

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WITHDRAWN	Noes _____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

1 November 1 of each year that are based on a review of the following  
2 issues:

- 3 (1) The effects of competition or changes in the energy utility  
4 industry and the impact of the competition or changes on the  
5 residential rates.  
6 (2) The status of modernization of the energy utility facilities in  
7 Indiana and the incentives required to further enhance this  
8 infrastructure.  
9 (3) The effects on economic development of this modernization.  
10 (4) The traditional method of regulating energy utilities and the  
11 method's effectiveness.  
12 (5) The economic and social effectiveness of traditional energy  
13 utility service pricing.  
14 (6) The effects of legislation enacted by the United States  
15 Congress.  
16 (7) All other energy utility issues the committee considers  
17 appropriate; however, it is not the intent of this section to provide  
18 for the review of the statutes cited in section 11 of this chapter.

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

21 (d) This section:

- 22 (1) does not give a party to a collective bargaining agreement any  
23 greater rights under the agreement than the party had before  
24 January 1, 1995;  
25 (2) does not give the committee the authority to order a party to  
26 a collective bargaining agreement to cancel, terminate, amend, or  
27 otherwise modify the collective bargaining agreement; and  
28 (3) may not be implemented by the committee in a way that would  
29 give a party to a collective bargaining agreement any greater  
30 rights under the agreement than the party had before January 1,  
31 1995.

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

39 (f) The legislative services agency shall provide staff support to the  
40 committee.

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

45 Page 8, delete lines 29 through 42.

46 Page 9, delete lines 1 through 19.

1 Page 11, line 34, delete "IC 8-1-37-4(a)(1) through" and insert  
2 **"IC 8-1-8.8-10(a)(1) through IC 8-1-8.8-10(a)(6)."**

3 Page 11, line 35, delete "IC 8-1-37-4(a)(6)."

4 Page 12, delete lines 33 through 42, begin a new paragraph and  
5 insert:

6 "SECTION 16. IC 8-1-37 IS ADDED TO THE INDIANA CODE  
7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
8 UPON PASSAGE]:

9 **Chapter 37. Advanced Renewable Energy Contracts**

10 **Sec. 1. (a) The general assembly makes the following findings:**

11 **(1) The development of a robust and diverse portfolio of**  
12 **electric generating capacity, including the use of renewable**  
13 **energy resources, is necessary if Indiana is to continue to be**  
14 **successful in attracting new businesses and jobs.**

15 **(2) The payment of renewable energy rates for electricity**  
16 **generated from renewable energy resources:**

17 **(A) ensures a sound long term investment for industries,**  
18 **companies, and individuals investing in renewable energy**  
19 **technologies; and**

20 **(B) creates strong economic incentives for those industries,**  
21 **companies, and individuals to make the necessary capital**  
22 **and job creating investments in renewable energy**  
23 **technologies in those jurisdictions that provide such**  
24 **incentives.**

25 **(3) Indiana has considerable renewable energy resources that**  
26 **could support the development of new electricity generation.**

27 **(4) It is in the public interest for the state to encourage the**  
28 **rapid and sustainable development of renewable energy**  
29 **resources for the generation of electricity in Indiana.**

30 **(5) The rapid and sustainable development of renewable**  
31 **energy resources for the generation of electricity will benefit**  
32 **the health, safety, and welfare of Indiana and its citizens by**  
33 **doing the following:**

34 **(A) Stimulating the development of new technologies and**  
35 **industries in Indiana and creating new jobs to serve those**  
36 **emerging industries.**

37 **(B) Placing Indiana at the forefront of the nation's**  
38 **renewable energy revolution.**

39 **(C) Creating an Indiana marketplace for the development**  
40 **of and investments in renewable energy resources and**  
41 **technologies.**

42 **(D) Opening renewable electricity generation, and the**  
43 **economic opportunities that accompany such generation,**  
44 **to all Indiana citizens.**

45 **(E) Providing equitable opportunities for all Indiana**  
46 **citizens to help grow Indiana's renewable energy industry.**

47 **(F) Reducing the price volatility and long term costs of**

- 1 electricity.
- 2 (G) Reducing air and water pollution and related health
- 3 problems and health care expenditures.
- 4 (H) Protecting Indiana's natural resources.
- 5 (I) Reducing greenhouse gas emissions into the
- 6 atmosphere.

