

1 Republic of the Philippines
2 HOUSE OF REPRESENTATIVES
3 Quezon City

4
5 FOURTEENTH CONGRESS
6 First Regular Session

7
8 **HOUSE BILL NO. 2027**
9

10
11 Introduced by **REP. LORENZO R. TAÑADA III**
12

13
14 **EXPLANATORY NOTE**
15

16 The volatile situation on world fossil fuel prices, the rampaging and worsening
17 impacts of largely CO₂-propelled climate change and the increasing toxic risks
18 faced by communities hosting coal plants warrants a serious strategic
19 reconsideration of the energy pathway so far chosen by the Philippines. New
20 renewable energy (NRE) alternatives must be harnessed by the country to
21 protect the environment, to provide jobs and to strengthen the country's energy
22 independence.

23
24 The Philippines is among the most vulnerable regions when it comes to climate
25 change impacts. Recent reports from the Intergovernmental Panel on Climate
26 Change (IPCC), predict cataclysmic impacts if the world fails to reduce carbon
27 dioxide (CO₂) emissions. The frequency of extreme weather events like super
28 typhoons and droughts which have visited the country in recent memory offer us
29 a glimpse of what awaits us should climate change worsen.

30
31 A report released by Greenpeace early this year entitled "*The Philippines: A*
32 *Climate Hotspot*" gives an overview of how extreme weather events and sea
33 level rise threaten the country's people, economy, species, and ecosystems.
34 Notably, the report shows how: 1) only 1 of the 16 regions of the Philippines is not
35 vulnerable to a one meter rise in sea level, 2) the regions and provinces most
36 susceptible to sea level rise, extreme weather events, and landslides are also
37 among those with the highest poverty incidence, and 3) the cost of the impacts
38 of extreme weather events brought about by typhoons and increased rainfall,
39 already in the hundred millions, is steadily rising.

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41 And yet such urgency has yet to be translated into clear energy policy.
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43 NRE technologies such as wind, solar and modern biomass today represent less
44 than 0.2% of the overall Philippine power mix.

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The renewable energy resource of the Philippines is enormous. Wind energy potential alone reaches up to 70,000 MW, which represents close to seven times the country's total energy demand today. Solar power is abundant in the country and is capable of producing 1500 hours of power annually at 5 kilowatt hours per square meter per day. Solar energy in the Philippines possesses one of the highest efficiency ratings in the world. The combined commercially viable modern biomass potential within a ten-year planning period from diverse sources such as sugar cane bagasse and rice and coconut residue is over 2,300 MW while mini hydropower has a total resource potential of 1,132 MW.

With implicit ecologically harmful subsidies on fossil fuels still firmly in place, and, in the absence of environmental taxes that reflect the real costs of fossil-fueled energy generation, the key challenge facing the country at present is how to create a policy environment that will increase the electricity share of renewable energy in electricity consumption. For instance, payment mechanisms like environmental taxes can be put in place as compensation for the lack of internalization of external costs arising from the use of fossil fuel sources, particularly coal.

Sadly, it is tremendously difficult to harness the country's abundant renewable energy potential due to the prevailing bias in favor of dirty and ultimately costly fossil fuel-generated power. Renewable energy (RE) in the Philippines is up against a market which heavily favors the use of fossil fuels such as coal. In order for RE technologies to gain a foothold in the Philippine power sector, it is necessary and urgent to adopt a renewable energy policy that promotes the massive utilization of clean energy. Equally important is to find a good policy mix so that there is energy security and sovereignty and greater environmental benefits to the Philippines.

In view of the foregoing, early passage of this bill is earnestly sought.

REP. LORENZO R. TAÑADA III
4th District, Quezon Province

HOUSE OF REPRESENTATIVES

H. B. NO. 2027

Introduced by HON. LORENZO R. TAÑADA III

AN ACT
PROMOTING 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:

CHAPTER I

TITLE AND DECLARATION OF POLICIES

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4 SECTION 1. **Short Title.** - This Act shall be known as the "Renewable Energy Act
5 of 2007". It shall hereinafter be referred to as the "Act".

