

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 251 be amended to read as follows:

- 1 Delete the title and insert the following:
2 A BILL FOR AN ACT to amend the Indiana Code concerning
3 utilities and to make an appropriation.
4 Page 1, between the enacting clause and line 1, begin a new
5 paragraph and insert:
6 "SECTION 1. IC 8-1-2.5-9 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) A regulatory
8 flexibility committee established under IC 8-1-2.6-4 to monitor
9 changes in the telephone industry shall also serve to monitor changes
10 and competition in the energy utility industry.
11 (b) The commission shall before August 15 of each year prepare for
12 presentation to the regulatory flexibility committee an analysis of the
13 effects of competition or changes in the energy utility industry on
14 service and on the pricing of all energy utility services under the
15 jurisdiction of the commission. **Beginning in 2013, the commission**
16 **shall include in its report under this subsection objective data**
17 **concerning advanced renewable energy contracts under IC 8-1-37,**
18 **based on:**
19 (1) information contained in the registry established and
20 maintained by the commission under IC 8-1-37-19; or
21 (2) any information otherwise obtained by the commission
22 from a particular energy utility or facility operator (as
23 defined in IC 8-1-37-4).
24 (c) In addition to reviewing the commission report prepared under

1 subsection (b), the regulatory flexibility committee shall also issue a
 2 report and recommendations to the legislative council before
 3 November 1 of each year that are based on a review of the following
 4 issues:

5 (1) The effects of competition or changes in the energy utility
 6 industry and the impact of the competition or changes on the
 7 residential rates.

8 (2) The status of modernization of the energy utility facilities in
 9 Indiana and the incentives required to further enhance this
 10 infrastructure.

11 (3) The effects on economic development of this modernization.

12 (4) The traditional method of regulating energy utilities and the
 13 method's effectiveness.

14 (5) The economic and social effectiveness of traditional energy
 15 utility service pricing.

16 (6) The effects of legislation enacted by the United States
 17 Congress.

18 (7) All other energy utility issues the committee considers
 19 appropriate; however, it is not the intent of this section to provide
 20 for the review of the statutes cited in section 11 of this chapter.

21 The report and recommendations issued under this subsection to the
 22 legislative council must be in an electronic format under IC 5-14-6.

23 (d) This section:

24 (1) does not give a party to a collective bargaining agreement any
 25 greater rights under the agreement than the party had before
 26 January 1, 1995;

27 (2) does not give the committee the authority to order a party to
 28 a collective bargaining agreement to cancel, terminate, amend, or
 29 otherwise modify the collective bargaining agreement; and

30 (3) may not be implemented by the committee in a way that would
 31 give a party to a collective bargaining agreement any greater
 32 rights under the agreement than the party had before January 1,
 33 1995.

34 (e) The regulatory flexibility committee shall meet on the call of the
 35 co-chairs to study energy utility issues described in subsection (c). The
 36 committee shall, with the approval of the commission, retain
 37 independent consultants the committee considers appropriate to assist
 38 the committee in the review and study. The expenses for the
 39 consultants shall be paid with funds from the public utility fees
 40 assessed under IC 8-1-6.

41 (f) The legislative services agency shall provide staff support to the
 42 committee.

43 (g) Each member of the committee is entitled to receive the same
 44 per diem, mileage, and travel allowances paid to individuals who serve
 45 as legislative members of interim study committees established by the
 46 legislative council."

