CONGRESS OF THE PHILIPPINES
THIRTEENTH CONGRESS
Third Regular Session

HOUSE OF REPRESENTATIVES

H. No. 5563

BY REPRESENTATIVES BADELLES, ABAYON, NANTES, ALCALA, LOPEZ (J.), BACULIO, GARIN, FUENTEBELLA, VILLAFUERTE, LAPUS, SALCEDA, ROSALES, VALDEZ, ABAD, JARAULA, TAÑADA, PUENTEVELLA, PICHAY, UMALI (A.M.), ROMUALDO, UY (R.), REYES (V.), ZAMORA (M.), MANGUDADATU, AMIN, GARCIA (V.), ABAYA, SUSANO, MARCOLETA, CODILLA, SOON-RUIZ, ESPINO AND TULAGAN, PER COMMITTEE REPORT NO. 1755

AN ACT PROMOTING THE DEVELOPMENT, UTILIZATION AND COMMERCIALIZATION OF CLEAN, RENEWABLE AND ALTERNATIVE ENERGY RESOURCES AND FOR OTHER PURPOSES

Be it enacted by the Senate and 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 "Clean, Renewable and Alternative Energy Act of 2006". It shall hereinafter be referred to as the "Act".

SEC. 2. *Declaration of Policies.* – It is hereby declared the policy of the State to:

(a) Encourage and accelerate the exploration and development of clean, renewable and alternative energy resources such as, but not limited to, natural gas, biomass, solar, wind, hydro, geothermal, and ocean energy sources or hybrid systems, to achieve energy self-sufficiency, reduce the country's dependence on imported energy, and ensure the competitiveness of energy from clean, renewable and alternative sources vis-à-vis imported energy fuels;

(b) Increase the utilization of clean, renewable and alternative energy by institutionalizing its use, developing national and local capabilities in the use of clean, renewable and alternative energy systems, and promoting its efficient utilization and widespread commercial application by providing fiscal and nonfiscal incentives;

(c) Encourage and accelerate the exploration, development and utilization of clean, renewable and alternative energy resources as tools for sustainable development to effectively prevent or reduce harmful emissions and thereby balance the goals of economic growth and development and energy self-sufficiency with the protection of health and the environment and preserving the quality of the environment for future generations; and

(d) Establish the necessary infrastructure to carry out the mandates specified in this Act and other relevant existing laws.

SEC. 3. *Scope.* – This Act shall establish the framework for the accelerated development and advancement of clean, renewable and alternative energy resources, and the development of a strategic program to increase its utilization.

SEC. 4. *Definition of Terms.* – As used in this Act, the following terms are herein defined:

(a) "Alternative energy resources" refers to energy resources that are non-fossil fuel based, including biomass resources, hybrid systems and other emerging energy sources using technologies.

(b) "Biomass energy systems" refers to energy systems which use biomass resources to produce heat, steam, mechanical power or electricity through either thermochemical, biochemical or physico-chemical processes.

(c) "Biomass resources" refers 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.

(d) "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.

(e) "Clean, renewable and alternative energy developers" refers to individual/s or a group of individuals formed in accordance with existing Philippine laws engaged in the exploration, development and utilization of clean, renewable and alternative energy resources and actual operation of clean, renewable and alternative energy systems/facilities.

(f) "Clean, renewable and alternative energy resources" or "CRAE Resources" refers to indigenous clean energy resources, renewable energy resources and alternative energy resources.

(g) "Clean, renewable and alternative energy systems" or 'CRAES' refers to energy systems which convert clean, renewable and alternative energy resources into useful energy forms, like electrical, mechanical, etc.

(h) "Clean energy resources" refers to energy resources that, upon combustion, release very small amounts of sulfur dioxide and nitrogen oxides, virtually no ash or particulate matter, and lower levels of carbon dioxide, carbon monoxide, and other reactive hydrocarbons, clean energy resources include natural gas.

(i) "Cogeneration systems" refers 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.