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

7 a) Accelerate the development and increase the share of renewable energy
8 resources in the country's energy consumption to achieve energy self-reliance
9 through the exploration, development and utilization of renewable energy
10 resources such as, but not limited to, biomass, solar, wind, hydro, geothermal, and
11 ocean energy sources or hybrid systems;

12 b) Increase the utilization of renewable energy *with due regard to gender-*
13 *sensitive approaches* by institutionalizing its use, developing national and local
14 capabilities in the use of renewable energy systems, and promoting its efficient
15 utilization and widespread application by providing fiscal and non-fiscal incentives;

16 c) Establish the necessary infrastructure to carry out the mandates specified
17 in this Act and other relevant existing laws; and

1 d) Promote sustainable development of energy supply, with due regard to
2 protecting the climate, nature, and environment..

3 SEC. 3. **Scope.** – This Act shall establish the framework for the accelerated
4 development and advancement of renewable energy resources, through the grant of
5 fiscal and non-fiscal incentives to all Renewable Energy activities; and the development
6 of a strategic program to increase its share and utilization.

7

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

10 (a) “**Biofuels**” refers to bioethanol, biodiesel and other fuels made from biomass
11 and primarily used for thermal and power generation;

12 (b) “**Biomass Energy Systems**” refers to energy systems which use biomass
13 resources to produce heat, steam, mechanical power or electricity;

14 (c) “**Biomass Resources**” refers to non-fossilized, biodegradable, organic
15 material originating from plants, animals, and micro-organisms. Also products,
16 by-products, residues from agriculture such as but not limited to biofuels,
17 bagasse, rice hulls, coconut husks and shells, corn stovers, non-fossilized and
18 biodegradable organic fractions of industrial and municipal wastes, as well as
19 gases and liquids recovered from the decomposition and/or extraction of non-
20 fossilized and biodegradable organic material.

21 (d) “**Board of Investments**” or “**BOI**” refers to an attached agency of the
22 Department of Trade and Industry created under Republic Act No. 5186, as
23 amended;

24 (e) “**Cogeneration systems**” refers to facilities which produce electrical and/or
25 mechanical energy and forms of useful thermal energy such as heat or steam
26 which are used for heating or cooling purposes through the sequential use of
27 energy;

28 (f) “**Department of Energy**” or “**DOE**” refers to the government agency created
29 pursuant to Republic Act No. 7638 whose functions were expanded in R.A.
30 9136 and further expanded in this Act;

- 1 (g) “**Department of Environment and Natural Resources** or **DENR**” refers to
2 the government agency created pursuant to Executive Order No. 192;
- 3 (h) “**Department of Finance**” or “**DOF**” refers to the government agency created
4 pursuant to Executive Order No. 127, as amended;
- 5 (i) “**Department of Science and Technology**” or “**DOST**” refers to the
6 government agency created pursuant to Executive Order No. 128;
- 7 (j) “**Department of Trade and Industry**” or “**DTI**” refers to the government
8 agency created pursuant to Executive Order No. 133;
- 9 (k) “**Distribution of Electricity**” refers to the conveyance of electric power by a
10 Distribution Utility through its distribution system pursuant to the provision of
11 Republic Act No. 9136 and its implementing rules and regulations;
- 12 (l) “**Distribution Utility**” refers to any electric cooperative, private corporation,
13 government-owned utility or existing local government unit which has an
14 exclusive franchise to operate a distribution system in accordance with its
15 franchise and Republic Act No. 9136;
- 16 (m) “**Energy Regulatory Commission**” or “**ERC**” refers to the independent
17 quasi-judicial regulatory agency created pursuant to Republic Act No. 9136;
- 18 (n) “**Generation Company**” refers to any person or entity authorized by the
19 Energy Regulatory Commission (ERC) to operate facilities used in the
20 generation of electricity;
- 21 (o) “**Generation Facility**” refers to a facility for the production of electricity and/or
22 thermal energy such as, but not limited to, steam, hot or cold water;
- 23 (p) “**Geothermal Energy**” refers to all geothermal fluids whether existing naturally
24 or formed by the artificial introduction of fluids into naturally hot formation, heat
25 energy in the earth, and any by-product derived from them;
- 26 (q) “**Geothermal Energy Systems**” refer to machines or other equipment that
27 converts geothermal energy into useful power;
- 28 (r) “**Geothermal Resources**” refers to mineral resources, classified as renewable
29 energy resource, in the form of: (1) all products of geothermal processes,
30 embracing indigenous steam, hot water and hot brines; (2) steam and other
31 gases, hot water and hot brines resulting from water, gas, or other fluids

