

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1128 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 2, after line 18, begin a new paragraph and insert:
 2 "SECTION 3. IC 8-1-37 IS ADDED TO THE INDIANA CODE AS
 3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 4 PASSAGE]:

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

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

7 (1) The development of a robust and diverse portfolio of
 8 electric generating capacity, including the use of renewable
 9 energy resources, is necessary if Indiana is to continue to be
 10 successful in attracting new businesses and jobs.

11 (2) The payment of renewable energy rates for electricity
 12 generated from renewable energy resources:

13 (A) ensures a sound long term investment for industries,
 14 companies, and individuals investing in renewable energy
 15 technologies; and

16 (B) creates strong economic incentives for those industries,
 17 companies, and individuals to make the necessary capital
 18 and job creating investments in renewable energy
 19 technologies in those jurisdictions that provide such
 20 incentives.

21 (3) Indiana has considerable renewable energy resources that
 22 could support the development of new electricity generation.

23 (4) It is in the public interest for the state to encourage the
 24 rapid and sustainable development of renewable energy
 25 resources for the generation of electricity in Indiana.

26 (5) The rapid and sustainable development of renewable
 27 energy resources for the generation of electricity will benefit
 28 the health, safety, and welfare of Indiana and its citizens by
 29 doing the following:

30 (A) Stimulating the development of new technologies and
 31 industries in Indiana and creating new jobs to serve those
 32 emerging industries.

33 (B) Placing Indiana at the forefront of the nation's
 34 renewable energy revolution.

35 (C) Creating an Indiana marketplace for the development
 36 of and investments in renewable energy resources and
 37 technologies.

38 (D) Opening renewable electricity generation, and the
 39 economic opportunities that accompany such generation,
 40 to all Indiana citizens.

41 (E) Providing equitable opportunities for all Indiana
 42 citizens to help grow Indiana's renewable energy industry.

43 (F) Reducing the price volatility and long term costs of
 44 electricity.

45 (G) Reducing air and water pollution and related health
 46 problems and health care expenditures.

47 (H) Protecting Indiana's natural resources.

1 **(I) Reducing greenhouse gas emissions into the**
 2 **atmosphere.**

3 **(b) The purpose of this chapter is to:**

4 **(1) strengthen Indiana's economy by attracting new**
 5 **businesses and jobs in the growing renewable energy**
 6 **industry; and**

7 **(2) enable the rapid and sustainable development of**
 8 **renewable energy resources for the generation of electricity**
 9 **in Indiana by:**

10 **(A) providing for priority interconnections of renewable**
 11 **energy facilities to electric grids, including the necessary**
 12 **grid upgrades to allow those interconnections;**

13 **(B) providing for priority purchases by energy utilities of**
 14 **electricity generated by renewable energy facilities;**

15 **(C) requiring the commission to establish for purchases**
 16 **described in clause (B) renewable energy rates that are**
 17 **designed to ensure that the prices paid for the electricity**
 18 **are adequate to encourage the development of renewable**
 19 **energy facilities in Indiana; and**

20 **(D) establishing a statewide equalization system for**
 21 **distributing the costs of the purchases described in clause**
 22 **(B).**

23 **Sec. 2. As used in this chapter, "capacity", with respect to a**
 24 **renewable energy facility, means the maximum output of**
 25 **electricity, expressed in kilowatts or megawatts, that the renewable**
 26 **energy facility can supply to an electric system's load, adjusted for**
 27 **ambient conditions.**

28 **Sec. 3. As used in this chapter, "energy utility" means a public**
 29 **utility (as defined in IC 8-1-2-1) engaged in the production,**
 30 **transmission, delivery, or furnishing of electricity.**

31 **Sec. 4. As used in this chapter, "facility operator" means a**
 32 **person that owns, operates, manages, or controls a renewable**
 33 **energy facility.**

34 **Sec. 5. As used in this chapter, "federal incentive" means any**
 35 **federal tax credit or deduction, or any other federal incentive or**
 36 **subsidy (other than any accelerated depreciation available for tax**
 37 **purposes), that is available in connection with the generation of**
 38 **electricity from a renewable energy resource.**

39 **Sec. 6. As used in this chapter, "grid" means interconnected**
 40 **facilities used for the transmission and distribution of electricity**
 41 **for general supply.**

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

43 **(1) an energy utility; or**

44 **(2) another person;**

45 **that owns or operates any part of a grid.**

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

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

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

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

7 (1) is located in Indiana;

8 (2) generates electricity solely from a renewable energy
9 resource;

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

11 (4) is a qualifying facility under regulations adopted by the
12 Federal Regulatory Energy Commission under the federal
13 Public Utility Regulatory Policies Act of 1978 (16 U.S.C.
14 824a-3).