- 1 Page 8, delete lines 29 through 42.
- 2 Page 9, delete lines 1 through 19.
- 3 Page 11, line 34, delete "IC 8-1-37-4(a)(1) through" and insert
- 4 **"IC 8-1-8.8-10(a)(1) through IC 8-1-8.8-10(a)(6)."**
- 5 Page 11, line 35, delete "IC 8-1-37-4(a)(6)."
- 6 Page 12, delete lines 33 through 42, begin a new paragraph and
- 7 insert:
- 8 "SECTION 16. IC 8-1-37 IS ADDED TO THE INDIANA CODE
- 9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 10 UPON PASSAGE]:
- 11 **Chapter 37. Advanced Renewable Energy Contracts**
- 12 **Sec. 1. (a) The general assembly makes the following findings:**
- 13 **(1) The development of a robust and diverse portfolio of**
- 14 **electric generating capacity, including the use of renewable**
- 15 **energy resources, is necessary if Indiana is to continue to be**
- 16 **successful in attracting new businesses and jobs.**
- 17 **(2) The payment of renewable energy rates for electricity**
- 18 **generated from renewable energy resources:**
- 19 **(A) ensures a sound long term investment for industries,**
- 20 **companies, and individuals investing in renewable energy**
- 21 **technologies; and**
- 22 **(B) creates strong economic incentives for those industries,**
- 23 **companies, and individuals to make the necessary capital**
- 24 **and job creating investments in renewable energy**
- 25 **technologies in those jurisdictions that provide such**
- 26 **incentives.**
- 27 **(3) Indiana has considerable renewable energy resources that**
- 28 **could support the development of new electricity generation.**
- 29 **(4) It is in the public interest for the state to encourage the**
- 30 **rapid and sustainable development of renewable energy**
- 31 **resources for the generation of electricity in Indiana.**
- 32 **(5) The rapid and sustainable development of renewable**
- 33 **energy resources for the generation of electricity will benefit**
- 34 **the health, safety, and welfare of Indiana and its citizens by**
- 35 **doing the following:**
- 36 **(A) Stimulating the development of new technologies and**
- 37 **industries in Indiana and creating new jobs to serve those**
- 38 **emerging industries.**
- 39 **(B) Placing Indiana at the forefront of the nation's**
- 40 **renewable energy revolution.**
- 41 **(C) Creating an Indiana marketplace for the development**
- 42 **of and investments in renewable energy resources and**
- 43 **technologies.**
- 44 **(D) Opening renewable electricity generation, and the**
- 45 **economic opportunities that accompany such generation,**
- 46 **to all Indiana citizens.**
- 47 **(E) Providing equitable opportunities for all Indiana**

- 1 citizens to help grow Indiana's renewable energy industry.
 2 (F) Reducing the price volatility and long term costs of
 3 electricity.
 4 (G) Reducing air and water pollution and related health
 5 problems and health care expenditures.
 6 (H) Protecting Indiana's natural resources.
 7 (I) Reducing greenhouse gas emissions into the
 8 atmosphere.
- 9 (b) The purpose of this chapter is to:
- 10 (1) strengthen Indiana's economy by attracting new
 11 businesses and jobs in the growing renewable energy
 12 industry; and
 13 (2) enable the rapid and sustainable development of
 14 renewable energy resources for the generation of electricity
 15 in Indiana by:
- 16 (A) providing for priority interconnections of renewable
 17 energy facilities to electric grids, including the necessary
 18 grid upgrades to allow those interconnections;
 19 (B) providing for priority purchases by energy utilities of
 20 electricity generated by renewable energy facilities;
 21 (C) requiring the commission to establish for purchases
 22 described in clause (B) renewable energy rates that are
 23 designed to ensure that the prices paid for the electricity
 24 are adequate to encourage the development of renewable
 25 energy facilities in Indiana; and
 26 (D) establishing a statewide equalization system for
 27 distributing the costs of the purchases described in clause
 28 (B).
- 29 Sec. 2. As used in this chapter, "capacity", with respect to a
 30 renewable energy facility, means the maximum output of
 31 electricity, expressed in kilowatts or megawatts, that the renewable
 32 energy facility can supply to an electric system's load, adjusted for
 33 ambient conditions.
- 34 Sec. 3. As used in this chapter, "energy utility" means a public
 35 utility (as defined in IC 8-1-2-1) engaged in the production,
 36 transmission, delivery, or furnishing of electricity.
- 37 Sec. 4. As used in this chapter, "facility operator" means a
 38 person that owns, operates, manages, or controls a renewable
 39 energy facility.
- 40 Sec. 5. As used in this chapter, "federal incentive" means any
 41 federal tax credit or deduction, or any other federal incentive or
 42 subsidy (other than any accelerated depreciation available for tax
 43 purposes), that is available in connection with the generation of
 44 electricity from a renewable energy resource.
- 45 Sec. 6. As used in this chapter, "grid" means interconnected
 46 facilities used for the transmission and distribution of electricity
 47 for general supply.