- 1 artificially introduced into geothermal formations; (3) heat or associated energy
2 found in geothermal formations; and (4) any by-product derived from them;
- 3 (s) **“Government Share”** refers to the amount due the National Government and
4 Local Government Units from the exploitation, development and utilization of
5 naturally-occurring renewable energy resources;
- 6 (t) **“Grid”** refers to the high voltage backbone system of interconnected
7 transmission lines, substations and related facilities, located in each of Luzon,
8 Visayas, and Mindanao, or as may otherwise be determined by the ERC in
9 accordance with the implementing rules and regulations of Republic Act No.
10 9136;
- 11 (u) **“Hybrid System”** refers to any power or energy generation facility which
12 makes use of two or more types of technologies utilizing both conventional
13 and/or renewable fuel sources such as, but not limited to, integrated
14 wind/diesel systems, integrated solar/wind systems, biomass/fossil fuel
15 systems, hydro/fossil fuel systems, integrated solar/biomass systems,
16 integrated wind/fossil fuel systems, based on *ten percent (10%)* of the annual
17 energy output provided by the RES components of the hybrid systems;
- 18 (v) **“Hydroelectric Power Systems”** or **“Hydropower Systems”** refers to water-
19 based energy systems which produce electricity by utilizing the kinetic energy
20 of falling or running water to turn a turbine generator, compliant with World
21 Commission on Dams standards;
- 22 (w) **“Hydroelectric Power Development”** or **“Hydropower Development”** refers
23 to the construction and installation of a hydroelectric power-generating plant
24 and its auxiliary facilities, such as diversion structure, headrace, penstock,
25 substation, transmission, and machine shop, among others;
- 26 (x) **“Hydroelectric Power Resources”** or **“Hydropower Resources”** refers to
27 water resources found technically feasible for development of hydropower
28 projects which include rivers, lakes, waterfalls, irrigation canals, springs, ponds
29 and other water bodies;
- 30 (y) **“Market Operator”** refers to an autonomous group, constituted by the DOE,
31 with equitable representation from electric power industry participants, that

- 1 undertake the preparatory work and initial operation of the wholesale electricity
2 spot market;
- 3 (z) **“Missionary Electrification”** refers to the provision of basic electricity service
4 in unviable areas with the aim of bringing the operations in these areas to
5 viability levels;
- 6 (aa) **“National Power Corporation”** or **“NPC”** refers to the government
7 corporation created under Republic Act No. 6395, as amended;
- 8 (bb) **“National Transmission Corporation”** or **“TRANSCO”** refers to the
9 corporation created pursuant to Republic Act No. 9136 responsible for the
10 planning, construction, and centralized operation and maintenance of high-
11 voltage transmission facilities, including grid interconnection and ancillary
12 services;
- 13 (cc) **“Net Metering”** refers to a system, , in which grid user has a two-way
14 connection to the grid and is only charged for his net electricity consumption
15 and is credited for any overall contribution to the electricity grid;
- 16 (dd) **“Ocean Energy Systems”** refers to energy systems which convert ocean
17 or tidal current, ocean thermal gradient or wave energy into electrical or
18 mechanical energy;
- 19 (ee) **“Off-Grid Systems”** refers to electrical systems not connected to the wires
20 and related facilities of any Mini-Grid System or the On-Grid Systems of the
21 Philippines;
- 22 (ff) **“On-Grid System”** refers to electrical systems composed of interconnected
23 transmission lines, distribution lines, substations and related facilities for the
24 purpose of conveyance of bulk power on the Grid of the Philippines;
- 25 (gg) **“Renewable Energy (Systems) Developers”** or **“RE Developers”** refers
26 to individual/s or a group of individuals formed in accordance with existing
27 Philippine Laws and duly registered with the DOE engaged in the exploration,
28 production, development and utilization of renewable energy resources and/or
29 actual operation of renewable energy systems/facilities;
- 30 (hh) **“Renewable Energy Policy Framework”** or **“REPF”** refers to the long-
31 term policy developed by the DOE which identifies among others, the goals

