives the commission considers
 13 appropriate.
- 14 (b) An eligible business must file an application to the commission
 15 for approval of a clean coal and energy project under this section. This
 16 chapter does not relieve an eligible business of the duty to obtain any
 17 certificate required under IC 8-1-8.5 or IC 8-1-8.7. An eligible business
 18 seeking a certificate under IC 8-1-8.5 or IC 8-1-8.7 and this chapter for
 19 one (1) project may file a single application for all necessary
 20 certificates. If a single application is filed, the commission shall
 21 consider all necessary certificates at the same time.
- 22 (c) The commission shall promptly review an application filed
 23 under this section for completeness. The commission may request
 24 additional information the commission considers necessary to aid in its
 25 review.
- 26 (d) The commission shall, after notice and hearing, issue a
 27 determination of a project's eligibility for the financial incentives
 28 described in subsection (a) not later than one hundred twenty (120)
 29 days after the date of the application, unless the commission finds that
 30 the applicant has not cooperated fully in the proceeding.
- 31 SECTION 17. IC 8-1-8.8-12, AS AMENDED BY P.L.175-2007,
 32 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2009]: Sec. 12. (a) The commission shall provide financial
 34 incentives to eligible businesses for:
- 35 (1) new energy ~~producing and~~ **production or** generating
 36 facilities; **and**
- 37 (2) **new low carbon dioxide emitting or noncarbon dioxide**
 38 **emitting energy production or generating facilities;**
- 39 in the form of timely recovery of the costs incurred in connection with
 40 the **study, analysis, development, siting, design, licensing,**
 41 **permitting,** construction, repowering, expansion, operation, or
 42 maintenance of the facilities.
- 43 (b) An eligible business seeking authority to timely recover the costs
 44 described in subsection (a) must apply to the commission for approval
 45 of a rate adjustment mechanism in the manner determined by the
 46 commission.

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

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

1 (1) Not later than the calendar year ending December 31,
2 2010, at least three percent (3%).

3 (2) Not later than the calendar year ending December 31,
4 2015, at least six percent (6%).

5 (3) Not later than the calendar year ending December 31,
6 2020, at least ten percent (10%).

7 (4) Not later than the calendar year ending December 31,
8 2025, at least fifteen percent (15%).

9 For purposes of this subsection, electricity is measured in
10 megawatt hours.

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

17 (1) Not later than the calendar year ending December 31,
18 2010, at least one and five-tenths percent (1.5%).

19 (2) Not later than the calendar year ending December 31,
20 2015, at least four percent (4%).

21 (3) Not later than the calendar year ending December 31,
22 2020, at least seven percent (7%).

23 (4) Not later than the calendar year ending December 31,
24 2025, at least ten percent (10%).