(j) "Department of Energy" or "DOE" refers to the government agency created pursuant to Republic Act No. 7638 whose functions were expanded in Republic Act No. 9136 and further expanded in this Act.

(k) "Department of Environment and Natural Resources" or "DENR" refers to the government agency created pursuant to Executive Order No. 192.

(l) "Department of Finance" or "DOF" refers to the government agency created pursuant to Executive Order No. 127, as amended.

(m) "Department of Science and Technology" or "DOST" refers to the government agency created pursuant to Executive Order No. 128.

(n) "Department of Trade and Industry" or "DTI" refers to the government agency created pursuant to Executive Order No. 133.

(o) "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 (IRRs).

(p) "Distribution Utility" refers to any electric cooperative, private corporation, government-owned utility or existing local government unit (LGU) which has an exclusive franchise to operate a distribution system in accordance with its franchise and Republic Act No. 9136.

(q) "Energy Regulatory Commission" or "ERC" refers to the independent quasi-judicial regulatory agency created pursuant to Republic Act No. 9136.

(r) "Generation Company" refers to any person or entity authorized by the ERC to operate facilities used in the generation of electricity.

(s) "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.

(t) "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.

(u) "Geothermal energy systems" refers to machines or other equipment that converts geothermal energy into useful power.

(v) "Geothermal resources" refers to mineral resources, classified as renewable energy resource, in the form of: (1) all products of geothermal processes, embracing indigenous steam, hot water and hot brines; (2) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (3) heat or associated energy found in geothermal formations; and (4) any by-product derived from them.

(w) "Government share" refers to the amount due the national government and LGUs from the exploitation, development and utilization of naturally-occurring clean and renewable energy resources.

(x) "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 IRR of Republic Act No. 9136.

(y) "Hybrid system" refers 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 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 (RES) components of the hybrid systems, whichever is lower.

(z) "Hydroelectric power systems" or "Hydropower systems" refers to water-based energy systems which produce electricity by utilizing the kinetic energy of falling or running water to turn a turbine generator.

(aa) "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.

(bb) "Hydroelectric power resources" or "Hydropower resources" refers to water resources found technically feasible for development of hydropower projects which include rivers, lakes, waterfalls, irrigation canals, springs, ponds and other water bodies.

(cc) "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.

(dd) "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.

(ee) "National Power Corporation" or "NPC" refers to the government corporation created under Republic Act No. 6395, as amended.

(ff) "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.

(gg) "Natural gas" refers to hydrocarbons, obtained initially from sub-surface reservoirs, primarily methane, which, at atmospheric temperature and pressure, is in a gaseous phase.

(hh) "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.

(ii) "Ocean energy systems" refers to energy systems which convert ocean or tidal current, ocean thermal gradient or wave energy into electrical or mechanical energy.

(jj) "Off-grid systems" refers to electrical systems not connected to the wires and related facilities of any Mini-Grid System or the On-Grid Systems of the Philippines.

(kk) "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.

(ll) "Renewable Energy (Systems) Developers" or "RE Developers" *refers 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.

(mm) "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.

(nn) "Renewable Energy Service (Operating) Contract or "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 stages, the pre-development 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.

(oo) "Renewable energy resources" or "RE Resources" refers 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, solar, wind, hydropower, geothermal and ocean energy.

(pp) "Renewable Energy Systems" or "RES" refers to energy systems which convert renewable energy resources into useful energy forms, like electrical, mechanical, etc..

(qq) "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.

(rr) "Rural Electrification" refers to the delivery of basic electricity services, consisting of power generation, subtransmission, and/or extension of associated power delivery system that would bring about important social and economic benefits to the countryside.

(ss) "Small-Scale 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.

(tt) "Solar energy" refers to the energy derived from solar radiation that can be converted into useful thermal or electrical energy.

(uu) "Solar energy systems" refers to energy systems which convert solar energy into thermal or electrical energy.