1 and targets for the development and utilization of renewable energy in the
2 country;

3 (ii) **“Renewable Energy Service (Operating) Contract or RE Contract”** refers
4 to the service agreement between the Government, thru the Department of
5 Energy, and RE Developer and/or the RE Developer and other private entity
6 over a period in which the RE Developer has the exclusive right to a particular
7 RE area for exploration and development. The RE Contract shall be divided
8 into two (2) stages, the pre-development stage and the
9 development/commercial stage. The preliminary assessment and feasibility
10 study up to financial costing shall refer to the pre-development stage. The
11 construction and installation of facilities up to operation phase shall refer to the
12 development stage;

13 (jj) **“Renewable Energy Resources”** or **“RE Resources”** refers to energy
14 resources that do not have an upper limit on the total quantity to be used. Such
15 resources are renewable on a regular basis, and whose renewal rate is
16 relatively rapid to consider availability over an indefinite period of time. These
17 include, among others, biomass, solar, wind, hydropower, geothermal, and
18 ocean energy, and other emerging energy sources;

19 (kk) **“Renewable Energy Systems”** or **“RES”** refers to energy systems which
20 convert renewable energy resources into useful energy forms, like electrical,
21 mechanical, etc.;

22 (ll) **“Republic Act No. 9136”** or **“Electric Power Industry Reform Act of 2001”**
23 refers to the law mandating the restructuring of the electric power sector and
24 the privatization of the NPC;

25 (mm) **“Rural Electrification”** refers to the delivery of basic electricity services,
26 consisting of power generation, subtransmission, and/or extension of
27 associated power delivery system that would bring about important social and
28 economic benefits to the countryside;

29 (nn) **“Small-Scale Distributed Generation”** refers to a system of small
30 generation entities supplying directly to the distribution grid, any one of which
31 shall not exceed *100 kW* in capacity;

- 1 (oo) **“Solar Energy”** refers to the energy derived from solar radiation that can
2 be converted into useful thermal or electrical energy;
- 3 (pp) **“Solar Energy Systems”** refers to energy systems which convert solar
4 energy into thermal or electrical energy;
- 5 (qq) **“Small Power Utilities Group”** or **“SPUG”** refers to the functional unit of
6 the National Power Corporation mandated under Republic Act No. 9136 to
7 pursue missionary electrification function;
- 8 (rr) **“Transmission of Electricity”** refers to the conveyance of electricity through
9 the high-voltage backbone system;
- 10 (ss) **“Wind Energy”** refers to the energy that can be derived from wind that is
11 converted into useful electrical or mechanical energy;
- 12 (tt) **“Wind Energy Systems”** refers to the machines or other related equipment
13 that convert wind energy into useful electrical or mechanical energy;
- 14 (uu) **“Wholesale Electricity Spot Market”** or **“WESM”** refers to the wholesale
15 electricity spot market created pursuant to Republic Act No. 9136;

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17 CHAPTER II
18 ORGANIZATION

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

22
23 CHAPTER III
24 ON-GRID RENEWABLE ENERGY DEVELOPMENT

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26 SEC. 6. *Time Bound Renewable Energy Targets* - All stakeholders in the electric power
27 industry shall contribute to the growth of the renewable energy market of the country.
28 Towards this end, the National Renewable Energy Board (NREB), created under Section
29 19 of this Act, shall set time bound renewable energy targets, subject to the approval of
30 the Joint Congressional Power Commission under Section 23 of this Act.