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

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

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

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

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

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

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

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

37 (1) Wind energy.

38 (2) Solar energy.

39 (3) Hydropower from existing dams.

40 (4) Geothermal energy.

41 (5) Energy from organic waste biogas, including any of the
42 following:

43 (A) Methane produced by the biodigestion of farm or
44 animal wastes.

45 (B) Landfill gas.

46 (C) Sewage treatment gas.

47 **The term does not include coal bed methane.**

- 1 **Sec. 12. (a) After December 31, 2011, a grid operator shall:**
2 **(1) provide priority interconnections between renewable**
3 **energy facilities and the grid operator's grid; and**
4 **(2) transmit on a priority basis electricity generated by any**
5 **renewable energy facilities that are connected to its grid.**
6 **(b) A grid operator has the duty to interconnect a particular**
7 **renewable energy facility under this section if:**
8 **(1) the grid operator provides transmission or distribution**
9 **service in a retail electric service area that includes the**
10 **renewable energy facility;**
11 **(2) the grid operator controls or operates grid facilities**
12 **technically suitable to receive electricity from the renewable**
13 **energy facility; and**
14 **(3) there is no other grid with a connection point that is**
15 **technically and economically more suitable.**
16 **(c) For purposes of subsection (b), a grid is considered**
17 **technically suitable to receive electricity from a renewable energy**
18 **facility even if feeding in the electricity produced by the renewable**
19 **energy facility requires the grid operator to perform grid**
20 **upgrades. If a grid operated or controlled by a grid operator**
21 **requires grid upgrades to enable a renewable energy facility to feed**
22 **in electricity to the grid, the grid operator shall perform the**
23 **required grid upgrades without undue delay, upon the request of**
24 **the facility operator seeking to connect a renewable energy facility**
25 **to the grid operator's grid. The obligation to upgrade a grid under**
26 **this subsection includes the obligation to upgrade:**
27 **(1) all technical facilities that are:**
28 **(A) required for operating the grid; and**
29 **(B) needed for the interconnection; and**
30 **(2) all connecting installations that are needed for the**
31 **interconnection;**
32 **that are owned or passed into ownership of the grid operator.**
33 **(d) The costs associated with:**
34 **(1) connecting a renewable energy facility to the technically**
35 **and economically most suitable connection point on the grid;**
36 **and**
37 **(2) installing the necessary measuring devices for recording**
38 **the quantity of electricity transmitted and received by the**
39 **renewable energy facility;**
40 **shall be borne by the facility operator.**
41 **(e) The costs associated with any grid upgrades required under**
42 **subsection (c) shall be borne by the grid operator making the**
43 **upgrades. The grid operator may take into account the costs of any**
44 **upgrades made when determining any charges for the use of the**
45 **grid by the renewable energy facility for which the upgrades are**
46 **made.**
47 **(f) Whenever a renewable energy facility is connected to a grid**

1 under this section, the connection and any other installations
 2 required for the safe operation of the grid must meet the renewable
 3 energy facility's technical requirements. A facility operator may
 4 have:

- 5 (1) the connection; and
- 6 (2) the installation of any measuring devices for recording the
 7 quantity of electricity transmitted and received by the
 8 renewable energy facility;
 9 performed by the grid operator or a third party.

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

- 15 (1) be for a term of at least:
 - 16 (A) forty (40) years, in the case of electricity generated
 17 from a renewable energy facility that uses hydropower at
 18 an existing dam to generate electricity; or
 - 19 (B) twenty (20) years, in the case of electricity generated
 20 from a renewable energy facility not described in clause
 21 (A); and
 - 22 (2) require the energy utility to purchase electricity from the
 23 renewable energy facility:
 - 24 (A) on a priority basis; and
 - 25 (B) subject to subsection (d) and section 16 of this chapter,
 26 at a rate that is not less than the applicable renewable
 27 energy rate that:
 - 28 (i) applies with respect to the particular renewable
 29 resource used by the renewable energy facility; and
 - 30 (ii) is in effect under rules adopted by the commission
 31 under section 14 of this chapter (as most recently
 32 adjusted under section 15 of this chapter) at the time the
 33 contract is entered into;
- 34 throughout the term of the contract.

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

- 40 (1) the rate to be paid for each kilowatt hour of electricity
 41 purchased under the contract;
- 42 (2) the adjustments to be made to the rate to account for
 43 inflation, as prescribed by subsection (d);
- 44 (3) the duration of the contract; and
- 45 (4) any information concerning the renewable energy facility
 46 required by the commission for the statewide registry
 47 established under section 19 of this chapter.