(vv) "Small Power Utilities Group" or "SPUG" refers to the functional unit of the NPC mandated under Republic Act No. 9136 to pursue missionary electrification function.

(ww) "Transmission of electricity" refers to the conveyance of electricity through the high-voltage backbone system.

(xx) "Wind energy" refers to the energy that can be derived from wind that is converted into useful electrical or mechanical energy.

(yy) "Wind energy systems" refers to the machines or other related equipment that convert wind energy into useful electrical or mechanical energy.

(zz) "Wholesale Electricity Spot Market" or "WESM" refers to the wholesale electricity spot market created pursuant to Republic Act No. 9136.

CHAPTER II

ORGANIZATION

SEC. 5. *Lead Agency.* – The DOE, with the support of the DENR, shall be the lead agency mandated to implement the provisions of this Act.

CHAPTER III

ON-GRID CLEAN, RENEWABLE AND ALTERNATIVE ENERGY DEVELOPMENT

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. Towards this end, the NCRAEB, created under Section 18 of this Act, shall set the minimum percentage of generation from eligible Renewable Energy resources and determine to which sector RPS shall be imposed on a per grid basis within two years from the effectivity of this Act, subject to the approval of the Joint Congressional Power Commission under Section 23 of this Act.

Thereafter, the DOE shall, in consultation with the sector concerned, 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 the provisions of Section 6 of this Act, the DOE shall, in consultation with the Philippine Electricity Market Corporation (PEMC) and the NCRAEB, 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. *Green Energy Option.* – A Green Energy Option program, which shall provide end-users the option to choose clean, renewable and alternative energy resources, shall be made available to all end-users. Towards this end, the ERC shall, in collaboration with the NCRAEB, the PEMC and the industry players, cause the necessary modification of the IRR, WESM rules or any relevant rules or regulations.

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

Consistent herewith, the TRANSCO, the Distribution Utilities, the PEMC and all relevant parties are hereby mandated to provide the appropriate

mechanisms for the physical connection and commercial arrangements necessary to ensure the success of the Green Energy Option.

SEC. 9. *Net-metering and Distributed Generation for Clean, Renewable and Alternative 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 clean, renewable and alternative 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 the electric power industry participants, within one year upon the effectivity of this Act.

The distribution utility shall charge qualified users their net energy consumption at the standard retail rate and shall credit net contributors of energy from clean, renewable and alternative sources at the prevailing average bulk generation rate.

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

Consistent herewith, the TRANSCO, the Distribution Utilities, 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 and Distributed Generation for Clean, Renewable and Alternative Energy program.

CHAPTER IV

OFF-GRID RENEWABLE ENERGY DEVELOPMENT

SEC. 10. *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 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.

CHAPTER V

GOVERNMENT SHARE

SEC. 11. *Government Share.* – The government share on CRAE development projects shall be equal to at least one and one-half percent (1.5%) of the gross proceeds for all CRAE resources except for indigenous natural gas and geothermal energy, which shall be two percent (2%) of the gross proceeds.

CHAPTER VI

ENVIRONMENTAL COMPLIANCE

SEC. 12. *Compliance with Environmental Regulations.* – All clean, renewable and alternative energy explorations, development, utilization, and CRAES operations shall be conducted in accordance with existing environmental regulations as prescribed by the DENR and/or any other government agency.

CHAPTER VII

GENERAL INCENTIVES

SEC. 13. *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 and Duty-free Importation of RE Machinery, Equipment and Materials* -- Within the first ten (10) years of an RE operating contract, the importation of machinery and equipment, and materials and parts thereof, including 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 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 years from date of importation, any of the following conditions must be present:

(i) If made to another RE developer enjoying tax and duty exemption on imported capital equipment;

(ii) 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;

(iii) Exportation of the capital equipment, machinery, spare parts or source documents or those required for RE development; and

(iv) 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 (ii), 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 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 Real Property Tax Rates on Machinery, Equipment and Other Improvements* – Any law or local ordinance to the contrary notwithstanding, real property tax on machinery, equipment and other improvements of a registered RE developer actually and exclusively used for RES facilities shall not exceed two and one half percent (2.5%) of their original cost.