- 1 **Sec. 7. As used in this chapter, "grid operator" means:**
2 (1) an energy utility; or
3 (2) another person;
4 **that owns or operates any part of a grid.**
- 5 **Sec. 8. As used in this chapter, "grid upgrade" means any**
6 **additions or modifications to a grid that are made:**
7 (1) at or beyond the point at which a renewable energy facility
8 interconnects to the grid; and
9 (2) to accommodate electricity generated by the renewable
10 energy facility and delivered to the grid.
- 11 **Sec. 9. (a) As used in this chapter, "renewable energy facility"**
12 **means a facility that:**
13 (1) is located in Indiana;
14 (2) generates electricity solely from a renewable energy
15 resource;
16 (3) is capable of providing electricity directly to a grid; and
17 (4) is a qualifying facility under regulations adopted by the
18 Federal Regulatory Energy Commission under the federal
19 Public Utility Regulatory Policies Act of 1978 (16 U.S.C.
20 824a-3).
- 21 **(b) The term includes the following:**
22 (1) An alternate energy production facility (as defined in
23 IC 8-1-2.4-2(b)), to the extent that it generates electricity from
24 a renewable energy resource set forth in section 11 of this
25 chapter.
26 (2) A small hydro facility (as defined in IC 8-1-2.4-2(e)) at an
27 existing dam.
- 28 **(c) The term does not include a cogeneration facility (as defined**
29 **in IC 8-1-2.4-2(c)).**
- 30 **Sec. 10. As used in this chapter, "renewable energy rate" means**
31 **a rate that:**
32 (1) an energy utility pays for electricity under a contract
33 entered into under section 13 of this chapter with a facility
34 operator; and
35 (2) applies to the particular renewable energy resource used
36 to generate the electricity sold to the energy utility under the
37 contract, as set forth in rules adopted by the commission
38 under section 14 of this chapter (as most recently adjusted
39 under section 15 of this chapter) at the time the contract is
40 entered into.
- 41 **Sec. 11. As used in this chapter, "renewable energy resource"**
42 **means any of the following sources for the generation of electricity:**
43 (1) Wind energy.
44 (2) Solar energy.
45 (3) Hydropower from existing dams.
46 (4) Geothermal energy.
47 (5) Energy from organic waste biogas, including any of the

- 1 following:
- 2 (A) Methane produced by the biodigestion of farm or
- 3 animal wastes.
- 4 (B) Landfill gas.
- 5 (C) Sewage treatment gas.
- 6 The term does not include coal bed methane.
- 7 **Sec. 12. (a) After December 31, 2011, a grid operator shall:**
- 8 (1) provide priority interconnections between renewable
- 9 energy facilities and the grid operator's grid; and
- 10 (2) transmit on a priority basis electricity generated by any
- 11 renewable energy facilities that are connected to its grid.
- 12 (b) A grid operator has the duty to interconnect a particular
- 13 renewable energy facility under this section if:
- 14 (1) the grid operator provides transmission or distribution
- 15 service in a retail electric service area that includes the
- 16 renewable energy facility;
- 17 (2) the grid operator controls or operates grid facilities
- 18 technically suitable to receive electricity from the renewable
- 19 energy facility; and
- 20 (3) there is no other grid with a connection point that is
- 21 technically and economically more suitable.
- 22 (c) For purposes of subsection (b), a grid is considered
- 23 technically suitable to receive electricity from a renewable energy
- 24 facility even if feeding in the electricity produced by the renewable
- 25 energy facility requires the grid operator to perform grid
- 26 upgrades. If a grid operated or controlled by a grid operator
- 27 requires grid upgrades to enable a renewable energy facility to feed
- 28 in electricity to the grid, the grid operator shall perform the
- 29 required grid upgrades without undue delay, upon the request of
- 30 the facility operator seeking to connect a renewable energy facility
- 31 to the grid operator's grid. The obligation to upgrade a grid under
- 32 this subsection includes the obligation to upgrade:
- 33 (1) all technical facilities that are:
- 34 (A) required for operating the grid; and
- 35 (B) needed for the interconnection; and
- 36 (2) all connecting installations that are needed for the
- 37 interconnection;
- 38 and that are owned or passed into ownership of the grid operator.
- 39 (d) The costs associated with:
- 40 (1) connecting a renewable energy facility to the technically
- 41 and economically most suitable connection point on the grid;
- 42 and
- 43 (2) installing the necessary measuring devices for recording
- 44 the quantity of electricity transmitted and received by the
- 45 renewable energy facility;
- 46 shall be borne by the facility operator.
- 47 (e) The costs associated with any grid upgrades required under

1 subsection (c) shall be borne by the grid operator making the
 2 upgrades. The grid operator may take into account the costs of any
 3 upgrades made when determining any charges for the use of the
 4 grid by the renewable energy facility for which the upgrades are
 5 made.