7 (b) The purpose of this chapter is to:

- 8 (1) strengthen Indiana's economy by attracting new
- 9 businesses and jobs in the growing renewable energy
- 10 industry; and
- 11 (2) enable the rapid and sustainable development of
- 12 renewable energy resources for the generation of electricity
- 13 in Indiana by:
- 14 (A) providing for priority interconnections of renewable
- 15 energy facilities to electric grids, including the necessary
- 16 grid upgrades to allow those interconnections;
- 17 (B) providing for priority purchases by energy utilities of
- 18 electricity generated by renewable energy facilities;
- 19 (C) requiring the commission to establish for purchases
- 20 described in clause (B) renewable energy rates that are
- 21 designed to ensure that the prices paid for the electricity
- 22 are adequate to encourage the development of renewable
- 23 energy facilities in Indiana; and
- 24 (D) establishing a statewide equalization system for
- 25 distributing the costs of the purchases described in clause
- 26 (B).

27 Sec. 2. As used in this chapter, "capacity", with respect to a

28 renewable energy facility, means the maximum output of

29 electricity, expressed in kilowatts or megawatts, that the renewable

30 energy facility can supply to an electric system's load, adjusted for

31 ambient conditions.

32 Sec. 3. As used in this chapter, "energy utility" means a public

33 utility (as defined in IC 8-1-2-1) engaged in the production,

34 transmission, delivery, or furnishing of electricity.

35 Sec. 4. As used in this chapter, "facility operator" means a

36 person that owns, operates, manages, or controls a renewable

37 energy facility.

38 Sec. 5. As used in this chapter, "federal incentive" means any

39 federal tax credit or deduction, or any other federal incentive or

40 subsidy (other than any accelerated depreciation available for tax

41 purposes), that is available in connection with the generation of

42 electricity from a renewable energy resource.

43 Sec. 6. As used in this chapter, "grid" means interconnected

44 facilities used for the transmission and distribution of electricity

45 for general supply.

46 Sec. 7. As used in this chapter, "grid operator" means:

- 47 (1) an energy utility; or

1           (2) another person;  
2 that owns or operates any part of a grid.

3           **Sec. 8. As used in this chapter, "grid upgrade" means any**  
4 **additions or modifications to a grid that are made:**

5           (1) at or beyond the point at which a renewable energy facility  
6 interconnects to the grid; and

7           (2) to accommodate electricity generated by the renewable  
8 energy facility and delivered to the grid.

9           **Sec. 9. (a) As used in this chapter, "renewable energy facility"**  
10 **means a facility that:**

11           (1) is located in Indiana;

12           (2) generates electricity solely from a renewable energy  
13 resource;

14           (3) is capable of providing electricity directly to a grid; and

15           (4) is a qualifying facility under regulations adopted by the  
16 Federal Regulatory Energy Commission under the federal  
17 Public Utility Regulatory Policies Act of 1978 (16 U.S.C.  
18 824a-3).

19           **(b) The term includes the following:**

20           (1) An alternate energy production facility (as defined in  
21 IC 8-1-2.4-2(b)), to the extent that it generates electricity from  
22 a renewable energy resource set forth in section 11 of this  
23 chapter.

24           (2) A small hydro facility (as defined in IC 8-1-2.4-2(e)) at an  
25 existing dam.

