WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 124

FISCAL NOTE

BY SENATOR MILLER

[Introduced January 13, 2016;

Referred to the Committee on Energy, Industry and

Mining; and then to the Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto eleven new sections, designated §24-2F-1, §24-2F-2 §24-2F-3, §24-2F-4, §24-2F-5, §24-2F-6, §24-2F-7, §24-2F-9, §24-2F-10, §24-2F-11 and §24-2F-12; and to amend and reenact §24-2F-8 of said code, all relating to an alternative and renewable energy portfolio standard; setting forth legislative findings; defining terms; establishing standards for the sale of electricity generated from alternative and renewable energy resources; providing for compliance assessments; creating a system of tradable alternative and renewable energy resource credits; providing for the awarding of credits based upon electricity generated or purchased from alternative and renewable energy resource facilities; providing for the awarding of credits for certain greenhouse emissions reduction and offset projects; providing for the awarding of credits for certain energy efficiency and demand-side energy initiative projects; requiring application to Public Service Commission for approval of alternative and renewable energy portfolio standard compliance plans; setting forth minimum requirements for compliance plan applications; requiring Public Service Commission approval of compliance plan applications; requiring annual progress reports; providing for incentive ratemaking for investments in new alternative and renewable energy resource facilities in West Virginia; requiring Public Service Commission to adopt certain net metering and interconnection rules and standards; authorizing interagency agreements; requiring an ongoing assessment of alternative and renewable energy resources in West Virginia; requiring Public Service Commission to consider adopting portfolio standards for certain electric cooperatives and other electric facilities or utilities; requiring Public Service Commission to consider extending alternative and renewable resource credits to electric distribution companies or electric generation suppliers other than electric utilities; establishing Alternative and Renewable Energy Resources Research Fund; providing for the awarding of matching grants for certain research projects; and authorizing Public Service Commission to promulgate rules.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto eleven new sections, designated §24-2F-1, §24-2F-2 §24-2F-3, §24-2F-4, §24-2F-5, §24-2F-6, §24-2F-7, §24-2F-9, §24-2F-10, §24-2F-11 and §24-2F-12; and that §24-2F-8 of said code be amended and reenacted, all to read as follows:

ARTICLE 2F. ALTERNATIVE AND RENEWABLE ENERGY PORTFOLIO STANDARD.

§24-2F-1. Short title.

This article may be known and cited as the Alternative and Renewable Energy Portfolio Act.

§24-2F-2. Legislative findings.

The Legislature finds that:

(1) West Virginia has served the nation for many years as a reliable source of electrical power;

(2) The nation is on a rapid course of action to produce electrical power with an ever decreasing amount of emissions;

(3) To continue lowering the emissions associated with electrical production, and to expand the state's economic base, West Virginia should encourage the development of more efficient, lower-emitting and reasonably priced alternative and renewable energy resources;

(4) The development of a robust and diverse portfolio of electric-generating capacity is needed for West Virginia to continue its success in attracting new businesses and jobs. This portfolio must include the use of alternative and renewable energy resources at new and existing facilities;

(5) West Virginia has considerable natural resources that could support the development of alternative and renewable energy resource facilities at a reasonable price;

(6) Alternative and renewable energy resources can be utilized now to meet state and federal environmental standards, including those reasonably anticipated to be mandated in the future; and

(7) It is in the public interest for the state to encourage the construction of alternative and renewable energy resource facilities that increase the capacity to provide for current and anticipated electric energy demand at a reasonable price.

§24-2F-3. Definitions.

Unless the context clearly requires a different meaning, as used in this article:

(1) "Advanced coal technology" means a technology that is used in a new or existing energy generating facility to reduce airborne carbon emissions associated with the combustion or use of coal and includes, but is not limited to, carbon dioxide capture and sequestration technology, supercritical technology, advanced supercritical technology as that technology is determined by the Public Service Commission, ultrasupercritical technology and pressurized fluidized bed technology and any other resource, method, project or technology certified by the commission as advanced coal technology.

(2) "Alternative and renewable energy portfolio standard" or "portfolio standard" means a requirement in any given year that requires an electric utility to own credits and solar renewable energy credits in an amount equal to a certain percentage of electric energy sold in the preceding calendar year by the electric utility to retail customers in this state.

