

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

SENATE

S. No. 1821

Introduced by Senator Manuel "Lito" M. Lapid

EXPLANATORY NOTE

One of the most critical problems besetting the Philippine energy sector is the high cost of energy, which is directly caused by the country's need to source its energy from "traditional" sources, such as imported fuel. The meteoric rise of the price per barrel of crude oil is caused by the growing global demand for energy and the vagaries of geopolitics within the oil-producing regions. Thus, importers such as the Philippines have no control over the fluctuation of these prices.

Undoubtedly, the high cost of energy has a negative effect on the economy. The escalating cost of imported fuel dampens trade and investments, which in turn, depresses employment levels. Foreign exchange spent on imported fuel adds a fiscal strain on government and lessens funds available for public services. Financial costs, however, are not the only problem brought about by overdependence on fuel. Air pollution caused by these traditional sources of energy has a negative impact on the environment and public health.

It is therefore necessary for us to develop alternative sources of energy. In this respect, renewable energy presents itself as a solution. Renewable energy includes resources such as biomass, solar, wind and other indigenous, inexhaustible and cleaner energy sources. With the country's ratification of the Kyoto Protocol by the Philippine Senate, the prioritization of the use of renewable energy resources becomes more urgent.

In order to build our capabilities in the use of these resources, it is vital that a Renewable Energy Bill is passed which will promote the development, utilization and commercialization of renewable energy. This bill proposes to introduce fiscal and non-fiscal incentives that will encourage private sector participation in this area, establish a renewable energy market, and institutionalize the use of renewable energy systems.

This Renewable Energy Bill is a timely strategic initiative that will foster sustainable growth, energy independence, and economic security for the country.

Early approval of this bill is earnestly sought.


MANUEL "LITO" M. LAPID
Senator

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SENATE
S. No. 1821

Introduced by Senator Manuel "Lito" M. Lapid

AN ACT
TO FURTHER PROMOTE THE DEVELOPMENT, UTILIZATION AND
COMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES AND
FOR OTHER PURPOSES

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

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

SEC. 2. Declaration of Policy. - It is 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 focal capabilities in the use of renewable energy systems, by providing fiscal and non-fiscal incentives; and
- (c) Apply full cost accounting principle in the generation of electricity to reflect all the costs inherent in power generation.

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

SEC. 4. Definition of Terms. - As used in this Act, the following terms shall mean:

- (a) "**Biomass Energy Systems**" refer to energy systems, which use biomass resources to produce heat, steam, mechanical power or electricity through either thermo-chemical, 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”** or **“BOI”** refers to an attached agency of the Department of Trade and Industry created under Republic Act No. 5186, 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”** or **“DOE”** refers to the government agency created pursuant to Republic Act No. 7638 whose functions are expanded in R.A. 9136 and further expanded in this Act.

(f) **“Department of Environment and Natural Resources”** or **“DENR”** refers to the government agency created pursuant to Executive Order No. 192.

(g) **“Department of Finance”** or **“DOF”** refers to the government agency created pursuant to Executive Order No. 127, as amended.

(h) **“Department of Science and Technology”** or **“DOST”** refers to the government agency created pursuant to Executive Order No. 128.

(i) **“Department of Trade and Industry”** or **“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 electric power 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”** 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”** or **“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 Energy Regulatory Commission (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”** refer to machines or other equipment that converts geothermal energy into useful power.

(r) **“Geothermal Resources”** refer to mineral resources, classified as renewable energy resource, in the form of (i) all products of geothermal processes, embracing indigenous steam, hot water and hot brines; (ii) steam and other gases, hot

water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (iii) heat or associated energy found in geothermal formations; and (iv) 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) **“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.

(u) **“Hybrid Systems”** refer to any power or energy generation facilities which make use of two or more types of technologies utilizing both conventional and/or renewable fuel sources, such as but not limited to integrated wind/diesel systems, 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 Renewable Energy Systems components of the hybrid systems, whichever is lower.

(v) **“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.

(w) **“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.

(x) **“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.

(y) **“Market Operator”** refers to an autonomous group, constituted by the DOE, with equitable representation from electric power industry participants, that undertake the preparatory work and initial operation of the wholesale electricity spot market.

(z) **“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.

(aa) **“National Power Corporation”** or **“NPC”** refers to the government corporation created under Republic Act No. 6395, as amended.

(bb) **“National Transmission Corporation”** or **“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.

(cc) **“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.