6 (f) Whenever a renewable energy facility is connected to a grid
 7 under this section, the connection and any other installations
 8 required for the safe operation of the grid must meet the renewable
 9 energy facility's technical requirements. A facility operator may
 10 have:

11 (1) the connection; and

12 (2) the installation of any measuring devices for recording the
 13 quantity of electricity transmitted and received by the
 14 renewable energy facility;

15 performed by the grid operator or a third party.

16 Sec. 13. (a) Except as provided in subsections (e) and (f), after
 17 December 31, 2011, an energy utility shall, upon the request of a
 18 facility operator, enter into a contract for the purchase of
 19 electricity generated by the facility operator's renewable energy
 20 facility. A contract under this section must:

21 (1) be for a term of at least:

22 (A) forty (40) years, in the case of electricity generated
 23 from a renewable energy facility that uses hydropower at
 24 an existing dam to generate electricity; or

25 (B) twenty (20) years, in the case of electricity generated
 26 from a renewable energy facility not described in clause
 27 (A); and

28 (2) require the energy utility to purchase electricity from the
 29 renewable energy facility:

30 (A) on a priority basis; and

31 (B) subject to subsection (d) and section 16 of this chapter,
 32 at a rate that is not less than the applicable renewable
 33 energy rate that:

34 (i) applies with respect to the particular renewable
 35 resource used by the renewable energy facility; and

36 (ii) is in effect under rules adopted by the commission
 37 under section 14 of this chapter (as most recently
 38 adjusted under section 15 of this chapter) at the time the
 39 contract is entered into;

40 throughout the term of the contract.

41 (b) An energy utility shall offer a standard contract, on a form
 42 prescribed by the commission under subsection (c), to a facility
 43 operator that seeks to enter into a contract with the energy utility
 44 under this section. A standard contract offered under this
 45 subsection must set forth:

46 (1) the rate to be paid for each kilowatt hour of electricity
 47 purchased under the contract;

- 1 (2) the adjustments to be made to the rate to account for
2 inflation, as prescribed by subsection (d);
3 (3) the duration of the contract; and
4 (4) any information concerning the renewable energy facility
5 required by the commission for the statewide registry
6 established under section 19 of this chapter.

7 Each party to the contract shall sign the contract and retain a
8 signed duplicate original of the contract. The energy utility shall
9 submit a copy of the signed contract to the commission not later
10 than seven (7) business days after the contract is signed by both
11 parties.

12 (c) Not later than December 1, 2011, the commission shall
13 develop and make available a standard contract form for use by
14 energy utilities in entering into contracts with facility operators
15 under this section. The form prescribed by the commission must
16 require the parties to set forth the information described in
17 subsection (b)(1) through (b)(4).

18 (d) Beginning on the date that is one (1) year after the date on
19 which a contract entered into under this section is signed by the
20 parties, each year during the term of the contract the rate set forth
21 in the contract under subsection (a)(2)(B) increases by a
22 percentage that is not less than the product of:

- 23 (1) the percent increase in the United States Department of
24 Labor Consumer Price Index during the previous calendar
25 year; multiplied by
26 (2) six-tenths (0.6).

27 (e) An energy utility's obligation to enter into a contract with a
28 facility operator under this section does not apply if:

- 29 (1) the capacity of the grid in the electric service area that:
30 (A) includes the facility operator's renewable energy
31 facility; and
32 (B) is served by the energy utility;

33 is entirely taken up by electricity generated by other
34 renewable energy facilities that were connected to the grid
35 before the connection or proposed connection of the facility
36 operator's renewable energy facility; and

- 37 (2) the energy utility has no ability to transmit any electricity
38 generated by the facility operator's renewable energy facility
39 to:

- 40 (A) an energy utility; or
41 (B) a grid operator;
42 in an adjacent electric service area.

