


FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

7 AUG -1 P6:18

SENATE

RECEIVED BY: 

S. No. 1423

Introduced by Senator Loren Legarda

EXPLANATORY NOTE

This bill seeks to provide impetus for the government's efforts to promote renewable energy thru legislation that would institutionalize its use, develop the national and local capabilities in the use of renewable energy systems and provide fiscal and non-fiscal incentives to participants in the renewable energy sector.

In the years 2004-2006, international oil prices have hit an all-time high largely due to steep demand from China and India in light of their increased economic activities and other factors such as the declining spare production, refining capacity and speculative trading activities such as terror alerts in the United States, unresolved tax problems between Yukos and the Russian Government, and sabotage activities on Iraqi pipelines. As government has no control over international oil price surges and has no resources to subsidize oil prices, there are the resulting increases in the domestic prices of oil products. Consequently, prices of basic commodities and transportation fare rose, as fuel prices have direct effects on the power and transport sector.

After such episode, energy independence became the government's priority. The development of renewable energy potential to sustain efficient energy supply and demand chain and the use of alternative fuels and technologies to promote fuel efficiency, reduce dependence on imported fuel, generate forex savings from fuel displacement, expand opportunity for coconut and sugar farmers, and improve air quality were seriously considered.

In the Philippine Energy Plan for 2004-2010, one of the main strategies for energy independence is the development of renewable energy. For renewable energy development, the government has to strive to be the geothermal energy world leader, largest producer of wind power and solar manufacturing hub in Southeast Asia and pursue the development of hydropower plants and biomass projects. Renewable energy includes, but not limited to, geothermal energy, wind energy, solar energy, hydropower energy, biomass and clean development mechanism and the emerging carbon market.

Legislation that will provide the necessary mechanism and infrastructure is needed to promote and enhance the development, utilization and commercialization of renewable energy resources in the country. This bill aims to respond to such need by enacting a Renewable Energy Act of 2007.

Under this proposed measure, renewable energy resources refer to energy resources that do not have upper limit on the total quantity to be used. Such resources are renewable on a regular basis, and whose renewal rate is relatively rapid to consider availability over an indefinite period of time. These include among others biomass, solar, wind, geothermal, ocean energy, and run-of-river hydropower conforming to internationally-accepted norms and standards on dams, and other emerging energy technologies.

Furthermore, to encourage suppliers of electricity to contribute to the growth of renewable energy market, a renewable portfolio standard (RPS) is hereby imposed on all suppliers of electricity, requiring them to source an agreed portion of their energy supply from eligible renewable energy resources.

Moreover, to promote participation in the utilization and development of renewable energy, the following incentives in proportion to their renewable energy components shall be given to developers of renewable facilities, including hybrid systems:

1. within the first 10 years of a renewable energy operating contract, importation of machinery and equipment, and materials and parts thereof, including its control and communication equipment, shall not be subject to tariff duties and value-added tax;
2. for the first 6 years of its commercial operations, the renewable energy operating contract holder shall be exempt from income taxes levied by the National Government.

Finally, this proposed measure establishes a Renewable Energy Trust Fund (RETF) administered by the Department of Energy to enhance the development and greater utilization of renewable energy to finance the research, development, demonstration and promotion of the widespread and productive use of renewable energy systems for power and non-power applications.

In view of the foregoing, immediate passage of this bill is earnestly requested.



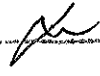
LOREN LEGARDA

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AN ACT
PROMOTING AND ENHANCING THE DEVELOPMENT, UTILIZATION AND
COMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES

*Be it enacted by the Senate and the House of Representatives of the Philippines in
Congress assembled:*

CHAPTER I

TITLE AND DECLARATION OF POLICIES

SECTION 1. *Short Title* - This Act shall be known as the "*Renewable Energy Act of
2007*"

SECTION 2. *Declaration of Policies*. - It is hereby declared the policy of the
State to:

- a) Promote the development of renewable energy resources to further reduce the country's reliance on generation systems powered by imported fuels to minimize exposure of the economy to price fluctuations in the international markets, the effects of which spiral down to almost all sectors of the economy;
- b) Increase the utilization of renewable energy by institutionalizing its use, including the development of national and local capabilities in the use of renewable energy systems, by providing fiscal and non-fiscal incentives; and,
- c) Establish the necessary infrastructure and mechanism to carry out the mandates specified in this Act and other existing laws.