31

1 SEC. 7 *Feed-In System* – To stimulate the economic development of renewable
2 energy, a Feed-In System for electricity produced for each type of renewable energy
3 technology is hereby mandated. Towards this end, the NREB created under Section 19
4 of this Act, shall:

- 5 a) Prioritize connections to the grid for general electricity supply of power
6 plants generating electricity from renewable energy sources within
7 territory of the Philippines;
- 8 b) Prioritize the purchase and transmission of and payment for, such
9 electricity by grid market operators;
- 10 c) Determine the fixed tariff to be paid to electricity produced from each
11 type of renewable energy and mandated number of years within a
12 minimum of twelve (12) years;
- 13 d) Formulate the tariff that will allow the economic operation of the
14 renewable energy sources;
- 15 e) Establish the Feed-In System to be unbureaucratic as possible to allow
16 efficient use of financial resources and to attract RE industry investors
17 for the development of manufacturing facilities; and
- 18 f) Implement a nationwide equalization scheme for the quantity of
19 electricity purchased and paid for.

20 SEC. 8. *Green Energy Option*. - A Green Energy Option Program, which shall provide
21 end-users the option to choose renewable energy resources, shall be made available to
22 all end-users. Towards this end, the ERC shall, in collaboration with the National
23 Renewable Energy Board, the PEMC and the industry players, cause the necessary
24 modification of the Implementing Rules and Regulations, WESM Rules or any relevant
25 Rules or Regulations.

26 End users with a monthly average peak demand of at least 100kW may directly
27 contract for RE-based energy with the power generator. Provided that end-users with a
28 monthly average peak demand of less than 100kW may contract for RE-based energy
29 with the distribution utility.

30 Consistent herewith, the National Transmission Corporation, the Distribution
31 Utilities, the PEMC, and all relevant parties are hereby mandated to provide the

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

3 SEC. 9. *Net-metering and Distributed Generation for Renewable Energy.* - The
4 distribution utilities shall, upon request and subject to technical considerations and
5 without discrimination, enter into net-metering agreements with distribution grid users.

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

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

11 Consistent herewith, the National Transmission Corporation, the Distribution
12 Utilities, PEMC and all relevant parties are hereby mandated to provide the mechanisms
13 for the physical connection and commercial arrangements necessary to ensure the
14 success of the Net-metering and Distributed Generation for Renewable Energy program.

15
16 CHAPTER IV

17 OFF-GRID RENEWABLE ENERGY DEVELOPMENT

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19 SEC. 10. *Off-Grid Areas.* - In the performance of its mandate to provide
20 missionary electrification, the SPUG, successors-in-interest and/or qualified third party in
21 off-grid areas shall, within two (2) years from the effectivity of this Act, source a minimum
22 percentage of its total annual generation from available RE resources in the area
23 concerned, as may be determined by the DOE through its Renewable Energy Policy
24 Framework.

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

28 CHAPTER V

29 GOVERNMENT SHARE

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1 (2) directly and actually needed and used exclusively in the RE developer's
2 facilities for transformation into energy, and transmission of electric
3 energy to the point of use; and

4 (3) covered by shipping documents in the name of the duly registered RE
5 developer to whom the shipment will be directly delivered by customs
6 authorities:

7 *Provided further*, That the above-mentioned certification is obtained before the
8 importation of such machinery, equipment, materials and parts are made;

9 Such certification by the DOE must be secured before any sale, transfer or
10 disposition of the imported capital equipment, machinery or spare parts is
11 made: *Provided*, That if such sale, transfer or disposition is made within the
12 first five (5) years from date of importation, any of the following conditions must
13 be present:

- 14 (i) If made to another RE developer enjoying tax and duty exemption on
15 imported capital equipment;
- 16 (ii) If made to another RE developer, upon payment of any taxes and
17 duties due on the net book value of the capital equipment to be sold;
- 18 (iii) Exportation of the capital equipment, machinery, spare parts or
19 source documents or those required for RE development; and
- 20 (iv) For reasons of proven technical obsolescence.