26           **(c) The term does not include a cogeneration facility (as defined**  
27 **in IC 8-1-2.4-2(c)).**

28           **Sec. 10. As used in this chapter, "renewable energy rate" means**  
29 **a rate that:**

30           (1) an energy utility pays for electricity under a contract  
31 entered into under section 13 of this chapter with a facility  
32 operator; and

33           (2) applies to the particular renewable energy resource used  
34 to generate the electricity sold to the energy utility under the  
35 contract, as set forth in rules adopted by the commission  
36 under section 14 of this chapter (as most recently adjusted  
37 under section 15 of this chapter) at the time the contract is  
38 entered into.

39           **Sec. 11. As used in this chapter, "renewable energy resource"**  
40 **means any of the following sources for the generation of electricity:**

41           (1) Wind energy.

42           (2) Solar energy.

43           (3) Hydropower from existing dams.

44           (4) Geothermal energy.

45           (5) Energy from organic waste biogas, including any of the  
46 following:

47           (A) Methane produced by the biodigestion of farm or

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

1 upgrades made when determining any charges for the use of the  
2 grid by the renewable energy facility for which the upgrades are  
3 made.

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

9 (1) the connection; and

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

13 performed by the grid operator or a third party.

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

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

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

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

26 (2) require the energy utility to purchase electricity from the  
27 renewable energy facility:

28 (A) on a priority basis; and

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

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

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

38 throughout the term of the contract.

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

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

46 (2) the adjustments to be made to the rate to account for  
47 inflation, as prescribed by subsection (d);

- 1           **(3) the duration of the contract; and**  
 2           **(4) any information concerning the renewable energy facility**  
 3           **required by the commission for the statewide registry**  
 4           **established under section 19 of this chapter.**

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

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

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

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

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

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

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

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

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

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

- 45           **(1) the terms set forth in this section; or**  
 46           **(2) any other terms;**

47          **at any time.**

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

- 5           **(1) is described in section 11 of this chapter; and**  
 6           **(2) may be used by a renewable energy facility to generate**  
 7 **electricity that is sold to an energy utility under a contract**  
 8 **entered into under section 13 of this chapter.**

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

- 11           **(1) The renewable energy rates must be:**  
 12           **(A) just and reasonable to the customers of the energy**  
 13 **utility; and**  
 14           **(B) in the public interest.**

15           **(2) The renewable energy rates may not discriminate against**  
 16 **renewable energy facilities.**

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

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

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

28           **(C) take into account any obligations that:**

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

33           **(ii) require energy utilities to purchase or generate**  
 34 **electricity from particular sources or for a particular**  
 35 **duration;**

36           **including any binding federal or state renewable energy**  
 37 **portfolio standards.**

38           **(4) The renewable energy rates must comply with:**

39           **(A) the federal Public Utility Regulatory Policies Act of**  
 40 **1978 (16 U.S.C. 824a-3); and**

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

45           **(5) The renewable energy rates must be at a level designed to**  
 46 **ensure that the prices paid for electricity under contracts**  
 47 **entered into under section 13 of this chapter:**