SECTION 3. *Scope*. - This Act shall establish the framework for the advancement and accelerated development of renewable energy resources, including the grant of fiscal and non-fiscal incentives to all renewable energy activities; and the program to increase its utilization.

SECTION 4. Definition of Terms. - The following terms as used in this Act shall be defined as follows:

- a. **Biomass Energy Systems** refer to energy systems which use biomass resources to produce heat, steam, mechanical power or electricity through either thermochemical, biochemical or physico-chemical processes;
- b. **Biomass Resources** refer to natural or processed plants and plant materials, trees, crop residues, wood and bark residues, and animal manure or any organic or biodegradable matter that can be used in bioconversion process;
- c. **Board of Investments (BOI)** refers to an attached agency of the Department of Trade and Industry created under Republic Act No. 5 186, as amended;
- d. **Co-generation systems** refer to facilities which produce electrical and/or mechanical energy and forms of useful thermal energy such as heat or steam which are used for industrial, commercial heating or cooling purposes through the sequential use of energy;
- e. **Department of Energy (DOE)** refers to the government agency created pursuant to Republic Act No. 7638 whose functions are expanded in Republic Act No. 9136 and further expanded in this Act, which shall be the lead agency mandated to implement the provisions of this Act;
- f. **Department of Environment and Natural Resources (DENR)** refers to the government agency created pursuant to Executive Order No. 192
- g. **Department of Finance (DOF)** refers to the government agency created pursuant to Executive Order No. 127, as amended;
- h. **Department of Science and Technology (DOST)** refers to the government agency created pursuant to Executive Order No. 128;
- i. **Department of Trade and Industry (DTI)** refers to the government agency created pursuant to Executive Order No. 133;
- j. **Distributed generation** refers to a system of small generation entities supplying directly to the distribution grid, any one of which shall not exceed 100 kW in capacity;
- k. **Distribution of Electricity** refers to the conveyance of electricity by a Distribution Utility through its distribution system pursuant to the provision of Republic Act No. 9136 and its implementing rules and regulations,
- l. **Distribution Utility (DU)** refers to any electric cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with its franchise and Republic Act No. 9136;

- m. **Energy Regulatory Commission (ERC)** refers to the independent quasi-judicial regulatory agency created pursuant to Republic Act No. 9136;
- n. **Generation Company** refers to any person or entity authorized by the ERC to operate facilities used in the generation of electricity
- o. **Generation Facility** refers to a facility for the production of electricity and/or thermal energy such as but not limited to steam, hot or cold water;
- p. **Geothermal Energy** refers to all geothermal fluids whether existing naturally or formed by the artificial introduction of fluids into naturally hot formation, heat energy in the earth, and any by-product derived from them;
- q. **Geothermal Energy Systems** refers to machines or other equipment that converts geothermal energy into useful power,
- r. **Geothermal Resources** refers to mineral resources, classified as renewable energy resource, in the form of: (a) all products of geothermal processes, embracing indigenous steam, hot water, and hot brines; (b) steam and other gases, hot water, and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (c) heat or associated energy found in geothermal formations; and (d) any by-product derived from them;
- s. **Government Share** refers to the amount due the National Government and Local Government Units from the exploitation, development, and utilization of naturally occurring renewable energy resources;
- t. **Green Energy Option** refers to the mechanism to empower end-users to choose renewable energy in meeting their energy requirements;
- u. **Grid** refers to the high voltage backbone system of interconnected transmission lines, substations, and related facilities, located in each of Luzon, Visayas, and Mindanao, or as may otherwise be determined by the ERC in accordance with the implementing rules and regulations of Republic Act No. 9136;
- v. **Hybrid Systems** refer to any power or energy generation facility which makes use of two or more types of technologies utilizing both conventional and/or renewable fuel sources, such as, but not limited to, integrated solar wind systems, biomass/fossil fuel systems, hydro/fossil fuel systems, integrated solar biomass systems, integrated wind/fossil fuel systems, with a minimum of ten (10) megawatts or ten percent (10%) of the annual energy output provided by the RE component;
- w. **Hydroelectric Power Systems** or **Hydropower Systems** refer to water-based energy systems which produce electricity by utilizing the kinetic energy of falling or running water to turn a turbine generator;
- x. **Hydroelectric Power Development** or **Hydropower Development** refers to the construction and installation of a hydroelectric power-generating

plant and its auxiliary facilities, such as diversion structure, headrace, penstock, substation, transmission, and machine shop, among others;