21 When the aforementioned sale, transfer or disposition is made under any of the
22 conditions provided for in the foregoing paragraphs other than paragraph (ii),
23 the RE developer shall not pay the taxes and duties waived on such items:

24 *Provided further*, That if the RE developer sells, transfers or disposes the
25 aforementioned imported items without prior approval within five (5) years from
26 the date of importation, the RE developer and the vendee, transferee, or
27 assignee shall be solidarily liable to pay twice the amount of tax and duty
28 exemption given it: *Provided, finally*, That even if the sale, transfer or
29 disposition of the capital equipment, machinery or spare parts is approved after
30 five (5) years from the date of importation, the RE developer is still liable to pay
31 the taxes and duties based on the net book value of the capital equipment,

1 machinery or spare parts if it has violated any of its registration terms and
2 conditions. Otherwise, it shall no longer be subject to the payment of the taxes
3 and duties waived thereon.

4 (b) *Tax Credit on Domestic Capital Equipment and Services.* – A tax credit
5 equivalent to one hundred percent (100%) of the value of the value-added tax
6 and custom duties that were paid on the RE machinery, equipment, materials
7 and parts had these items been imported shall be given to a duly registered RE
8 developer who purchases machinery, equipment, materials and parts from a
9 domestic manufacturer for purposes set forth in this Act: *Provided*, That prior
10 approval by the DOE was obtained by the local manufacturer: *Provided*
11 *further*, That the acquisition of such machinery, equipment, materials, and
12 parts shall be made within the validity of the DOE certification;

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

18 (d) *Income Tax Holiday and Exemption.* – For the first six (6) years of its
19 commercial operations, the duly registered RE developer shall be exempt from
20 income taxes levied by the National Government.

21 Additional investments in the project shall be entitled to income tax holiday
22 equivalent to such investments and may be entitled to additional income tax
23 holiday for as long as investment is made in the same project; *Provided*, That
24 the entitlement period for additional investments shall not exceed three times
25 the period of the initial availment of the ITH.

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

29 Failure to secure certification and/or file the ITH or NOLCO availment for
30 validation by the DOE within forty-five (45) days from the last day of statutory

1 filing date for ITR shall cause the forfeiture of the availment for the taxable
2 period.

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

10 RE developers availing of the ITH as provided in this Act shall not be entitled to
11 avail of the NOLCO.

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

19 (g) *Exemption from the Universal Charge*. – Power and electricity generated
20 through the RES for the generator’s own consumption and/or for distribution in
21 the off-grid areas shall be exempted from the payment of the Universal Charge
22 provided for under Section 34 of Republic Act No. 9136.

23 (h) *VAT Zero-Rated*. - The sale of power or fuel generated from renewable
24 sources of energy such as, but not limited to, biomass, solar, wind,
25 hydropower, geothermal, ocean energy, and other emerging energy sources
26 using technologies such as fuel cells and hydrogen fuels, shall be VAT zero-
27 rated, pursuant to Section 6, paragraph B, sub-paragraph 7 of Republic Act
28 No. 9337: *Provided*. That the sale of such renewable sources of energy as fuel
29 shall likewise be VAT zero-rated.

30 (i) *Exemption from TRANSCO’S Wheeling Charge*. – Power and electricity
31 generated through the RES for the generator’s own consumption and/or for

1 distribution in the grid areas shall be exempted from the payment of the
2 relevant transmission and sub-transmission wheeling charges as provided for
3 under Sections 19 and 24 of Republic Act No. 9136.

4 SEC. 14. *Hybrid and Cogeneration Systems.* - The tax exemptions and/or
5 incentives provided for in Section 13 of this Act shall be availed of by duly registered RE
6 developers of hybrid and cogeneration systems, utilizing both RE sources and
7 conventional energy: *Provided, however,* That the tax exemptions and incentives shall
8 apply only to the equipment, machinery and/or devices utilizing renewable energy
9 resources.

10 SEC. 15. *Carbon Monoxide Emission Standard for Biomass Fuels.* – Any law to
11 the contrary notwithstanding, the processes, fuel burning equipment and/or industrial
12 plants that use biomass shall comply with the carbon monoxide emission standard to be
13 set by the DENR upon prior consultation with various stakeholders.

14 SEC. 16. *Intermittent RE Resources.* – As used in this Act, RE generating unit with
15 intermittent RE resources refers to a renewable energy generating unit or group of units
16 connected to a common connection point whose energy resource is location-specific and
17 has a natural variability which renders the output unpredictable and the availability of the
18 resource inherently uncontrollable, which include plants utilizing runoff river hydro, wind,
19 ocean energy.