(d) *Income Tax Holiday (ITH) and Exemption* – For the first six 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 ITH 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.

An RE developer availing of the ITH or the Net Operating Loss Carryover (NOLCO) shall be required to secure a certificate of eligibility from the DOE before filing an official copy of its Income Tax Return (ITR) with the Bureau of Internal Revenue (BIR).

Failure to secure certification and/or file the ITH or the NOLCO availment for validation by the DOE 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 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 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 the NOLCO.

RE developers availing of the ITH as provided in this Act shall not 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 would 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.

(h) *VAT Zero-Rated* – The sale of power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be VAT zero-rated, pursuant to Section 6, paragraph B, sub-paragraph 7 of Republic Act No. 9337.

SEC. 14. *Hybrid and Cogeneration Systems.* – The tax exemptions and/or incentives provided for in Section 13 of this Act shall be availed of by CRAE 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 renewable energy resources.

SEC. 15. *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 runoff river hydro, wind or ocean energy.

SEC. 16. *Incentives for RE Commercialization.* – All manufacturers, fabricators and suppliers of locally-produced RE equipment, components and materials duly recognized and accredited by the DOE, in consultation with the DOST, the DOF and the 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 customs duties and value-added tax: *Provided, however,* That the said components, parts and materials are: (1) not manufactured domestically in reasonable quantity and quality at competitive prices; (2) directly and actually needed and shall be used exclusively in the manufacture/fabrication of RE equipment; and (3) 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 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, materials and parts are directly needed and shall be used exclusively by the RE manufacturer, fabricator and supplier for the manufacture, fabrication and sale of RE equipment: *Provided, further,* That prior approval by the DOE was obtained by the local manufacturer.

(c) *ITH and Exemption* – For six years starting from the date of recognition/accreditation, an RE manufacturer, fabricator and supplier of RE equipment shall be fully exempt from income tax levied by the national government.

SEC. 17. *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 installed after 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 VIII

GENERAL PROVISIONS

SEC. 18. *Creation of the National Clean, Renewable and Alternative Energy Board (NCRAEB).* – The National Clean, Renewable and Alternative Energy Board 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, the DOF and the DENR; the presidents or the duly designated representatives of the NPC, the TRANSCO, and the PEMC; and one representative each from the clean, renewable and alternative energy developers, government financial institutions (GFIs), and nongovernmental organizations (NGOs), duly endorsed by their respective industry associations and appointed by the President of the Republic of the Philippines, as members.

The DOE Secretary or his designated undersecretary, in his capacity as Chairman, shall, within one month from the effectivity of this Act, convene the NCRAEB.

The NCRAEB shall be assisted by a Technical Secretariat from the Energy Utilization Management Bureau of the DOE, thru the Renewable Energy Management Division and the DOE-natural gas office shall directly report to the Office of the Secretary or the undersecretary of the Department, as the case may be, on matters pertaining to the activities of the NCRAEB. 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 and the DOE-natural gas office shall be determined by the Board, subject to approval by the Department of Budget and Management (DBM) and existing civil service rules and regulations.

The NCRAEB shall have the following powers and functions:

(a) Approve the National Clean, Renewable and Alternative Energy Program, as formulated by the DOE;

(b) Set the mandated Renewable Portfolio Standards, as it deems appropriate;

(c) Recommend specific actions in facilitating the implementation of the National Clean, Renewable and Alternative Energy Program to be executed by the DOE and other appropriate agencies of government;

(d) Monitor and review the implementation of the National Clean, Renewable and Alternative 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 Clean, Renewable and Alternative Energy Trust Fund as administered by the Department; and

(f) Perform such other functions, as may be necessary, for the effective implementation of this Act.