43 (f) An energy utility's obligation to enter into a contract with a
44 facility operator under this section ends after December 31, 2031.
45 However, an energy utility may enter into a contract to purchase
46 electricity from a renewable energy facility under:

- 47 (1) the terms set forth in this section; or

1 (2) any other terms;
2 at any time.

3 **Sec. 14. (a) Not later than December 1, 2011, the commission**
4 **shall adopt emergency rules under IC 4-22-2-37.1 to establish**
5 **renewable energy rates that apply to each renewable energy**
6 **resource that:**

7 (1) is described in section 11 of this chapter; and

8 (2) may be used by a renewable energy facility to generate
9 electricity that is sold to an energy utility under a contract
10 entered into under section 13 of this chapter.

11 **(b) The renewable energy rates adopted by the commission**
12 **under subsection (a) are subject to the following:**

13 (1) The renewable energy rates must be:

14 (A) just and reasonable to the customers of the energy
15 utility; and

16 (B) in the public interest.

17 (2) The renewable energy rates may not discriminate against
18 renewable energy facilities.

19 (3) The renewable energy rates may not exceed an energy
20 utility's avoided costs (as defined in 18 CFR 292.101(b)(6)) in
21 purchasing electricity from a facility operator. However, in
22 adopting renewable energy rates based on avoided costs, the
23 commission may:

24 (A) differentiate among renewable energy facilities using
25 various technologies on the basis of the supply
26 characteristics of the different technologies;

27 (B) adopt a multi-tiered avoided cost rate structure based
28 on an energy utility's avoided costs for both energy and
29 capacity; and

30 (C) take into account any obligations that:

31 (i) are imposed by the state or the federal government at
32 the time the commission adopts renewable energy rates
33 under this section or adjusts renewable energy rates
34 under section 15 of this chapter; and

35 (ii) require energy utilities to purchase or generate
36 electricity from particular sources or for a particular
37 duration;

38 including any binding federal or state renewable energy
39 portfolio standards.

40 (4) The renewable energy rates must comply with:

41 (A) the federal Public Utility Regulatory Policies Act of
42 1978 (16 U.S.C. 824a-3); and

43 (B) all regulations adopted and orders issued by the
44 Federal Regulatory Energy Commission in connection with
45 the federal Public Utility Regulatory Policies Act of 1978
46 (16 U.S.C. 824a-3).

47 (5) The renewable energy rates must be at a level designed to

1 ensure that the prices paid for electricity under contracts
2 entered into under section 13 of this chapter:

3 (A) are adequate to encourage the rapid deployment of
4 renewable sources of electricity generation in Indiana; and

5 (B) do not result in:

6 (i) excessive profits for facility operators; or

7 (ii) unnecessary costs to customers of energy utilities.

8 (6) For each renewable energy resource described in section
9 11 of this chapter, the commission shall adopt at least two (2)
10 renewable energy rates, one (1) of which:

11 (A) is for a lower amount; and

12 (B) must apply with respect to any facility operator that
13 receives one (1) or more federal incentives for the
14 generation of electricity from the particular renewable
15 energy resource.

16 (c) An emergency rule adopted by the commission under
17 IC 4-22-2-37.1 expires on the date a rule that supersedes the
18 emergency rule is adopted by the commission under IC 4-22-2-24
19 through IC 4-22-2-36.

20 Sec. 15. (a) Every two (2) years, beginning in 2014, the
21 commission shall review the rates adopted under section 14 of this
22 chapter, as most recently adjusted under this section, to determine
23 if the then current rates reflect the price needed to encourage the
24 development of renewable energy facilities in Indiana. In making
25 the determination required under this section, the commission shall
26 consider whether the then current rates are at a level that:

27 (1) ensures the rapid deployment of renewable sources of
28 electricity generation; and

29 (2) does not result in:

30 (A) excessive profits for facility operators; or

31 (B) unnecessary costs to customers of energy utilities.