20 Subject to technical and financial feasibility considerations, qualified RE
21 generating units with intermittent RE resources shall enjoy the benefit of priority dispatch
22 in accordance with the rules and regulations to be promulgated by the DOE, in
23 consultation with the RE developers.

24 SEC. 17. *Incentives for RE Commercialization.* – All manufacturers, fabricators
25 and suppliers of locally-produced RE equipment, components and materials duly
26 recognized and accredited by the DOE, in consultation with DOST, DOF and DTI, shall
27 be entitled to the following privileges:

28 (a) *Tax and Duty-free Importation of Components, Parts and Materials.* – All
29 shipments necessary for the manufacture and/or fabrication of RE
30 equipment and components shall be exempted from customs duties and
31 value added tax: *Provided, however,* That the said components, parts and

1 materials are: (a) not manufactured domestically in reasonable quantity and
2 quality at competitive prices; (b) directly and actually needed and shall be
3 used exclusively in the manufacture/fabrication of RE equipment; and (c)
4 covered by shipping documents in the name of the duly registered
5 manufacturer/fabricator to whom the shipment will be directly delivered by
6 customs authorities: *Provided further*, That prior approval of the DOE was
7 obtained before the importation of such components, parts and materials
8 were made;

9 (b) *Tax Credit on Domestic Capital Components, Parts and Materials.* – A tax
10 credit equivalent to one hundred percent (100%) of the amount of the
11 value-added tax and custom duties that were paid on the components,
12 parts and materials, had these items been imported shall be given to a RE
13 equipment manufacturer, fabricator, and supplier duly recognized and
14 accredited by the DOE, who purchases RE components, parts and
15 materials from a domestic manufacturer: *Provided*, That such components,
16 materials and parts are directly needed and shall be used exclusively by the
17 RE manufacturer, fabricator and supplier for the manufacture, fabrication
18 and sale of RE equipment. *Provided further*, That prior approval by the
19 DOE was obtained by the local manufacturer;

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

24 SEC. 18. *Application of Fiscal Incentives.* - Renewable energy shall be
25 automatically included in the list of industries under the Investment Priorities Plan (IPP)
26 upon the effectivity of this Act.

27
28 CHAPTER VIII
29 GENERAL PROVISIONS
30

1 SEC. 19. *Creation of the National Renewable Energy Board (NREB).* – The
2 National Renewable Energy Board is hereby created. It shall be composed of the
3 Secretary of the Department of Energy or his designated Undersecretary as chairman
4 and the Secretaries or the designated undersecretaries or assistant secretaries of the
5 Department of Trade and Industry (DTI), Department of Finance (DOF) and Department
6 of Environment and Natural Resources (DENR); the Presidents or the duly designated
7 representatives of the National Power Corporation (NPC), National Transmission
8 Corporation (TRANSCO), and PEMC; and one (1) representative each from the
9 renewable energy developers, Government Financial Institutions (GFIs), and non-
10 governmental organizations, duly endorsed by their respective industry associations and
11 appointed by the President of the Republic of the Philippines, as members.

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

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

23 The NREB shall have the following powers and functions:

- 24 a) Approve the National Renewable Energy Program, as formulated by the
25 DOE;
- 26 b) Formulate and promulgate the Fixed Tariff System Rules within one (1)
27 year upon the effectivity of this Act;
- 28 c) Recommend specific actions in facilitating the implementation of the
29 National Renewable Energy Program to be executed by the DOE and other
30 appropriate agencies of government;

- 1 d) Monitor and review the implementation of the National Renewable Energy
- 2 Program, including the compliance with the Renewable Portfolio Standards
- 3 and minimum RE generation capacities in off-grid areas;
- 4 e) Oversee and monitor the collection and utilization of the Renewable Energy
- 5 Trust Fund as administered by the Department;
- 6 f) Formulate and oversee the implementation of a program which shall fast-
- 7 track investments in Renewable Energy;
- 8 f) Perform such other functions, as may be necessary, for the effective
- 9 implementation of this Act.