- 1           (A) are adequate to encourage the rapid deployment of  
2           renewable sources of electricity generation in Indiana; and  
3           (B) do not result in:  
4           (i) excessive profits for facility operators; or  
5           (ii) unnecessary costs to customers of energy utilities.
- 6           (6) For each renewable energy resource described in section  
7           11 of this chapter, the commission shall adopt at least two (2)  
8           renewable energy rates, one (1) of which:  
9           (A) is for a lower amount; and  
10           (B) must apply with respect to any facility operator that  
11           receives one (1) or more federal incentives for the  
12           generation of electricity from the particular renewable  
13           energy resource.
- 14           (c) An emergency rule adopted by the commission under  
15           IC 4-22-2-37.1 expires on the date a rule that supersedes the  
16           emergency rule is adopted by the commission under IC 4-22-2-24  
17           through IC 4-22-2-36.
- 18           Sec. 15. (a) Every two (2) years, beginning in 2014, the  
19           commission shall review the rates adopted under section 14 of this  
20           chapter, as most recently adjusted under this section, to determine  
21           if the then current rates reflect the price needed to encourage the  
22           development of renewable energy facilities in Indiana. In making  
23           the determination required under this section, the commission shall  
24           consider whether the then current rates are at a level that:  
25           (1) ensures the rapid deployment of renewable sources of  
26           electricity generation; and  
27           (2) does not result in:  
28           (A) excessive profits for facility operators; or  
29           (B) unnecessary costs to customers of energy utilities.
- 30           (b) If, in conducting the review required under subsection (a),  
31           the commission determines that the then current rates, as most  
32           recently adjusted under this section, do not reflect the price needed  
33           to encourage the development of renewable energy facilities in  
34           Indiana, the commission may, upon public notice and opportunity  
35           for hearing by interested parties, adjust the then current rates to  
36           a level that:  
37           (1) ensures the rapid deployment of renewable sources of  
38           electricity generation; and  
39           (2) does not result in:  
40           (A) excessive profits for facility operators; or  
41           (B) unnecessary costs to customers of energy utilities.
- 42           (c) Any rate adjustments made by the commission under  
43           subsection (b) apply only to contracts under section 13 of this  
44           chapter that are entered into after the date of the commission's  
45           order adjusting the rates.
- 46           Sec. 16. (a) If:  
47           (1) at the time a facility operator enters into a contract with

1           an energy utility under section 13 of this chapter, the facility  
2           operator does not receive any federal incentives for the  
3           generation of electricity by the facility operator's renewable  
4           energy facility; and

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

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

21          (b) If:

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

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

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

45          (c) A facility operator that enters or seeks to enter into a  
46          contract with an energy utility under section 13 of this chapter  
47          may, at the time of entering into the contract or at any time during

1 the term of the contract, claim and receive, or cease to claim and  
 2 receive, either of the following without an adjustment in the  
 3 applicable renewable energy rate under section 14 of this chapter  
 4 (as most recently adjusted under section 15 of this chapter):

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

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

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

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

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

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

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

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

44 (1) The statewide ratio of the total electricity purchased from  
 45 renewable energy facilities by energy utilities to the total  
 46 electricity supplied to all Indiana customers by those energy  
 47 utilities, with respect to the immediately preceding calendar

- 1           year, determined as follows:
- 2           **STEP ONE: Determine the sum of all amounts reported by**
- 3           **all energy utilities under subsection (a)(1) with respect to**
- 4           **the immediately preceding calendar year.**
- 5           **STEP TWO: Determine the sum of all amounts reported**
- 6           **by all energy utilities under subsection (a)(3) with respect**
- 7           **to the immediately preceding calendar year.**
- 8           **STEP THREE: Determine the quotient of:**
- 9           **(A) the STEP ONE amount; divided by**
- 10           **(B) the STEP TWO amount.**
- 11           **(2) For each energy utility that submitted a report under**
- 12           **subsection (a), the ratio of the total electricity purchased from**
- 13           **renewable energy facilities by the energy utility to the total**
- 14           **electricity supplied to all Indiana customers by the energy**
- 15           **utility, with respect to the immediately preceding calendar**
- 16           **year, determined by calculating the quotient of:**
- 17           **(A) the amount reported by the energy utility under**
- 18           **subsection (a)(1); divided by**
- 19           **(B) the amount reported by the energy utility under**
- 20           **subsection (a)(3).**
- 21           **(3) The sum of the amounts reported by all energy utilities**
- 22           **under subsection (a)(2).**
- 23           **(c) For each energy utility that submits a report under**
- 24           **subsection (a), the commission shall compare the ratio calculated**
- 25           **for the energy utility under subsection (b)(2) to the statewide ratio**
- 26           **calculated under subsection (b)(1). If an energy utility's ratio**
- 27           **calculated under subsection (b)(2) is less than the statewide ratio**
- 28           **calculated under subsection (b)(1), the commission shall assess the**
- 29           **energy utility an equalization charge in an amount equal to the**
- 30           **difference between:**
- 31           **(1) the product of:**
- 32           **(A) the amount determined by the commission under**
- 33           **subsection (b)(3); multiplied by**
- 34           **(B) the statewide ratio calculated by the commission under**
- 35           **subsection (b)(1); minus**
- 36           **(2) the product of:**
- 37           **(A) the amount determined by the commission under**
- 38           **subsection (b)(3); multiplied by**
- 39           **(B) the energy utility's ratio calculated by the commission**
- 40           **under subsection (b)(2).**
- 41           **Not later than August 1 of the same year in which the commission**
- 42           **makes the calculations described in subsection (b), the commission**
- 43           **shall send an energy utility whose ratio calculated under subsection**
- 44           **(b)(2) is less than the statewide ratio calculated under subsection**
- 45           **(b)(1) a notice of the equalization charge due, as calculated under**
- 46           **this subsection. The notice must specify that the equalization**
- 47           **charge must be paid to the commission not later than thirty (30)**