SEC. 19. *Clean, Renewable and Alternative Energy Trust Fund (CRAETF).* – A Clean, Renewable and Alternative Energy Trust Fund is hereby established to enhance the development and greater utilization of Clean, Renewable and Alternative Energy. It shall be administered by the DOE as a special account in any of the GFI. The CRAETF shall be exclusively used to:

(a) Finance the research, development, demonstration and promotion of the widespread and productive use of clean, renewable and alternative energy systems for power and nonpower applications;

(b) Support the development and operation of new CRAE 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 clean, renewable and alternative energy resources;

(d) Propagate CRAE knowledge by accrediting, tapping, training, and providing benefits to institutions, entities and organizations which can extend the promotion and dissemination of CRAE 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 in a competitive and transparent manner.

The CRAETF shall be funded from:

(1) Proceeds from the emission fees collected from all generating facilities consistent with Republic Act No. 8749 or the Philippine Clean Air Act;

(2) Fifty percent (50%) of the national government share from geothermal operations;

(3) Contributions, grants and donations: *Provided,* That all contributions, grants and donations made to the CRAETF shall be tax deductible subject to the provisions of the NIRC. Towards this end, the BIR shall assist the DOE in formulating the rules and regulations to implement this provision;

(4) One and one-half percent (1.5%) of the proceeds of the national government share collected from the development and use of indigenous nonrenewable energy resources;

(5) Any revenue generated from the utilization of the CRAETF; and

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

SEC. 20. *Financial Assistance Program.* – Government financial institutions such as the Development Bank of the Philippines (DBP), the Land Bank of the Philippines (LBP), the 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. 21. *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.

CHAPTER IX

FINAL PROVISIONS

SEC. 22. *Implementing Rules and Regulations.* – Within six months from the effectivity of this Act, the DOE shall, in collaboration with relevant government agencies and all RE developers, promulgate the IRR of this Act, subject to the approval by the Joint Congressional Power Commission.

SEC. 23. *Transitory Provisions.* – To implement the reduction in the government share on CRAE development projects for indigenous natural gas and geothermal energy as mandated by Section 11 of this Act:

(a) All existing service contractors under Presidential Decree No. 87, as amended, shall immediately upon the effectivity of this Act, reduce the commodity price of indigenous natural gas sold by them for domestic use by fifty-five percent (55%); and

(b) All existing service contractors under Presidential Decree No. 1442, as amended, shall immediately upon the effectivity of this Act, reduce the commodity price of geothermal energy sold by them for domestic use by twenty percent (20%).

The commodity price reduction shall be subject to annual adjustment or reconciliation to ensure that the reduction in government share as mandated by this Act shall be revenue neutral to the service contractor. Upon adjustment, the total annual commodity price reduction shall equal the total amount of reduction in government share for that year that would otherwise have been paid to the government had not government share been reduced under this Act. The IRR of this Act shall provide for the procedures to implement the annual reconciliation mandated by this section.

The foregoing shall apply until the relevant service contractor negotiates and executes an amendment of its sales contracts to reduce the commodity price of indigenous natural gas and/or geothermal energy sold by it for domestic use by an amount substantially equal to the total actual amount of reduction in government share mandated by Section 11 of this Act.

SEC. 24. *Congressional Oversight.* – Upon the effectivity of this Act, the Joint Congressional Power Commission created under Section 62 of Republic Act No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" shall, in addition to its existing functions, oversee the implementation of this Act.

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 (P100,000.00) or twice the amount of damages or costs avoided for noncompliance, 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 National Economic Development Authority Board, subject to Section 21, Article XII of the Constitution.

SEC. 27. *Separability Clause.* – If for any reason, any provision of this Act or any part thereof shall be held unconstitutional or invalid, the other parts or provisions of this Act, which are not affected thereby, shall remain in force and effect.

SEC. 28. *Repealing Clause.* – All laws, decrees, orders, rules and regulations or parts thereof, inconsistent with any of the provisions of this Act are hereby repealed, amended or modified accordingly.

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

Approved,

O