10 SEC. 20. *Renewable Energy Trust Fund (RETF)*. – A Renewable Energy Trust

11 Fund is hereby established to enhance the development and greater utilization of

12 Renewable Energy. It shall be administered by the DOE as a special account in any of

13 the GFI. The RETF shall be exclusively used to:

- 14 (a) Finance the research, development, demonstration and promotion of the
- 15 widespread and productive use of renewable energy systems for power and
- 16 non-power applications;
- 17 (b) Support the development and operation of new RE resources to improve
- 18 their competitiveness in the market: *Provided*, That the grant thereof shall
- 19 be done through a competitive and transparent manner;
- 20 (c) Conduct nationwide resource and market assessment studies for biomass,
- 21 solar, wind, hydro, tidal current, and ocean energy;
- 22 (d) Propagate RE knowledge by accrediting, tapping, training, and providing
- 23 benefits to institutions, entities and organizations which can extend the
- 24 promotion and dissemination of RE benefits to the national and local levels;
- 25 and
- 26 (e) Fund such other activities necessary or incidental to the attainment of the
- 27 objectives of this Act.

28 Use of the fund may be through grants, loans, equity investments, loan

29 guarantees, insurance, counterpart fund or such other financial arrangements necessary

30 for the attainment of the objectives of this Act: *Provided*, That the allocation thereof shall,

31 as far as practicable, be done in a competitive and transparent manner.

- 1 The RETF shall be funded from:
- 2 (a) Proceeds from the emission fees collected from all generating facilities
3 consistent with Republic Act No. 8749 or the Philippine Clean Air Act;
- 4 (b) Fifty percent (50%) of the national government share from geothermal
5 operations;
- 6 (c) Contributions, grants and donations: *Provided*, That all contributions, grants
7 and donations made to the RETF shall be tax deductible subject to the
8 provisions of the National Internal Revenue Code. Towards this end, the
9 Bureau of Internal Revenue shall assist the DOE in formulating the Rules
10 and Regulations to implement this provision;
- 11 (d) One and one half percent (1.5%) of the proceeds of the national
12 government share collected from the development and use of indigenous
13 non-renewable energy resources;
- 14 (e) Any revenue generated from the utilization of the RETF; and
- 15 (f) Proceeds from the fines and penalties imposed under this Act.

16 SEC. 21. *Financial Assistance Program.* – Government financial institutions such
17 as the Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP),
18 Phil-Exim Bank and other government financial institutions shall, in accordance with and
19 to the extent allowed by the enabling provisions of their respective charters or applicable
20 laws, provide preferential packages for the development, utilization and
21 commercialization of RE projects as duly recommended and endorsed by the DOE.

22
23 CHAPTER IX
24 FINAL PROVISIONS
25

26 SEC. 23. *Implementing Rules and Regulations.* - Within six (6) months from the
27 effectivity of this Act, the DOE shall, in collaboration with relevant government agencies
28 and all RE developers, promulgate the Implementing Rules and Regulations (IRR) of this
29 Act, subject to the approval by the Joint Congressional Power Commission.

1 SEC. 24. *Congressional Oversight.* – Upon the effectivity of this Act, the Joint
2 Congressional Power Commission created under Section 62 of R.A. No. 9136, otherwise
3 known as the “Electric Power Industry Reform Act of 2001” shall, in addition to its existing
4 functions, oversee the implementation of this Act.

5 SEC. 25. *Penalty Clause.* – Any person found in violation, through an act of
6 commission or omission, of the provisions of this Act shall pay a minimum penalty of One
7 Hundred Thousand Pesos (P100,000.00) or twice the amount of damages or costs
8 avoided for non-compliance, whichever is higher.

9 SEC. 26. *Official Development Assistance.* – The provision of Executive Order No.
10 230 of 1986 and the rules and regulations governing the evaluation and authorization for
11 the availment of Official Development Assistance notwithstanding, the privatization of
12 renewable energy facilities as provided for in this Act shall be eligible for foreign loans
13 and grants without further evaluation by the NEDA Board, subject to Section 21, Article
14 XII of the Constitution.

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

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

21 SEC. 29. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
22 complete publication in at least two (2) newspapers of general circulation.

23 APPROVED,