- y. **Hydroelectric Power Resources or Hydropower Resources** refer to water resources found technically feasible for development of hydropower projects which include rivers, lakes, waterfalls, irrigation canals, springs, ponds, and other water bodies;
- z. **Micro-scale Project** refers to an RE project with capacity not exceeding one hundred (100) kilowatts;
- aa. **Missionary Electrification** refers to the provision of basic electricity service in unviable areas with the aim of bringing the operations in these areas to viability levels;
- bb. **National Power Corporation** refers to the government corporation created under Republic Act No. 6395, as amended by Republic Act No. 9136;
- cc. **National Transmission Corporation (TRANSCO)** refers to the corporation created pursuant to Republic Act No. 9136 responsible for the planning, construction, and centralized operation and maintenance of high voltage transmission facilities, including grid interconnection and ancillary services;
- dd. **Net Metering** refers to a system, appropriate for distributed generation, in which a distribution grid user has a two-way connection to the grid and is only charged for his net electricity consumption and is credited for any overall contribution to the electricity grid;
- ee. **Ocean Energy Systems** refer to energy systems which convert ocean or tidal current, ocean thermal gradient or wave energy into electrical or mechanical energy;
- ff. **Off-Grid Systems** refer to electrical systems not connected to the wires and related facilities of the On-Grid Systems of the Philippines;
- gg. **On-Grid System** refers to electrical systems composed of interconnected transmission lines, distribution lines, substations, and related facilities for the purpose of conveyance of bulk power on the Grid of the Philippines;
- gg. **Philippine Electricity Market Corporation (PEMC)** refers to the Corporation incorporated upon the initiative of the DOE composed of all WESM Members and whose Board of Directors will be the PEM Board;
- ii. **Renewable Energy (Systems) Developers or RE Developers** refer to individual or a group of individuals formed in accordance with existing Philippine Laws engaged in the exploration, development and utilization of RE resources and actual operation of RE systems/facilities;
- jj. **Renewable Energy Market (REM)** refers to the market where the trading of the RE certificates equivalent to an amount of power generated from RE resources is made;

- kk. **Renewable Energy Policy Framework (REPF)** refers to the long-term Policy developed by the DOE which identifies among others, the goals and targets for the development and utilization of renewable energy in the country;
- 11. **Renewable Energy Portfolio Standards (REPS)** refer to a market-based Policy that requires electricity suppliers to source an agreed portion of their energy supply from eligible RE resources;
- mm. **Renewable Energy Service (Operating) Contract (RE Contract)** refers to the service agreement between the Government, thru the DOE, and RE Developer over a period in which the RE Developer has the exclusive right to a particular RE area for exploration and development. The RE Contract shall be divided into two (2) stages: the pre-development stage and the development/commercial stage. The preliminary assessment and feasibility study up to financial closing shall refer to the pre-development stage. The construction and installation of facilities up to operation phase shall refer to the development stage;
- nn. **Renewable Energy Resources (RE Resources)** refer to energy resources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis, and whose renewal rate is relatively rapid to consider availability over an indefinite period of time. These include, among others, biomass, solar, wind, geothermal, ocean energy, and run-of-river hydropower conforming with internationally-accepted norms and standards on dams, and other emerging energy technologies;
- oo. **Renewable Energy Systems (RE Systems)** refer to energy systems which convert RE resources into useful energy forms, like electrical, mechanical, etc.;
- pp. **Republic Act No. 9136 or Electric Power Industry Reform Act of 2001** refers to the law mandating the restructuring of the electric power sector and the privatization of the NPC;
- qq. **Rural Electrification** refers to the delivery of basic electricity services, Consisting of power generation, sub-transmission, and/or extension of associated power delivery system that would bring about important social and economic benefits to the countryside;
- rr. **Solar Energy** refers to the energy derived from solar radiation that can be converted into useful thermal or electrical energy;
- ss. **Solar Energy Systems** refer to energy systems which convert solar energy into thermal or electrical energy;
- tt. **Small Power Utilities Group (SPUG)** refers to the functional unit of the NPC mandated under Republic Act No. 9136 to pursue missionary electrification function;
- uu. **Supplier** refers to any person or entity authorized by the ERC to sell, broker, market or aggregate electricity to the end-users;