(dd) **“Ocean Energy Systems”** refer to energy systems which convert ocean or tidal current, ocean thermal gradient or wave energy into electrical or mechanical energy.

(ee) **“Off-Grid Systems”** refer to electrical systems not connected to the wires and related facilities of any Mini-Grid System or the On-Grid Systems of the Philippines.

(ff) **“On-Grid Systems”** refer 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) **“Renewable Energy (Systems) Developers”** or **“RE Developers”** refer to individual/s or a group of individuals formed in accordance with existing Philippine Laws engaged in the exploration, development and utilization of renewable energy resources and actual operation of renewable energy systems/facilities.

(hh) **“Renewable Energy Policy Framework”** or **“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.

(ii) **“Renewable Energy Service (Operating) Contract”** or **“RE Contract”** refers to the service agreement between the Government, thru the Department of Energy, 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 predevelopment stage and the development/commercial stage. The preliminary assessment and feasibility study up to financial costing shall refer to the pre-development stage. The construction and installation of facilities up to operation phase shall refer to the development stage.

(jj) **“Renewable Energy Resources”** or **“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, hydropower, geothermal, and ocean energy, and other emerging energy sources using technologies.

(kk) **“Renewable Energy Systems”** or **“REF”** refer to energy systems, which convert renewable energy resources into useful energy forms, like electrical, mechanical, etc.

(ll) **“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.

(mm) **“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.

(nn) **“Solar Energy”** refers to the energy derived from solar radiation that can be converted into useful thermal or electrical energy.

(oo) **“Solar Energy Systems”** refer to energy systems which convert solar energy into thermal or electrical energy.

(pp) **“Small Power Utilities Group”** or **“SPUG”** refers to the functional unit of the National Power Corporation mandated under Republic Act No. 9136 to pursue missionary electrification function.

(qq) **“Transmission of Electricity”** refers to the conveyance of electricity through the high voltage backbone system.

(rr) **“Wind Energy”** refers to the energy that can be derived from wind that is converted into useful electrical or mechanical energy.

(ss) **“Wind Energy Systems”** refer to the machines or other related equipment that convert wind energy into useful electrical or mechanical energy.

(tt) **“Wholesale Electricity Spot Market”** or **“WESW”** refers to the wholesale electricity spot market to be created pursuant to Republic Act No. 9136.

SEC. 5. Lead Agency. - The DOE shall be the lead agency mandated to implement the provisions of this Act.

SEC. 6. Renewable Portfolio Standard (RPS). - All stakeholders in the electric power industry shall contribute to the growth of the renewable energy market of the country. To provide impetus in the acknowledged market-driven electric power industry, an RPS is hereby imposed on all generation companies. Towards this end, the National Renewable Energy Board, under Section 19 of this Act, shall promulgate the RPS Rules on a grid-to-grid basis that shall set the minimum percentage that all generation companies shall be required to source from eligible Renewable Energy Resources within two (2) years from the effectivity of this Act.

Thereafter, the DOE shall, in consultation with the generation companies, set the minimum increase per year but shall, in no case be less than one percent (1%) per year over the next ten (10) years. The mandate may be complied with by either directly generating from renewable sources, contracting for energy sourced from renewable energy facilities, or trading for Renewable Energy in the Wholesale Electricity Spot Market (WESM).

SEC. 7. Renewable Energy Market (REM). - To facilitate compliance with Sec. 6 of this Act, the Department of Energy (DOE) shall, in consultation with the Market Operator of the WESM and the National Renewable Energy Board, promulgate the rules for the establishment and operation of a Renewable Energy Market, as a sub-market under the WESM.

The DOE shall also establish or designate a Renewable Energy Registrar that shall issue, keep and verify Renewable Energy Certificates corresponding to energy generated from eligible Renewable Energy resources. Such certificates may be used for compliance with the RPS.

SEC. 8. Full Cost Accounting. - The DOE shall spearhead a multi-agency effort that shall develop the full cost accounting of the generation of electricity from Renewable Energy. It shall require all RE-based generators to account for all the economic, environmental, health and other costs associated with or resulting from the production of electricity.

The DOE shall, in collaboration with the RE developers, develop a framework to reflect the true cost of power generation, which shall be implemented gradually, taking into consideration the potential impact to the end users of electricity.

SEC. 9. Green Energy Option. - A Green Energy Option program which provides end-users the option to choose renewable energy resources, shall be made available to all end-users.