(3) "Alternative energy resources" means any of the following resources, methods or technologies for the production or generation of electricity:

(A) Advanced coal technology;

(B) Coal bed methane;

(C) Natural gas, including any component of raw natural gas;

(D) Fuel produced by a coal gasification or liquefaction facility;

(E) Synthetic gas;

(F) Integrated gasification combined cycle technologies;

(G) Waste coal;

(H) Tire derived fuel;

(I) Pumped storage hydroelectric projects; and

(J) Any other resource, method, project or technology certified as an alternative energy resource by the Public Service Commission.

(4) "Alternative and renewable energy resource credit" or "credit" means a tradable instrument that is used to establish, verify and monitor the generation of electricity from alternative and nonsolar renewable energy resource facilities, energy efficiency or demand-side energy initiative projects or greenhouse gas emission reduction or offset projects.

(5) "Alternative energy resource facility" means a facility or equipment that generates electricity from alternative energy resources.

(6) "Commission" or "Public Service Commission" means the Public Service Commission of West Virginia as continued pursuant to section three, article one of this chapter.

(7) "Customer-generator" means an electric retail customer who owns and operates a customer-sited generation project utilizing an alternative or renewable energy resource or a net metering system in this state.

(8) "Distributed solar renewable energy resource" means a customer-sited and customer owned facility, not to exceed a production of fifty kilowatts, that generates electricity only from solar photovoltaic resources, solar thermal resources or other solar electric energy resources.

(9) "Electric utility" means any electric distribution company or electric generation supplier that sells electricity to retail customers in this state. Unless specifically provided for otherwise, for

the purposes of this article, the term “electric utility” may not include rural electric cooperatives, municipally-owned electric facilities or utilities serving less than thirty thousand residential electric customers in West Virginia.

(10) “Energy efficiency or demand-side energy initiative project” means a project in this state that promotes customer energy efficiency or the management of customer consumption of electricity through the implementation of:

(A) Energy efficiency technologies, equipment, management practices or other strategies utilized by residential, commercial, industrial, institutional or government customers that reduce electricity consumption by those customers;

(B) Load management or demand response technologies, equipment, management practices, interruptible or curtailable tariffs, energy storage devices or other strategies in residential, commercial, industrial, institutional and government customers that shift electric load from periods of higher demand to periods of lower demand;

(C) Industrial by-product technologies consisting of the use of a by-product from an industrial process, including, but not limited to, the reuse of energy from exhaust gases or other manufacturing by-products that can be used in the direct production of electricity at the customer’s facility;

(D) Customer-sited generation, demand-response, energy efficiency or peak demand reduction capabilities, whether new or existing, that the customer commits for integration into the electric utility’s demand-response, energy efficiency or peak demand reduction programs; or

(E) Infrastructure and modernization projects that help promote energy efficiency, reduce energy losses or shift load from periods of higher demand to periods of lower demand, including the modernization of metering and communications, (also known as “smart grid”), distribution automation, energy storage, distributed energy resources and investments to promote the

electrification of transportation.

(11) “Greenhouse gas emission reduction or offset project” means a project to reduce or offset greenhouse gas emissions from sources in this state other than the electric utility’s own generating and energy delivery operations. Greenhouse gas emission reduction or offset projects include, but are not limited to:

(A) Methane capture and destruction from landfills, coal mines or farms;

(B) Forestation, afforestation or reforestation; and

(C) Nitrous oxide or carbon dioxide sequestration through reduced fertilizer use or no-till farming.

(12) “Net metering” means measuring the difference between electricity supplied by an electric utility and electricity generated from an alternative or renewable energy resource facility owned or operated by an electric retail customer when any portion of the electricity generated from the alternative or renewable energy resource facility is used to offset part or all of the electric retail customer’s requirements for electricity.