- vv. **Transmission of Electricity** refers to the conveyance of electric power by TRANSCO or its buyer/concessionaire in accordance with its franchise And Republic Act No. 9136;
- ww. **Wind Energy** refers to the energy that can be derived from wind that is converted into useful electrical or mechanical energy;
- xx. **Wind Energy Systems** refer to the machines or other related equipment that convert wind energy into useful electrical or mechanical energy;
- xx. **Wholesale Electricity Spot Market (WESM)** refers to the wholesale electricity spot market to be created pursuant to Republic Act No. 9136.

CHAPTER II ON-GRID RENEWABLE ENERGY DEVELOPMENT

SECTION 5. Renewable Portfolio Standard (RPS). - All stakeholders in the electric power industry shall contribute to the growth of the REM of the country. To provide impetus in the acknowledged market-driven electric power industry, an RPS is hereby imposed on all suppliers of electricity. Towards this end, the DOE shall, upon the recommendation of the National Renewable Energy Board (NREB) created under Section 18 of this Act, formulate and promulgate the RPS Rules on a per grid basis within three (3) years upon the effectivity of this Act which shall include, but not be limited to, the following:

- a) Types of RE resources and identification and certification of generating facilities using said resources that shall be required to comply with the RPS obligation;
- b) Yearly minimum RPS requirements upon the establishment of the RPS Rules;
- c) Annual minimum incremental percentage of electricity sold by each electricity supplier which is required to be sourced from eligible RE resources and which shall not be less than one percent (1%) per year over the next ten (10) years; and,
- d) Means of compliance by mandated electricity suppliers of the minimum percentage set by the government to meet the RPS requirements including direct generation from eligible RE resources, contracting for energy sourced from eligible RE facilities, or trading in the REM under Section 6 of this Act.

Immediately upon effectivity of this Act, DOE shall, jointly with electric power industry participants, likewise develop and implement a preparedness program to inform, educate and prepare all stakeholders in the industry.

The ERC shall enforce the implementation of the RPS Rules by undertaking necessary activities such as certifying generating facilities using eligible RE resources, prescribing reportorial obligations related to RPS compliance and administration of penalties for non-compliance or violation of RPS Rules, among others. Further, ERC shall be responsible for the handling of complaints that may arise between and among parties from any transactions related to RPS compliance by electricity suppliers.

The RPS shall apply only to newly-installed capacity upon the effectivity of this Act and may be complied with by either directly generating from renewable sources, Contracting for energy sourced from RE facilities or trading for renewable energy in the REM.

SECTION 6. *Renewable Energy Market (REM).* - To facilitate compliance with Section 5 of this Act, the DOE shall establish the REM and shall direct PEMC to implement changes to the WESM Rules in order to incorporate the rules specific to the operation of the REM under the WESM.

The PEMC shall, under the supervision of the DOE, establish a RE Registrar that shall issue, keep and verify RE Certificates corresponding to energy generated from eligible RE resources. Such certificates will be used for compliance with the RPS. For this purpose, a transaction fee, agreed upon by the industry participants, may be imposed by PEMC.

SECTION 7. *Green Energy Option.* - The DOE shall establish a Green Energy Option program which provides end-users the option to choose RE resources. In consultation with the NREB, the DOE shall promulgate the appropriate implementing rules and regulations which are necessary, incidental or convenient to achieve the objectives set forth herein.

Upon the determination of the DOE of its technical viability, end users with a monthly average of at least 100 kW may directly contract for RE based energy.

Consistent herewith, TRANSCO, DUs, PEMC and all relevant parties are hereby mandated to provide the mechanisms for the physical connection and commercial arrangements necessary to ensure the success of the Green Energy Option.

SECTION 8. *Net-metering for Renewable Energy.* - Subject to technical considerations and without discrimination and upon request by distribution end-users, the distribution utilities shall enter into net-metering agreements with qualified distribution grid users up to a distributed generation market share of one percent (1%) of peak distribution grid demand.

The ERC, in consultation with electric power industry participants, shall establish net metering interconnection standards and pricing methodology within six (6) months upon the effectivity of this Act.

The distribution utility shall be entitled to any RE Certificate resulting from RE distributed generation for sale or use in the RPS.