Towards this end, the DOE shall, in collaboration with the National Renewable Energy Board, cause the modification of any Implementing Rules and Regulations and WSM Rule or any other Rule or Regulation.

Upon the determination of the DOE of its technical viability, end users with a monthly average of at least 100kW may directly contract for RE based energy. Consistent herewith, the National Transmission Corporation, the Distribution Utilities, the Market Operator 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.

SEC. 10. Net-metering and Distributed Generation for Renewable Energy. - The distribution utilities shall, upon request and subject to technical considerations and without discrimination, 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.

To qualify, the power that a distribution grid user must generate from renewable sources, shall be less than 100kw in peak capacity, and shall meet any specific regulation, which may be issued by the DOE, in consultation with electric power industry participants, within one (1) year upon the effectivity of this Act.

The distribution utility shall charge qualified users their net energy consumption at the standard retail rate. The distribution utility shall credit net contributors at the prevailing bulk generation rate. The distribution utility shall be entitled to any renewable energy production certificate resulting from RE distributed generation for sale or use in the RPS.

Consistent herewith, the National Transmission Corporation, the Distribution Utilities, the Market Operator 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 and Distributed Generation for Renewable Energy program.

SEC. 11. Off-Grid Areas. - In the performance of its mandate to provide missionary electrification, the SPUG, successors-in-interest and/or qualified third party in off-grid areas shall, within two (2) years from the effectivity of this Act, source a minimum percentage of its total annual generation from available RE resources in the area concerned, as may be determined by the DOE through its Renewable Energy Policy Framework.

As used in this Act, successors-in-interest refers to an entity deemed technically and financially capable to serve/take over existing NPC-SPUG areas, through open and competitive bidding.

SEC. 12. 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.

SEC. 13. Compliance with Environmental Regulations. - All renewable energy explorations, development, utilization, and RES operations shall be conducted in

accordance with existing environmental regulations as prescribed by the DENR and/or any other government agency.

SEC. 14. Incentives for Renewable Energy Projects and Activities. – RE developers of renewable energy facilities, including hybrid systems, in proportion to their RE component, for both power and non-power applications, as duly certified by the DOE, shall be entitled to the following privileges:

A. Tax Zero and Duty-free Importation 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:

- (i) not manufactured neither domestically nor locally available in reasonable quantity and quality;
- (ii) 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
- (iii) 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 the approval of 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,* 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 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 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 were paid on the RE machinery equipment, materials and parts had these items been imported shall be given to a 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, 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 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 NEB.

Additional investments in the project shall be entitled to income tax holiday equivalent to such 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 (SIR) shall require a RE developer availing of the ITH or 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 Carryover (NOLCO). - The net operating loss 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 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 be entitled to avail of the NOLCO.

F. Accelerated Depreciation. - Accelerated depreciation of plant, machinery, and equipment that are reasonably needed and actually used for the exploration, development, and utilization of renewable energy resources may be depreciated using a rate not exceeding twice the rate which could have been used had the annual allowance been computed in accordance with the rules and regulations prescribed by the Secretary of Finance and the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended.

G. Exemption from the Universal Charge. - Power and electricity generated through the RES for the generator's own consumption and/or for free distribution in the off-grid areas shall be exempted from the payment of the Universal Charge provided for under Section 34 of Republic Act No. 9136.

SEC. 15. *Hybrid und Cogeneration Systems.* - The tax exemptions and/or incentives provided for in Section 14 of this Act shall be availed of by RE operating contract holders of hybrid and cogenerations 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 renewable energy resources.

SEC. 16. *Intermittent RE Resources.* - Subject to technical and financial feasibility considerations, qualified RE generating units with intermittent RE resources shall enjoy the benefit of priority dispatch in accordance with the rules and regulations to be promulgated by the DOE, in consultation with the RE developers. As used in this Act, RE generating unit with intermittent RE resources refers to a renewable energy 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.

SEC. 17. *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 to importation tariff and duties and value added tax; *Provided, however,* That the said components, parts and materials are: (a) not manufactured domestically in reasonable quantity and quality at competitive prices, (b) directly and actually needed and shall be used exclusively in the manufacture/fabrication of RE equipment; and (c) 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 by the DOE was obtained before the importation of such components, parts and materials were made;

B. *Tax Credit on Domestic Capital Components, Parts and Materials.* - A tax credit equivalent to one hundred percent (100%) of the amount of the value-added tax and custom duties that were paid on the components, parts and materials, had these items been imported shall be given to a 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.