1 days after the date of the commission's notice, for deposit by the  
2 commission in the renewable energy equalization fund established  
3 by section 18 of this chapter.

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

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

15 (1) the product of:

16 (A) the amount determined by the commission under  
17 subsection (b)(3); multiplied by

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

20 (2) the product of:

21 (A) the amount determined by the commission under  
22 subsection (b)(3); multiplied by

23 (B) the statewide ratio calculated by the commission under  
24 subsection (b)(1).

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

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

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

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

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

46 (d) Money in the fund at the end of a state fiscal year does not  
47 revert to the state general fund but remains in the fund to be used

- 1 exclusively for purposes of this chapter.
- 2       **Sec. 19. (a)** Not later than June 1, 2013, the commission shall
- 3 establish a statewide registry of all renewable energy facilities that
- 4 enter into contracts with energy utilities under section 13 of this
- 5 chapter after December 31, 2011. Based on the information
- 6 contained in the standard contracts submitted to the commission
- 7 under section 13(b) of this chapter, and on any information
- 8 obtained independently by the commission from a particular
- 9 facility operator, the commission shall record in the registry the
- 10 following information for each renewable energy facility:
- 11       (1) The facility operator for the renewable energy facility.
- 12       (2) The type of renewable energy resource used by the
- 13 renewable energy facility to generate electricity.
- 14       (3) The capacity of the renewable energy facility.
- 15       (4) The location of the renewable energy facility.
- 16       (5) The number of contracts entered into under section 13 of
- 17 this chapter under which the renewable energy facility
- 18 supplies electricity.
- 19       (6) Any technical specifications concerning the renewable
- 20 energy facility that the commission may require.
- 21       **(b)** The commission shall require a facility operator, or the
- 22 facility operator's successor in interest, to notify the commission in
- 23 a timely manner if any of the information described in subsection
- 24 **(a)** with respect to the facility operator's renewable energy facility
- 25 changes. The commission shall require a facility operator that has
- 26 one (1) or more renewable energy facilities included in the registry
- 27 established under subsection **(a)** to provide an annual report, on a
- 28 form prescribed by the commission, providing updated
- 29 information on each of the facility operator's renewable energy
- 30 facilities that is included in the registry.
- 31       **(c)** The commission shall update the registry on a timely basis
- 32 upon receiving:
- 33       (1) a standard contract submitted to the commission under
- 34 section 13(b) of this chapter; or
- 35       (2) an annual report or a notice of change in information from
- 36 a facility operator under subsection **(b)**.
- 37       **(d)** The commission shall make the registry established under
- 38 subsection **(a)** available:
- 39       (1) for public inspection and copying at the offices of the
- 40 commission under IC 5-14-3; and

- 1           **(2) on the commission's web site."**
- 2           Delete pages 13 through 22.
- 3           Page 23, delete lines 1 through 2.
- 4           Renumber all SECTIONS consecutively.  
(Reference is to ESB 251 as printed April 15, 2011.)

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Representative Pierce