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

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

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

- 17 (1) the percent increase in the United States Department of
 18 Labor Consumer Price Index during the previous calendar
 19 year; multiplied by
- 20 (2) six-tenths (0.6).

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

- 23 (1) the capacity of the grid in the electric service area that:
 24 (A) includes the facility operator's renewable energy
 25 facility; and
 26 (B) is served by the energy utility;
 27 is entirely taken up by electricity generated by other
 28 renewable energy facilities that were connected to the grid
 29 before the connection or proposed connection of the facility
 30 operator's renewable energy facility; and
- 31 (2) the energy utility has no ability to transmit any electricity
 32 generated by the facility operator's renewable energy facility
 33 to:

- 34 (A) an energy utility; or
- 35 (B) a grid operator;
 36 in an adjacent electric service area.

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

- 41 (1) the terms set forth in this section; or
- 42 (2) any other terms;

43 at any time.

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

- 1 **(1) is described in section 11 of this chapter; and**
 2 **(2) may be used by a renewable energy facility to generate**
 3 **electricity that is sold to an energy utility under a contract**
 4 **entered into under section 13 of this chapter.**
 5 **(b) The renewable energy rates adopted by the commission**
 6 **under subsection (a) are subject to the following:**
 7 **(1) The renewable energy rates must be:**
 8 **(A) just and reasonable to the customers of the energy**
 9 **utility; and**
 10 **(B) in the public interest.**
 11 **(2) The renewable energy rates may not discriminate against**
 12 **renewable energy facilities.**
 13 **(3) The renewable energy rates may not exceed an energy**
 14 **utility's avoided costs (as defined in 18 CFR 292.101(b)(6)) in**
 15 **purchasing electricity from a facility operator. However, in**
 16 **adopting renewable energy rates based on avoided costs, the**
 17 **commission may:**
 18 **(A) differentiate among renewable energy facilities using**
 19 **various technologies on the basis of the supply**
 20 **characteristics of the different technologies;**
 21 **(B) adopt a multi-tiered avoided cost rate structure based**
 22 **on an energy utility's avoided costs for both energy and**
 23 **capacity; and**
 24 **(C) take into account any obligations that:**
 25 **(i) are imposed by the state or the federal government at**
 26 **the time the commission adopts renewable energy rates**
 27 **under this section or adjusts renewable energy rates**
 28 **under section 15 of this chapter; and**
 29 **(ii) require energy utilities to purchase or generate**
 30 **electricity from particular sources or for a particular**
 31 **duration;**
 32 **including any binding federal or state renewable energy**
 33 **portfolio standards.**
 34 **(4) The renewable energy rates must comply with:**
 35 **(A) the federal Public Utility Regulatory Policies Act of**
 36 **1978 (16 U.S.C. 824a-3); and**
 37 **(B) all regulations adopted and orders issued by the**
 38 **Federal Regulatory Energy Commission in connection with**
 39 **the federal Public Utility Regulatory Policies Act of 1978**
 40 **(16 U.S.C. 824a-3).**
 41 **(5) The renewable energy rates must be at a level designed to**
 42 **ensure that the prices paid for electricity under contracts**
 43 **entered into under section 13 of this chapter:**
 44 **(A) are adequate to encourage the rapid deployment of**
 45 **renewable sources of electricity generation in Indiana; and**
 46 **(B) do not result in:**
 47 **(i) excessive profits for facility operators; or**

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

1 operator begins receiving one (1) or more federal incentives
 2 for the generation of electricity by the facility operator's
 3 renewable energy facility;
 4 the facility operator shall provide to the commission and to the
 5 energy utility written notice, on a form prescribed by the
 6 commission, of the federal incentives received. The facility
 7 operator shall provide the notice required by this subsection not
 8 later than seven (7) business days after the effective date of the
 9 federal incentives received. The renewable energy rate set forth in
 10 the contract entered into by the facility operator and the energy
 11 utility shall be adjusted to reflect the rate that applies to a facility
 12 operator that receives federal incentives, as required under section
 13 14(b)(6) of this chapter and as most recently adjusted under section
 14 15 of this chapter, effective as of the effective date of the federal
 15 incentives received.