32 (b) If, in conducting the review required under subsection (a),
33 the commission determines that the then current rates, as most
34 recently adjusted under this section, do not reflect the price needed
35 to encourage the development of renewable energy facilities in
36 Indiana, the commission may, upon public notice and opportunity
37 for hearing by interested parties, adjust the then current rates to
38 a level that:

39 (1) ensures the rapid deployment of renewable sources of
40 electricity generation; and

41 (2) does not result in:

42 (A) excessive profits for facility operators; or

43 (B) unnecessary costs to customers of energy utilities.

44 (c) Any rate adjustments made by the commission under
45 subsection (b) apply only to contracts under section 13 of this
46 chapter that are entered into after the date of the commission's
47 order adjusting the rates.

1 **Sec. 16. (a) If:**

2 (1) at the time a facility operator enters into a contract with
3 an energy utility under section 13 of this chapter, the facility
4 operator does not receive any federal incentives for the
5 generation of electricity by the facility operator's renewable
6 energy facility; and

7 (2) at any time during the term of the contract, the facility
8 operator begins receiving one (1) or more federal incentives
9 for the generation of electricity by the facility operator's
10 renewable energy facility;

11 the facility operator shall provide to the commission and to the
12 energy utility written notice, on a form prescribed by the
13 commission, of the federal incentives received. The facility
14 operator shall provide the notice required by this subsection not
15 later than seven (7) business days after the effective date of the
16 federal incentives received. The renewable energy rate set forth in
17 the contract entered into by the facility operator and the energy
18 utility shall be adjusted to reflect the rate that applies to a facility
19 operator that receives federal incentives, as required under section
20 14(b)(6) of this chapter and as most recently adjusted under section
21 15 of this chapter, effective as of the effective date of the federal
22 incentives received.

23 **(b) If:**

24 (1) at the time a facility operator enters into a contract with
25 an energy utility under section 13 of this chapter, the facility
26 operator receives one (1) or more federal incentives for the
27 generation of electricity by the facility operator's renewable
28 energy facility; and

29 (2) at any time during the term of the contract, the facility
30 operator no longer receives any federal incentives for the
31 generation of electricity by the facility operator's renewable
32 energy facility;

33 the facility operator may provide to the commission and to the
34 energy utility written notice, on a form prescribed by the
35 commission, that the facility operator no longer receives any
36 federal incentives for the generation of electricity by the facility
37 operator's renewable energy facility. If the facility operator
38 provides the notice described in this subsection, the renewable
39 energy rate set forth in the contract entered into by the facility
40 operator and the energy utility shall be adjusted to reflect the rate
41 that applies to a facility operator that does not receive federal
42 incentives, as required under section 14(b)(6) of this chapter and
43 as most recently adjusted under section 15 of this chapter, effective
44 as of the termination date of the last federal incentive received by
45 the operator for the generation of electricity by the facility
46 operator's renewable energy facility.

47 (c) A facility operator that enters or seeks to enter into a

1 contract with an energy utility under section 13 of this chapter
 2 may, at the time of entering into the contract or at any time during
 3 the term of the contract, claim and receive, or cease to claim and
 4 receive, either of the following without an adjustment in the
 5 applicable renewable energy rate under section 14 of this chapter
 6 (as most recently adjusted under section 15 of this chapter):

7 (1) State tax credits, state tax deductions, or other state
 8 incentives or subsidies that are available in connection with
 9 the generation of electricity from renewable energy resources,
 10 if not otherwise prohibited by the state law, rule, or program
 11 establishing the incentives.

12 (2) Incentives offered by an energy utility in connection with
 13 the generation of electricity from renewable energy resources,
 14 if not otherwise prohibited by the energy utility's program
 15 establishing the incentives.

16 (d) An energy utility that enters into a contract with a facility
 17 operator under section 13 of this chapter is not exempt from any
 18 binding federal or state renewable energy portfolio standard that
 19 applies or may come into effect during the term of the contract.
 20 However, any credit or allowance for renewable electricity
 21 generation needed to comply with any federal or state renewable
 22 energy portfolio standard belongs to the energy utility that
 23 purchases electricity under the contract and may not be claimed by
 24 the facility operator supplying the electricity under the contract,
 25 unless otherwise specified by federal or state law.