The DOE, ERC, TRANSCO, DUs, PEMC and all relevant parties are hereby mandated to provide the mechanisms for the physical connection and commercial arrangements necessary to ensure the success of the Net-metering for Renewable Energy program, consistent with the Grid and Distribution Codes.

SECTION 9. *Transmission and Distribution System Development.* - TRANSCO or its buyer/concessionaire and all DUs, shall include the required connection facilities for RE-based power facilities in the Transmission and Distribution Development Plans, provided that such facilities are economically-viable, subject to the approval of the DOE. The connection facilities of RE power plants, including the extension of

transmission and distribution lines, shall not be subject to deep-connection charging policies in rate-making.

CHAPTER III OFF-GRID RENEWABLE ENERGY DEVELOPMENT

SECTION 10. *Off-Grid Areas.* - Within two (2) years from the effectivity of this Act, NPC-SPUG or its successors-in-interest and/or qualified third parties in off-grid areas shall, in the performance of its mandate to provide missionary electrification, source a minimum percentage of its total annual generation upon recommendation of the NREB from available RE resources in the area concerned, as may be determined by the DOE.

As used in this Act, successors-in-interest refer to entities deemed technically and financially capable to serve/take over existing NPC-SPUG areas.

Eligible RE generation in missionary areas shall be eligible for the provision of RE Certificates defined in Section 6 of the Act.

CHAPTER IV GOVERNMENT SHARE

SECTION 11. *Government Share.* - The government share on RE development projects shall be equal to at least one and one-half percent (1.5%) of the gross proceeds for all RE resources except for geothermal which shall be at least two percent (2%) of the gross proceeds.

To further promote the development of RE projects, the government hereby waives its share from the proceeds of micro-scale projects for communal purposes and non-commercial operations, which are not greater than one hundred (100) kilowatts.

CHAPTER V ENVIRONMENTAL COMPLIANCE

SECTION 12. *Compliance with Environmental Regulations.* - All RE explorations, development, utilization, and RE systems operations shall be conducted in accordance with existing environmental regulations as prescribed by the DENR and/or any other concerned government agency.

CHAPTER VI GENERAL INCENTIVES

SECTION 13. *Incentives for Renewable Energy Projects and Activities.* - As duly certified by the DOE, RE developers of renewable facilities, including hybrid systems, for both power and non-power applications, shall be entitled to the following incentives in proportion to their RE components:

- a. ***Value-Added Tax, Duty-free Importation and Subsequent Sale of RE Machinery, Equipment and Materials.*** - Within the first ten (10) years of an RE operating contract, importation of machinery and equipment, and materials and parts thereof, including its control and communication equipment, shall not

be subject to tariff duties and value-added tax; *Provided*, however, That the said machinery, equipment, materials and parts are:

1. Not manufactured domestically nor locally available in reasonable quantity and quality;
2. Directly and actually needed and used exclusively in the RE facilities for transformation into energy, and transmission of electric energy to the point of use; and,
3. Covered by shipping documents in the name of the duly registered Operator to whom the shipment will be directly delivered by customs authorities:

Provided further, That approval by the DOE is obtained before the importation of such machinery, equipment, materials and parts are made. Approval of the DOE must be secured before any sale, transfer or disposition of the imported capital equipment, machinery or spare parts is made; *Provided, however*, That if such sale, transfer or disposition is made within the first five (5) years from the date of importation, any of the following conditions must be present:

- (1) If made to another RE developer enjoying tax and duty exemption on imported capital equipment;
- (2) If made to another RE developer, upon payment of any taxes and duties due on the net book value of the capital equipment to be sold;
- (3) Exportation of the capital equipment, machinery, spare parts or source document or those required for RE development; and
- (4) For reasons of proven technical obsolescence.