25 For purposes of this subsection, electricity is measured in
26 megawatt hours.

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

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

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

38 (1) exceeds the applicable percentage under subsection (a);
39 and

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

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

- 1 **supplier under IC 8-1-2-42(d)."**
 2 Delete pages 6 through 7.
 3 Page 8, delete lines 1 through 3.
 4 Page 8, line 7, delete "IC 8-1-2-23.1(d), IC 8-1-8.2-11, or section
 5 9(c) of this chapter," and insert "**IC 8-1-2-23.1(d) or IC 8-1-8.4-11,**".
 6 Page 8, line 23, delete "shall" and insert "**may**".
 7 Page 9, delete lines 15 through 42, begin a new paragraph and
 8 insert:
 9 **"Sec. 9. (a) The commission shall allow an electricity supplier**
 10 **that complies with the schedule set forth in section 5(b) or 5(c) of**
 11 **this chapter to recover reasonable and necessary costs incurred in:**
 12 **(1) constructing, operating, or maintaining facilities to comply**
 13 **with this chapter;**
 14 **(2) generating electricity from, or purchasing electricity**
 15 **generated from, a renewable energy resource;**
 16 **(3) purchasing RECs or carbon offset equivalents; or**
 17 **(4) complying with federal renewable energy resource**
 18 **portfolio requirements;**
 19 **by a periodic rate adjustment mechanism.**
 20 **(b) The commission shall revoke a periodic rate adjustment**
 21 **mechanism allowed under subsection (a) for an electricity supplier**
 22 **that the commission determines:**
 23 **(1) is required to; and**
 24 **(2) has failed to;**
 25 **comply with section 5(b) or 5(c) of this chapter.**
 26 **(c) If the commission revokes a periodic rate adjustment**
 27 **mechanism allowed to an electricity supplier under subsection (b),**
 28 **the electricity supplier may request, in the electricity supplier's**
 29 **next general rate case, recovery of reasonable and necessary costs**
 30 **incurred by the electricity supplier in attempting to comply with**
 31 **section 5(b) or 5(c) of this chapter, as applicable.**
 32 **Sec. 10. (a) For purposes of calculating RECs to determine an**
 33 **electricity supplier's compliance with section 5(b) or 5(c) of this**
 34 **chapter, as applicable, the following apply:**
 35 **(1) Except as provided in subdivision (2), one (1) megawatt**
 36 **hour of electricity generated from renewable energy resources**
 37 **in an Indiana facility equals one and five-tenths (1.5) REC.**
 38 **(2) One (1) megawatt hour of electricity generated from a**
 39 **renewable energy resource described in section 4(a)(1) or**
 40 **4(a)(2) of this chapter that originates in Indiana equals two (2)**
 41 **RECs.**
 42 **(3) One (1) megawatt hour of electricity that is:**
 43 **(A) generated from a renewable energy resource that is**
 44 **directly interconnected to a regional transmission**
 45 **organization whose members include an electricity**
 46 **supplier; and**
 47 **(B) imported into Indiana;**

- 1 equals one (1) REC.
- 2 (b) An electricity supplier may not apportion all or part of a
3 single megawatt of electricity among more than one (1):
4 (1) renewable energy resource; or
5 (2) category set forth in subsection (a);
6 in order to comply with section 5(b) or 5(c) of this chapter, as
7 applicable."
- 8 Page 10, delete lines 1 through 24.
- 9 Page 10, between lines 38 and 39, begin a new paragraph and insert:
10 "SECTION 19. [EFFECTIVE UPON PASSAGE] (a) As used in
11 this SECTION, "commission" refers to the Indiana utility
12 regulatory commission created by IC 8-1-1-2.
- 13 (b) Subject to subsections (c) and (d) and not later than July 1,
14 2009, the commission shall adopt rules to amend the net metering
15 and interconnection rules adopted by the commission and codified
16 at 170 IAC 4-4.2. The commission shall adopt the rules required by
17 this subsection in the same manner as emergency rules are adopted
18 under IC 4-22-2-37.1. The rules adopted by the commission under
19 this subsection must do the following:
- 20 (1) Require an electric utility to offer net metering to at least
21 the following customer classes:
- 22 (A) Residential customers.
23 (B) Commercial customers.
24 (C) Industrial customers.
25 (D) Agricultural customers.
26 (E) Local governments.
27 (F) The state.
28 (G) Kindergarten through grade 12 schools.
29 (H) Postsecondary educational institutions (as described in
30 IC 6-3-3-5).
- 31 (2) Allow a net metering customer to interconnect a
32 generating facility with a nameplate capacity of one (1)
33 megawatt or less to a distribution facility of an electric utility.
34 (3) Allow a net metering customer to interconnect a facility
35 that generates electricity through any of the following
36 technologies:
- 37 (A) Solar.
38 (B) Wind.
39 (C) Microhydroelectrical facilities.
40 (D) Microturbines using renewable fuels.
41 (E) Fuel cells using renewable fuels.
42 (F) Biogas, including anaerobic digestion.
43 (G) Methane gas from landfills.
- 44 (c) Rules adopted under subsection (b) expire on:
- 45 (1) the date the commission adopts rules under IC 4-22-2-24
46 through IC 4-22-2-36; or
47 (2) January 1, 2011;

1 **whichever is earlier.**

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

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

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

21 **(1) A corporation organized under IC 8-1-13.**

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

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

26 Renumber all SECTIONS consecutively.

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

Representative Koch