26 Sec. 17. (a) Beginning in 2013, not later than March 1 of each
 27 year, an energy utility that purchased electricity during the
 28 immediately preceding calendar year from one (1) or more facility
 29 operators under one (1) or more contracts under section 13 of this
 30 chapter shall report to the commission, on a form prescribed by
 31 the commission, the following information for all the energy
 32 utility's contracts under section 13 of this chapter that were in
 33 effect during the immediately preceding calendar year:

34 (1) The total amount of electricity, expressed in kilowatt
 35 hours, purchased under all the energy utility's contracts
 36 under section 13 of this chapter that were in effect during the
 37 immediately preceding calendar year.

38 (2) The total amount paid by the energy utility for the
 39 electricity described in subdivision (1).

40 (3) The total amount of electricity, expressed in kilowatt
 41 hours, supplied by the energy utility to all its Indiana
 42 customers during the immediately preceding calendar year.

43 (b) Beginning in 2013, not later than July 1 of each year, the
 44 commission shall compile the information submitted by all energy
 45 utilities under subsection (a) and shall determine the following:

46 (1) The statewide ratio of the total electricity purchased from
 47 renewable energy facilities by energy utilities to the total

1 electricity supplied to all Indiana customers by those energy
 2 utilities, with respect to the immediately preceding calendar
 3 year, determined as follows:

4 **STEP ONE: Determine the sum of all amounts reported by**
 5 **all energy utilities under subsection (a)(1) with respect to**
 6 **the immediately preceding calendar year.**

7 **STEP TWO: Determine the sum of all amounts reported**
 8 **by all energy utilities under subsection (a)(3) with respect**
 9 **to the immediately preceding calendar year.**

10 **STEP THREE: Determine the quotient of:**

11 **(A) the STEP ONE amount; divided by**

12 **(B) the STEP TWO amount.**

13 **(2) For each energy utility that submitted a report under**
 14 **subsection (a), the ratio of the total electricity purchased from**
 15 **renewable energy facilities by the energy utility to the total**
 16 **electricity supplied to all Indiana customers by the energy**
 17 **utility, with respect to the immediately preceding calendar**
 18 **year, determined by calculating the quotient of:**

19 **(A) the amount reported by the energy utility under**
 20 **subsection (a)(1); divided by**

21 **(B) the amount reported by the energy utility under**
 22 **subsection (a)(3).**

23 **(3) The sum of the amounts reported by all energy utilities**
 24 **under subsection (a)(2).**

25 **(c) For each energy utility that submits a report under**
 26 **subsection (a), the commission shall compare the ratio calculated**
 27 **for the energy utility under subsection (b)(2) to the statewide ratio**
 28 **calculated under subsection (b)(1). If an energy utility's ratio**
 29 **calculated under subsection (b)(2) is less than the statewide ratio**
 30 **calculated under subsection (b)(1), the commission shall assess the**
 31 **energy utility an equalization charge in an amount equal to the**
 32 **difference between:**

33 **(1) the product of:**

34 **(A) the amount determined by the commission under**
 35 **subsection (b)(3); multiplied by**

36 **(B) the statewide ratio calculated by the commission under**
 37 **subsection (b)(1); minus**

38 **(2) the product of:**

39 **(A) the amount determined by the commission under**
 40 **subsection (b)(3); multiplied by**

41 **(B) the energy utility's ratio calculated by the commission**
 42 **under subsection (b)(2).**

43 **Not later than August 1 of the same year in which the commission**
 44 **makes the calculations described in subsection (b), the commission**
 45 **shall send an energy utility whose ratio calculated under subsection**
 46 **(b)(2) is less than the statewide ratio calculated under subsection**
 47 **(b)(1) a notice of the equalization charge due, as calculated under**

1 this subsection. The notice must specify that the equalization
 2 charge must be paid to the commission not later than thirty (30)
 3 days after the date of the commission's notice, for deposit by the
 4 commission in the renewable energy equalization fund established
 5 by section 18 of this chapter.

6 (d) The commission shall immediately deposit all equalization
 7 charges received under subsection (c) into the renewable energy
 8 equalization fund established by section 18 of this chapter.