(13) “Nonsolar renewable energy resource” means any of the following resources, methods, projects or technologies for the production or generation of electricity:

(A) Wind power;

(B) Run of river hydropower;

(C) Geothermal energy, which means a technology by which electricity is produced by extracting hot water or steam from geothermal reserves in the earth’s crust to power steam turbines that drive generators to produce electricity;

(D) Biomass energy, which means a technology by which electricity is produced from a nonhazardous organic material that is available on a renewable or recurring basis, including pulp mill sludge;

(E) Biologically derived fuel including methane gas, ethanol not produced from corn or biodiesel fuel;

(F) Fuel cell technology, which means any electrochemical device that converts chemical energy in a hydrogen-rich fuel directly into electricity, heat and water without combustion; and

(G) Any other resource, method, project or technology, other than solar photovoltaic resources, solar thermal resources or other solar electric energy resources, that are certified by the commission as a renewable energy resource.

(14) "Nonsolar renewable energy resource facility" means a facility or equipment that generates electricity from nonsolar renewable energy resources.

(15) "Reclaimed surface mine" means a surface mine, as that term is defined in section three, article three, chapter twenty-two of this code, that is reclaimed or is being reclaimed in accordance with state or federal law.

(16) "Solar renewable energy credit" means a tradable instrument that is used to establish, verify and monitor the generation of electricity from solar renewable energy resource facilities.

(17) "Solar renewable energy resource facility" means a facility that generates electricity only from solar photovoltaic resources, solar thermal resources or other solar electric energy resources.

(18) "Waste coal" means a technology by which electricity is produced by the combustion of the by-product, waste or residue created from processing coal, such as gob.

§24-2F-4. Awarding of alternative, ~~and~~ renewable and solar renewable energy resource credits.

(a) *Credits established.* -- The Public Service Commission shall establish a system of tradable credits to establish, verify and monitor the generation and sale of electricity generated from alternative and nonsolar renewable energy resource facilities. The credits may be traded,

sold or used to meet the portfolio standards established in section five of this article.

(b) *Awarding of credits.* -- Credits shall be awarded as follows:

(1) An electric utility shall be awarded one credit for each megawatt hour of electricity generated or purchased from an alternative energy resource facility located within the geographical boundaries of this state; or located outside of the geographical boundaries of this state but within the service territory of a regional transmission organization, as that term is defined in 18 C.F.R. §35.34, that manages the transmission system in any part of this state;

(2) An electric utility shall be awarded two credits for each megawatt hour of electricity generated or purchased from a nonsolar renewable energy resource facility located within the geographical boundaries of this state or located outside of the geographical boundaries of this state but within the service territory of a regional transmission organization, as that term is defined in 18 C.F.R. §35.34, that manages the transmission system in any part of this state;

(3) An electric utility shall be awarded three credits for each megawatt hour of electricity generated or purchased from a nonsolar renewable energy resource facility located within the geographical boundaries of this state if the nonsolar renewable energy resource facility is sited upon a reclaimed surface mine; and

(4) A customer-generator shall be awarded one credit for each megawatt hour of electricity generated from an alternative energy resource facility and shall be awarded two credits for each megawatt hour of electricity generated from a nonsolar renewable energy resource facility.

(c) *Awarding of solar renewable energy credits.* -- Solar renewable energy credits shall be awarded as follows:

(1) An electric utility is awarded one solar renewable energy credit for each megawatt hour of electricity generated or purchased from a solar renewable energy resource facility located within the geographical boundaries of this state;

(2) An electric utility is awarded two solar renewable energy credits for each megawatt hour of electricity generated or purchased from a solar renewable energy resource facility located within the geographical boundaries of this state if the solar renewable energy resource facility is sited upon a reclaimed surface mine; and

(3) A customer-generator is awarded one solar renewable energy credit for each megawatt hour of electricity generated from a solar renewable energy resource facility.

(d) *Acquiring of credits and solar renewable energy credits permitted. --*

(1) An electric utility may meet the alternative and renewable energy portfolio standards set forth in this article by purchasing additional credits and solar renewable energy credits. Credits and solar renewable energy credits may be bought or sold by an electric utility or customer-generator or banked and used to meet an alternative and renewable energy portfolio standard requirement in a subsequent year.

(2) Each credit and solar renewable energy credit transaction shall be reported by the selling entity to the Public Service Commission on a form provided by the commission.