16 (b) If:
 17 (1) at the time a facility operator enters into a contract with
 18 an energy utility under section 13 of this chapter, the facility
 19 operator receives one (1) or more federal incentives for the
 20 generation of electricity by the facility operator's renewable
 21 energy facility; and
 22 (2) at any time during the term of the contract, the facility
 23 operator no longer receives any federal incentives for the
 24 generation of electricity by the facility operator's renewable
 25 energy facility;

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

40 (c) A facility operator that enters or seeks to enter into a
 41 contract with an energy utility under section 13 of this chapter
 42 may, at the time of entering into the contract or at any time during
 43 the term of the contract, claim and receive, or cease to claim and
 44 receive, either of the following without an adjustment in the
 45 applicable renewable energy rate under section 14 of this chapter
 46 (as most recently adjusted under section 15 of this chapter):

47 (1) State tax credits, state tax deductions, or other state

1 incentives or subsidies that are available in connection with
2 the generation of electricity from renewable energy resources,
3 if not otherwise prohibited by the state law, rule, or program
4 establishing the incentives.

5 (2) Incentives offered by an energy utility in connection with
6 the generation of electricity from renewable energy resources,
7 if not otherwise prohibited by the energy utility's program
8 establishing the incentives.

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

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

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

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

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

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

39 (1) The statewide ratio of the total electricity purchased from
40 renewable energy facilities by energy utilities to the total
41 electricity supplied to all Indiana customers by those energy
42 utilities, with respect to the immediately preceding calendar
43 year, determined as follows:

44 STEP ONE: Determine the sum of all amounts reported by
45 all energy utilities under subsection (a)(1) with respect to
46 the immediately preceding calendar year.

47 STEP TWO: Determine the sum of all amounts reported

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

1 equalization fund established by section 18 of this chapter.

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

10 (1) the product of:

11 (A) the amount determined by the commission under
12 subsection (b)(3); multiplied by

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

15 (2) the product of:

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

18 (B) the statewide ratio calculated by the commission under
19 subsection (b)(1).

20 The commission shall remit the equalization payment determined
21 under this subsection to the energy utility not later than November
22 1 of the same year in which the commission makes the calculations
23 described in subsection (b). An equalization payment remitted to
24 an energy utility under this subsection shall be paid from the
25 renewable energy equalization fund established by section 18 of
26 this chapter.

27 (f) The commission may adopt rules under IC 4-22-2, including
28 emergency rules under IC 4-22-2-37.1, to implement this section.
29 An emergency rule adopted by the commission under
30 IC 4-22-2-37.1 expires on the date the rule is adopted by the
31 commission under IC 4-22-2-24 through IC 4-22-2-36.

32 Sec. 18. (a) The renewable energy equalization fund is
33 established to receive equalization charges and disburse
34 equalization payments under this chapter. The fund shall be
35 administered by the commission.

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

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

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

44 (e) Money in the fund is continuously appropriated for the
45 purposes of this chapter.

46 Sec. 19. (a) Not later than June 1, 2013, the commission shall
47 establish a statewide registry of all renewable energy facilities that

1 enter into contracts with energy utilities under section 13 of this
2 chapter after December 31, 2011. Based on the information
3 contained in the standard contracts submitted to the commission
4 under section 13(b) of this chapter, and on any information
5 obtained independently by the commission from a particular
6 facility operator, the commission shall record in the registry the
7 following information for each renewable energy facility:

8 (1) The facility operator for the renewable energy facility.

9 (2) The type of renewable energy resource used by the
10 renewable energy facility to generate electricity.

11 (3) The capacity of the renewable energy facility.

12 (4) The location of the renewable energy facility.

13 (5) The number of contracts entered into under section 13 of
14 this chapter under which the renewable energy facility
15 supplies electricity.

16 (6) Any technical specifications concerning the renewable
17 energy facility that the commission may require.

18 (b) The commission shall require a facility operator, or the
19 facility operator's successor in interest, to notify the commission in
20 a timely manner if any of the information described in subsection
21 (a) with respect to the facility operator's renewable energy facility
22 changes. The commission shall require a facility operator that has
23 one (1) or more renewable energy facilities included in the registry
24 established under subsection (a) to provide an annual report, on a
25 form prescribed by the commission, providing updated
26 information on each of the facility operator's renewable energy
27 facilities that is included in the registry.

28 (c) The commission shall update the registry on a timely basis
29 upon receiving:

30 (1) a standard contract submitted to the commission under
31 section 13(b) of this chapter; or

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

34 (d) The commission shall make the registry established under
35 subsection (a) available:

36 (1) for public inspection and copying at the offices of the

1 **commission under IC 5-14-3; and**
2 **(2) on the commission's web site.**
3 **SECTION 4. An emergency is declared for this act."**
4 Renumber all SECTIONS consecutively.
 (Reference is to HB 1128 as printed January 28, 2011.)

Representative Pierce