9 (e) If, in comparing the ratio calculated for an energy utility
 10 under subsection (b)(2) to the statewide ratio calculated under
 11 subsection (b)(1), as required by subsection (c), the commission
 12 determines that the energy utility's ratio calculated under
 13 subsection (b)(2) is greater than the statewide ratio calculated
 14 under subsection (b)(1), the commission shall make an equalization
 15 payment to the energy utility in an amount equal to the difference
 16 between:

17 (1) the product of:

18 (A) the amount determined by the commission under
 19 subsection (b)(3); multiplied by

20 (B) the energy utility's ratio calculated by the commission
 21 under subsection (b)(2); minus

22 (2) the product of:

23 (A) the amount determined by the commission under
 24 subsection (b)(3); multiplied by

25 (B) the statewide ratio calculated by the commission under
 26 subsection (b)(1).

27 The commission shall remit the equalization payment determined
 28 under this subsection to the energy utility not later than November
 29 1 of the same year in which the commission makes the calculations
 30 described in subsection (b). An equalization payment remitted to
 31 an energy utility under this subsection shall be paid from the
 32 renewable energy equalization fund established by section 18 of
 33 this chapter.

34 (f) The commission may adopt rules under IC 4-22-2, including
 35 emergency rules under IC 4-22-2-37.1, to implement this section.
 36 An emergency rule adopted by the commission under
 37 IC 4-22-2-37.1 expires on the date the rule is adopted by the
 38 commission under IC 4-22-2-24 through IC 4-22-2-36.

39 Sec. 18. (a) The renewable energy equalization fund is
 40 established to receive equalization charges and disburse
 41 equalization payments under this chapter. The fund shall be
 42 administered by the commission.

43 (b) The fund consists of money deposited in the fund by the
 44 commission under section 17(d) of this chapter.

45 (c) The treasurer of state shall invest the money in the fund not
 46 currently needed to meet the obligations of the fund in the same
 47 manner as other public funds may be invested.

1 **(d) Money in the fund at the end of a state fiscal year does not**
 2 **revert to the state general fund but remains in the fund to be used**
 3 **exclusively for purposes of this chapter.**

4 **(e) Money in the fund is continuously appropriated for the**
 5 **purposes of this chapter.**

6 **Sec. 19. (a) Not later than June 1, 2013, the commission shall**
 7 **establish a statewide registry of all renewable energy facilities that**
 8 **enter into contracts with energy utilities under section 13 of this**
 9 **chapter after December 31, 2011. Based on the information**
 10 **contained in the standard contracts submitted to the commission**
 11 **under section 13(b) of this chapter, and on any information**
 12 **obtained independently by the commission from a particular**
 13 **facility operator, the commission shall record in the registry the**
 14 **following information for each renewable energy facility:**

15 **(1) The facility operator for the renewable energy facility.**

16 **(2) The type of renewable energy resource used by the**
 17 **renewable energy facility to generate electricity.**

18 **(3) The capacity of the renewable energy facility.**

19 **(4) The location of the renewable energy facility.**

20 **(5) The number of contracts entered into under section 13 of**
 21 **this chapter under which the renewable energy facility**
 22 **supplies electricity.**

23 **(6) Any technical specifications concerning the renewable**
 24 **energy facility that the commission may require.**

25 **(b) The commission shall require a facility operator, or the**
 26 **facility operator's successor in interest, to notify the commission in**
 27 **a timely manner if any of the information described in subsection**
 28 **(a) with respect to the facility operator's renewable energy facility**
 29 **changes. The commission shall require a facility operator that has**
 30 **one (1) or more renewable energy facilities included in the registry**
 31 **established under subsection (a) to provide an annual report, on a**
 32 **form prescribed by the commission, providing updated**
 33 **information on each of the facility operator's renewable energy**
 34 **facilities that is included in the registry.**

35 **(c) The commission shall update the registry on a timely basis**
 36 **upon receiving:**

37 **(1) a standard contract submitted to the commission under**
 38 **section 13(b) of this chapter; or**

39 **(2) an annual report or a notice of change in information from**
 40 **a facility operator under subsection (b).**

41 **(d) The commission shall make the registry established under**
 42 **subsection (a) available:**

43 **(1) for public inspection and copying at the offices of the**
 44 **commission under IC 5-14-3; and**

45 **(2) on the commission's web site."**

46 Delete pages 13 through 22.

47 Page 23, delete lines 1 through 2.

- 1 Renumber all SECTIONS consecutively.
(Reference is to ESB 251 as printed April 15, 2011.)

Representative Pierce