(3) As soon as reasonably possible after the effective date of this section, the commission shall establish a registry of data, or use an independent and industry-recognized system, that tracks credit and solar renewable energy credit transactions and shall list the following information for each transaction: (A) The parties to the transaction; (B) the number of credits and solar renewable energy credits sold or transferred; and (C) the price paid. Information contained in the registry is available to the public, except that pricing information concerning individual transactions are confidential and exempt from disclosure under subdivision (5), subsection (a), section four, article one, chapter twenty-nine-b of this code.

(4) The commission may impose an administrative transaction fee on a credit or solar renewable energy credit transaction in an amount not to exceed the actual direct cost of

processing the transaction by the commission.

(e) *Credits for certain emission reduction or offset projects. –-*

(1) The commission may award credits to an electric utility for greenhouse gas emission reduction or offset projects. For each ton of carbon dioxide equivalent reduced or offset as a result of an approved greenhouse gas emission reduction project, the commission shall award an electric utility one credit: *Provided,* That the emissions reductions and offsets are verifiable and certified in accordance with rules promulgated by the commission: *Provided, however,* That the commission has previously approved the greenhouse gas emission reduction and offset project for credit in accordance with section six of this article.

(2) The commission shall consult and coordinate with the Secretary of the Department of Environmental Protection or an independent and industry-recognized entity to verify and certify greenhouse gas emission reduction or offset projects. The Secretary of the Department of Environmental Protection shall provide assistance and information to the Public Service Commission and may enter into interagency agreements with the commission to effectuate the purposes of this subsection.

(3) Notwithstanding the provisions of this subsection, an electric utility may not be awarded credits for a greenhouse gas emission reduction or offset project undertaken pursuant to any obligation under any other state law, policy or regulation.

(f) *Credits for certain energy efficiency and demand-side energy initiative projects. --*

(1) The commission may award credits to an electric utility for investments in energy efficiency and demand-side energy initiative projects. For each megawatt hour of electricity conserved as a result of an approved energy efficiency or demand-side energy initiative project, the commission shall award one credit: *Provided,* That the amount of electricity claimed to be conserved is verifiable and certified in accordance with rules promulgated by the commission:

Provided, however, That the commission has approved the energy efficiency or demand-side energy initiative project for credit in accordance with section six of this article.

(2) Notwithstanding the provisions of this subsection, an electric utility may not be awarded credit for an energy efficiency or demand-side energy initiative project undertaken pursuant to any obligation under any other state law, policy or regulation.

§24-2F-5. Alternative and renewable energy portfolio standard; compliance assessments.

(a) *General rule.* -- Each electric utility doing business in this state is required to meet the alternative and renewable energy portfolio standards set forth in this section. In order to meet these standards, an electric utility each year shall own an amount of credits and solar renewable energy credits equal to a certain percentage of electricity, as set forth in subsections (c) and (d) of this section, sold by the electric utility in the preceding year to retail customers in West Virginia.

(b) *Counting of credits and solar renewable energy credits towards compliance.* –- For the purpose of determining an electric utility's compliance with the alternative and renewable energy portfolio standards set forth in subsections (c) and (d) of this section, each credit and solar renewable energy credit shall equal one megawatt hour of electricity sold by an electric utility in the preceding year to retail customers in West Virginia. Furthermore, a credit or solar renewable energy credit may not be used more than once to meet the requirements of this section. No more than ten percent of the credits used each year to meet the compliance requirements of this section may be credits acquired from the generation or purchase of electricity generated from natural gas. No more than ten percent of the credits used each year to meet the compliance requirements of this section may be credits acquired from the generation or purchase of electricity generated from supercritical technology.

(c) *Twenty-five percent by 2025.* --

(1) On and after January 1, 2025, an electric utility shall each year own credits in an

amount equal to at least twenty-five percent of the electric energy sold by the electric utility to retail customers in this state in the preceding calendar year.

(2) On and after January 1, 2025, an electric utility shall each year own solar renewable energy credits in an amount equal to at least two percent of the electric energy sold by the electric utility to retail customers in this state in the preceding calendar year.