When the aforementioned sale, transfer or disposition is made under any of the conditions provided for in the foregoing paragraphs other than paragraph (2), the RE developer shall not pay the taxes and duties waived on such items; *Provided further*, That if the RE developer sells, transfers or disposes the aforementioned imported items without prior approval within five (5) years from the date of importation, the RE developer and the vendee, transferee, or assignee shall be solidarily liable to pay twice the amount of tax and duty exemption given it; *Provided, finally*, That even if the sale, transfer or disposition of the capital equipment, machinery or spare parts is approved after five (5) years from the date of importation, the RE developer is still liable to pay the taxes and duties based on the net book value of the capital equipment, machinery or spare parts if it has violated any of its registration terms and conditions. Otherwise, it shall no longer be subject to the payment of the taxes and duties waived thereon.

b. *Tax Credit on Domestic Capital Equipment and Services.* - A tax credit equivalent to one hundred percent (100%) of the value of the value-added tax and custom duties that would have been paid on the RE machinery, equipment,

materials and parts had these items been imported shall be given to an RE operating contract holder who purchases machinery, equipment, materials, and parts from a domestic manufacturer for purposes set forth in this Act; *Provided*, That prior approval by the DOE was obtained by the local manufacturer; *Provided further*, That the acquisition of such machinery, equipment, materials, and parts shall be made within the validity of the RE operating contract.

c. *Special Realty Tax Rates on Equipment and Machinery.* - Any law to the contrary notwithstanding, realty and other taxes on civil works, equipment, machinery, and other improvements of a registered RE developer actually and exclusively used for RES facilities shall not exceed two and a half percent (2.5%) of their original cost.

d. *Income Tax Holiday (ITH) and Exemption.* - For the first six (6) years of its commercial operations, the RE operating contract holder shall be exempt from income taxes levied by the National Government; *Provided*, That the RE developer complies with the following: (1) large capital investments or sizeable employment generation, or (2) use high level of technology, or (3) located in less developed areas as defined by the NREB.

Additional investments in the project shall be entitled to ITH equivalent to such investments and may be entitled to additional income tax holiday for as long as investment is made in the same project, upon approval by the DOE: *Provided*, That the entitlement period for additional investments shall not exceed three times the period of the initial availment of the ITH. The Bureau of Internal Revenue (BIR) shall require an RE developer availing of the ITH or Net Operating Loss Carry-Over (NOLCO) to secure a certificate of eligibility from the DOE before filing an official copy of its Income Tax Return (ITR) with the BOI. Failure to secure certification and/or file the ITH or NOLCO availment for validation by the BOI within forty-five (45) days from the last day of statutory filing date for ITR shall cause the forfeiture of the availment for the taxable period.

e. *Net Operating Loss Carry-Over (NOLCO).* - The NOLCO of the RE developer during the first three (3) years from the start of commercial operation which had not been previously offset as deduction from gross income shall be carried over as a deduction from gross income for the next five (5) consecutive taxable years immediately following the year of such loss: *Provided, however*, That operating loss resulting from the availment of incentives provided for in this Act shall not be entitled to NOLCO. RE developers availing of the ITH as in this Act provided shall not be entitled to avail of the NOLCO.

f. *Accelerated Depreciation.* - If, and only if, an RE project fails to receive an ITH before full operation, may it apply for Accelerated Depreciation in its tax books and be taxed based on such; *Provided*, That if it applies for Accelerated Depreciation, the project or its expansions shall no longer be eligible for an ITH. Accelerated depreciation of plant, machinery, and equipment that are reasonably needed and actually used for the exploration, development and utilization of RE resources may be depreciated using a rate not exceeding twice the rate which would have been used had the annual allowance been computed in accordance with the rules and regulations prescribed by the Secretary of the Department of Finance and the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended.

SECTION 14. *Hybrid and Cogeneration Systems.* - The tax exemptions and/or incentives provided for in Section 13 of this Act shall be availed of by RE operating contract holders of hybrid and cogeneration systems utilizing both RE sources and conventional energy; *Provided, however,* That the tax exemptions and incentives shall apply only to the equipment, machinery and/or devices utilizing RE resources.

SECTION 15. *Intermittent RE resources.* - TRANSCO, in consultation with stakeholders, shall determine the maximum penetration limit of the Intermittent RE-based power plants to the Grid, through technical and economic analysis. Subject to limitations imposed by the need to ensure reliability and safety of the grid and taking into account any economic impact, qualified RE generating units with intermittent RE resources shall enjoy the benefit of priority dispatch in accordance with the WESM Rules, as amended.

As used in this Act, RE generating unit with intermittent RE resources refers to a RE generating unit or group of units connected to a common connection point whose energy resource is location-specific and has a natural variability which renders the output unpredictable and the availability of the resource inherently uncontrollable, which include plants utilizing wind or ocean energy.