SEC. 18. *Period of Grant of Fiscal Incentives.* - The fiscal incentives granted under this Act shall apply only to the first 2,500 MW 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.

SEC. 19. *Creation of the National Renewable Energy Board (NWB).* - The National Renewable Energy Board is hereby created. It shall be composed of the Secretary of the Department of Energy or his designated Undersecretary as chairman

and the Secretaries or the designated Undersecretaries or Assistant Secretaries of the Department of Trade and Industry (DTI), Department of Finance (DOF) and Department of Environment and Natural Resources (DENR); the Presidents or the duly designated representatives of the National Power Corporation (NAPOCOR), National Transmission Corporation (TRANSCO), and Market Operator; and one (1) representative each from the following sectors: renewable energy developers, Government Financial Institutions (GFIs), 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 Renewable Energy Management Division, 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 Renewable Energy Management Division shall be determined by the Board, subject to the approval of the Department of Budget and Management (DBM) and existing civil service rules and regulations.

The NREB shall have the following powers and functions:

- A. Approve the National Renewable Energy Program, as formulated by the DOE;
- B. Evaluate and set the mandated Renewable Portfolio Standards and minimum RE generation capacities in off-grid areas, as it deems appropriate;
- C. Recommend specific actions in facilitating the implementation of the National Renewable Energy Program to be executed by the DOE and other appropriate agencies of government;
- D. Monitor and review the implementation of the National Renewable Energy Program, including the compliance with the Renewable Portfolio Standards and minimum RE generation capacities in off-grid areas;
- E. Oversee and monitor the collection and utilization of the Renewable Energy Trust Fund as administered by the Department; and
- F. Perform such other functions, as may be necessary, to attain the objectives of this Act.

SEC. 20. Renewable Energy Trust Fund (RETF). - A Renewable Energy Trust Fund 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 GFI. The RETF shall be exclusively used to:

(a) Finance the research, development, demonstration and promotion of the widespread and productive use of renewable energy 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 biomass, solar, wind, hydro, tidal current, and ocean energy;

(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 allocation thereof shall, as far as practicable, be done through 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 ½ percent (1.5%) of the net annual income of the Philippine Charity Sweepstakes Office;

(c) One and ½ percent (1.5%) of the net annual income of the Philippine Amusement and Gaming Corporation;

(d) One and ½ 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 Bureau of Internal Revenue shall assist the DOE in formulating the Rules and Regulations to implement this provision;

(f) One and ½ 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.

SEC. 21. *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.

SEC. 22. *Adoption of Waste-to-Energy Technologies.* - The DOE shall, where practicable, encourage the adoption of waste-to-energy facilities such as, but not limited to biogas systems. The DOE shall, in coordination with existing private companies and suppliers, facilitate the provision of technical assistance, in the adoption of the technology. The DOE shall, in coordination with the DENR, ensure compliance with this provision.

As used in this Act, Waste-to-Energy Technologies shall refer to systems which convert biodegradable materials such as, but not limited to, animal manure, agricultural waste, into useful energy through chemical processes such as anaerobic digestion, fermentation and gasification, among others.

SEC. 23. *Implementing Rules and Regulations.* - Within six (6) months from the effectivity of this Act, the DOE shall, in collaboration with the Senate and House Committees on Energy, relevant government agencies and all RE developers, promulgate the Implementing Rules and Regulations (IRR) of this Act, subject to the approval by the Joint Congressional Renewable Energy Oversight Committee.

SEC. 24. *Congressional Oversight Committee.* - Upon the effectivity of this Act, the Senate and House Committees on Energy, shall jointly monitor the implementation of this Act. Likewise, the Oversight Committee shall be co-chaired by the Chairpersons of the Senate and House Committees on Energy.

SEC. 25. *Penalty Clause.* - Any person found in violation, through an act of commission or omission of the provisions of this Act shall pay a minimum penalty of One hundred thousand pesos (Php100,000.00) or twice the amount of damages or costs avoided for non-compliance, whichever is higher.

SEC. 26. *Official Development Assistance.* - The provision of Executive Order No. 230 of 1986 and the rules and regulations governing the evaluation and authorization for the availment of Official Development Assistance notwithstanding the privatization of renewable energy 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 XII of the Constitution.

SEC. 27. *Separability Clause.* - If any provision of this Act is held invalid or unconstitutional, the remainder of the Act or the provisions not otherwise affected shall remain valid and subsisting.

SEC. 28. *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.

SEC. 29. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,