(d) *Interim portfolio standards.* --

(1) For the period beginning January 1, 2017, and ending December 31, 2019, an electric utility shall each year own credits in an amount equal to at least ten percent of the electric energy sold by the electric utility to retail customers in this state in the preceding calendar year;

(2) For the period beginning January 1, 2020, and ending December 31, 2024, an electric utility shall each year own credits in an amount equal to at least fifteen percent of the electric energy sold by the electric utility to retail customers in this state in the preceding calendar year;

(3) For the period beginning January 1, 2017, and ending December 31, 2020, an electric utility shall each year own solar renewable energy credits in an amount equal to at least one-half percent of the electric energy sold by the electric utility to retail customers in this state in the preceding calendar year: *Provided,* That the electric utility may purchase solar renewable energy credits from solar renewable energy resource facilities located in Ohio and Pennsylvania for the period beginning January 1, 2017, and ending December 31, 2018; and

(4) For the period beginning January 1, 2021, and ending December 31, 2025, an electric utility shall each year own solar renewable energy credits in an amount equal to at least one and one-half percent of the electric energy sold by the electric utility to retail customers in this state in the preceding calendar year.

(e) *Distributed solar renewable energy requirement.* -- In order to improve system reliability, each electric utility affected by this article is required to satisfy a distributed solar

renewable energy requirement by obtaining solar renewable energy credits from distributed solar renewable energy resources.

(1) On and after January 1, 2026, an electric utility shall obtain twenty-five percent of their required solar renewable energy credits from distributed solar renewable energy resources.

(2) For the period beginning January 1, 2018 and ending December 31, 2020, an electric utility shall obtain ten percent of their required solar renewable energy credits from distributed solar renewable energy resources.

(3) For the period beginning January 1, 2021, and ending December 31, 2025, an electric utility shall obtain fifteen percent of their required solar renewable energy credits from distributed solar renewable energy resources.

(f) *Double-counting of credits and solar renewable energy credits prohibited.* -- Any portion of electricity generated from an alternative, nonsolar renewable or solar renewable energy resource facility that is used to meet another state's alternative energy, advanced energy, renewable energy or similar energy portfolio standard may not be used to meet the requirements of this section. An electric utility that is subject to an alternative energy, advanced energy, renewable energy or similar energy portfolio standard in any other state shall list, in the alternative and renewable energy portfolio standard compliance plan required under section six of this article, any such requirements and shall indicate how it satisfied those requirements. The electric utility shall provide in the annual progress report required under section six of this article any additional information required by the commission to prevent double-counting of credits and solar renewable energy credits.

(g) *Carryover.* -- An electric utility may apply any credits and solar renewable energy credits that are in excess of the alternative and renewable energy portfolio standard in any given year to the requirements for any future year portfolio standard: *Provided,* That the electric utility

determines to the satisfaction of the commission that the credits and solar renewable energy credits were in excess of the portfolio standard in a given year and that the credits and solar renewable energy credits have not previously been used for compliance with a portfolio standard.

(h) *Compliance assessments. –-*

(1) On or after January 1, 2017, and each year thereafter, the commission shall determine whether each electric utility doing business in this state is in compliance with this section. If, after notice and a hearing, the commission determines that an electric utility has failed to comply with an alternative and renewable energy portfolio standard, the commission shall impose a compliance assessment on the electric utility which shall equal at least the lesser of the following:

(A) Fifty dollars multiplied by the number of additional credits and solar renewable energy credits that would be needed to meet an alternative and renewable energy portfolio standard in a given year; or

(B) Two hundred percent of the average market value of credits and solar renewable energy credits sold in a given year multiplied by the number of additional credits and solar renewable energy credits needed to meet the alternative and renewable energy portfolio standard for that year.

(2) Compliance assessments collected by the commission pursuant to this subsection shall be deposited into the Alternative and Renewable Energy Resources Research Fund established in section eleven of this article.

(i) *Force majeure*. --

(1) Upon its own initiative or upon the request of an electric utility, the commission may modify the portfolio standard requirements of an electric utility in a given year or years or recommend to the Legislature that the portfolio standard requirements be eliminated if the commission determines that alternative or renewable energy resources are not reasonably

available in the marketplace in sufficient quantities for the electric utility to meet the requirements of this article.