SECTION 16. *Incentives for RE Commercialization.* - All manufacturers, fabricators and suppliers of locally-produced RE equipment and components duly recognized and accredited by the DOE, in consultation with DOST, DOF and DTI, shall be entitled to the following privileges:

a. *Tax and Duty-free Importation of Components, Parts and Materials.* - All shipments necessary for the manufacture and/or fabrication of RE equipment and components shall be exempted from importation tariff and duties and value added tax: *Provided, however,* That the said components, parts and materials are: (i) not manufactured domestically in reasonable quantity and quality at competitive prices; (ii) directly and actually needed and shall be used exclusively in the manufacture/fabrication of RE equipment; and (iii) covered by shipping documents in the name of the duly registered manufacturer/fabricator to whom the shipment will be directly delivered by customs authorities; *Provided further,* That prior approval of the DOE was obtained before the importation of such components, parts and materials;

b. *Tax Credit on Domestic Capital Components, Parts and Materials.* - A tax credit equivalent to one hundred percent (100%) of the amount of the VAT and custom duties that would have been paid on the components, parts and materials had these items been imported shall be given to an RE equipment manufacturer, fabricator, and supplier duly recognized and accredited by the DOE who purchases RE components, parts and materials from a domestic manufacturer; *Provided,* That such components, and parts are directly needed and shall be used exclusively by the RE manufacturer, fabricator and supplier for the manufacture, fabrication and sale of the RE equipment. *Provided further,* That prior approval by the DOE was obtained by the local manufacturer,

c. *Income Tax Holiday and Exemption.* - For six (6) years starting from the date of recognition/accreditation, an RE manufacturer, fabricator and supplier of RE equipment shall be fully exempt from income taxes levied by the National Government.

SECTION 17. *Period of Grant of Fiscal Incentives.*- The fiscal incentives granted under this Act shall apply only to the first 2,500 MW of new RE capacity upon the effectivity of this Act or within twenty (20) years from the effectivity of this Act, whichever comes first. Thereafter, the tax treatment applicable on the parties concerned prior to the passage of this Act shall apply.

CHAPTER VII GENERAL PROVISIONS

SECTION 18. *Creation of the National Renewable Energy Board (NREB).* - The NREB is hereby created. It shall be composed of the Secretary of the DOE or his designated Undersecretary as chairman and the Secretaries or the designated Undersecretaries or Assistant Secretaries of the DTI, DOF and DENR, the Presidents or the duly designated representatives of the NPC, TRANSCO and PEMC; and one (1) representative each from the following sectors: RE developers, Government Financial Institutions (GFIs), private distribution utilities, electric cooperatives, suppliers, and non-governmental organizations, duly endorsed by their respective industry associations and appointed by the President of the Republic of the Philippines.

The DOE Secretary or his designated Undersecretary, in his capacity as Chairman, shall, within one (1) month from the effectivity of this Act, convene the NREB.

The NREB shall be assisted by a Technical Secretariat from the Energy Utilization Management Bureau of the DOE, thru the RE Management Division (REMD), and shall directly report to the Office of the Secretary or the Undersecretary of the Department, as the case maybe, on matters pertaining to the activities of the NREB. The number of staff of the Technical Secretariat and the creation of corresponding positions necessary to complement and/or augment the existing plantilla of the REMD shall be determined by the Board, subject to approval by the Department of Budget and Management (DBM) and to existing civil service rules and regulations.

The NREB shall have the following powers and functions:

- (a) Evaluate and recommend to the DOE the mandated RPS and minimum RE generation capacities in off-grid areas, as it deems appropriate;
- (b) Recommend specific actions to facilitate the implementation of the National Renewable Energy Program (NREP) to be executed by the DOE and other appropriate agencies of government;
- (c) Monitor and review the implementation of the NREP, including compliance with the RPS and minimum RE generation capacities in off-grid areas;
- (d) Oversee and monitor the utilization of the Renewable Energy Trust Fund created pursuant to Section 19 of this Act and administered by the DOE; and,
- (e) Perform such other functions, as may be necessary, to attain the objectives of this Act.

SECTION 19. Renewable Energy Trust Fund (RETF). - A RETF is hereby established to enhance the development and greater utilization of renewable energy. It shall be administered by the DOE as a special account in any of the GFIs. The RETF shall be exclusively used to:

- a) Finance the research, development, demonstration, and promotion of the widespread and productive use of RE systems for power and non-power applications;
- b) Support the development and operation of new RE resources to improve their competitiveness in the market; *Provided*, That the grant thereof shall be done through a competitive and transparent manner;
- c) Conduct nationwide resource and market assessment studies for the power and non-power applications of RE systems;
- d) Propagate RE knowledge by accrediting, tapping, training, and providing benefits to institutions, entities and organizations which can extend the promotion and dissemination of RE benefits to the national and local levels; and,
- e) Fund such other activities necessary or incidental to the attainment of the objectives of this Act.

Use of the fund may be through grants, loans, equity investments, loan guarantees, insurance, counterpart fund or such other financial arrangements necessary for the attainment of the objectives of this Act; *Provided*, That the use or allocation thereof shall, as far as practicable, be done through in a competitive and transparent manner.

The RETF shall be funded from:

- a) Proceeds from the emission fees collected from all generating facilities consistent with Republic Act No. 8749 or the Philippine Clean Air Act;
- b) One and 1/2 percent (1.5%) of the net annual income of the Philippine Charity Sweepstakes Office;
- c) One and 1/2 percent (1.5%) of the net annual income of the Philippine Amusement and Gaming Corporation;
- d) One and 1/2 percent (1.5%) of the net annual dividends remitted to the National Treasury of the Philippine National Oil Company and its subsidiaries;
- e) Contributions, grants and donations: *Provided*, That all contributions, grants and donations made to the RETF shall be tax deductible subject to the provisions of the National Internal Revenue Code. Towards this end, the BIR shall assist the DOE in formulating the Rules and Regulations to implement this provision;
- f) One and 1/2 percent (1.5%) of the proceeds of the Government share collected from the development and use of indigenous non-renewable energy resources;
- g) Any revenue generated from the utilization of the RETF; and,

h) Proceeds from the fines and penalties imposed under this Act.

SECTION 20. *Financial Assistance Program.* - Government financial institutions such as the Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP), Phil-Exim Bank and other government financial institutions shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, provide preferential packages for the development, utilization and commercialization of RE projects as duly recommended and endorsed by the DOE.

CHAPTER VIII FINAL PROVISIONS

SECTION 21. *Implementing Rules and Regulations (IRR).* - Within six (6) months from the effectivity of this Act, the DOE shall, in consultation with the Senate and House Committees on Energy, relevant government agencies and RE stakeholders, promulgate the IRR of this Act.

SECTION 22. *Prohibited Acts.* - The following acts shall be prohibited

- a) Non-compliance or violation of the RF'S rules;
- b) Willful refusal to undertake net metering arrangements with qualified distribution grid users;
- c) Falsification or tampering of public documents or official records to avail of the fiscal and non-fiscal incentives provided under this Act; and
- d) Non-compliance with the established guidelines that DOE will adopt for the implementation of this Act.

SECTION 23. *Penalty Clause.* - Any person, who willfully aids or abets the commission of a crime prohibited herein or who causes the commission of any such act by another shall be liable in the same manner as the principal.

In the case of association, partnership or corporations, the penalty shall be imposed on the partner, president, chief operating officer, chief executive officer, directors or officers responsible for the violation.

The commission of any prohibited acts provided for under Section 23, upon conviction thereof, shall suffer the penalty of imprisonment of from one (1) year to five (5) years, or a fine ranging from a minimum of One Hundred Thousand Pesos (P100,000) to One Hundred Million Pesos (P1,000,000.00), or twice the amount of damages caused or costs avoided for non-compliance, whichever is higher, or both upon the discretion of the court.

The DOE is further empowered to impose administrative fines and penalties for any violation of the provisions of this Act, its IRR and other issuances relative to this Act.

This is without prejudice to the penalties provided for under existing environmental regulations prescribed by the DENR and/or any other concerned government agency.

SECTION 24. *Official Development Assistance (ODA).* - The provision of Executive Order No. 230 of 1986 and the rules and regulations governing the evaluation and authorization for the availment of ODA notwithstanding the privatization of RE facilities as provided for in this Act, shall be eligible for foreign loans and grants without further evaluation by the NEDA Board, subject to Section 21, Article XI of the Constitution.

SECTION 25. *Separability Clause.* - If any provision of this Act is held invalid or unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain valid and subsisting.

SECTION 26. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 27. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

APPROVED,