(2) In making its determination, the commission shall consider whether the electric utility made good faith efforts to acquire sufficient credits and solar renewable energy credits to comply with the requirements of this article. Such good faith efforts include, but are not limited to, banking excess credits and solar renewable energy credits, seeking credits and solar renewable energy credits through competitive solicitations and seeking to acquire credits and solar renewable energy credits through long-term contracts. The commission shall assess the availability of credits and solar renewable energy credits on the open market. The commission may also require that the electric utility solicit credits and solar renewable energy credits before a request for modification may be granted.

(3) If an electric utility requests a modification of its portfolio standard requirements, the commission shall make a determination as to the request within sixty days.

(4) Commission modification of an electric utility's portfolio standard requirements apply only to the portfolio standard in the year or years modified by the commission. Commission modification may not automatically reduce an electric utility's alternative and renewable energy portfolio standard requirements in future years.

(5) If the commission modifies an electric utility's portfolio standard requirements, the commission may also require the electric utility to acquire additional credits and solar renewable energy credits in subsequent years equivalent to the requirements reduced by the commission in accordance with this subsection.

(j) *Termination.* -- The provisions of this section have no force and effect after June 30, 2026.

§24-2F-6. Alternative and renewable energy portfolio standard compliance plan;

application; approval; and progress report.

(a) On or before January 1, 2017, each electric utility subject to the provisions of this article shall prepare an alternative and renewable energy portfolio standard compliance plan and shall file an application with the commission seeking approval of the plan.

(b) A portfolio standard compliance plan shall include:

(1) Statistics and information concerning the electric utility's sales to retail customers in West Virginia during the preceding ten calendar years;

(2) A calculation of the electric utility's projected yearly sales to retail customers for the years 2017-2025;

(3) A calculation of the expected number of credits and solar renewable energy credits required to meet the portfolio standards set forth in this article;

(4) An anticipated time line for the development, purchase or procurement of credits and solar renewable energy credits sufficient to meet the portfolio standards set forth in this article;

(5) A nonbinding estimate of the costs to comply with the portfolio standards set forth in this article;

(6) A description of any greenhouse gas emission reduction or offset projects or energy efficiency and demand-side energy initiative projects the electric utility proposes to undertake for credit in accordance with this article;

(7) A list of any requirements and a description of how the electric utility satisfied or will satisfy those requirements if an electric utility is subject to an alternative energy, advanced energy, renewable energy or similar energy portfolio standard in any other state; and

(8) Further information as required by the commission.

(c) Upon the filing of an application for approval of a portfolio standard compliance plan, and after hearing and proper notice, the commission may, in its discretion, approve or disapprove,

or approve in part or disapprove in part, the application: *Provided,* That the commission, after giving proper notice and receiving no protest within thirty days after the notice is given, may waive formal hearing on the application. Notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and shall be given in a manner and in such form as may be prescribed by the commission.

(d) The commission shall, following proper notice and hearing, if any, render a final decision on any application filed pursuant to this section within two hundred seventy days of the filing of the application.

(e) If, and to the extent, the commission determines that a portfolio standard compliance plan has a reasonable expectation of achieving the portfolio standard requirements at a reasonable cost to electric customers in this state, the commission shall approve the plan. In establishing that the requisite standard for approval of a portfolio standard compliance plan is met, the burden of proof is upon the applicant.

(f) In the event the commission disapproves of an application filed pursuant to this section, in whole or in part, the commission shall specify its reason or reasons for disapproval. Any portion of the application not approved by the commission shall be modified and resubmitted by the applicant.

(g) Either upon an application of the electric utility, a petition by a party or the commission's own motion, a compliance plan proceeding may be reopened for the purpose of considering and making, if appropriate, alterations to the plan.

(h) Approval of the compliance plan does not eliminate the need for an electric utility to otherwise obtain required approvals, including, but not limited to, certificates to construct, consent to enter into affiliated contracts and recovery of compliance costs. Furthermore, nothing in this article alters or amends the existing power and authority of the commission.

(i) Approval of the compliance plan does not relieve an electric utility from its obligation to pay a compliance assessment pursuant to the provisions of section five of this article if it fails to comply with the portfolio standards set forth therein.

(j) Within a year of the commission's approval of an electric utility's compliance plan, and every year thereafter, the electric utility shall submit to the commission an annual progress report. The progress report shall include the electric utility's sales to retail customers in West Virginia during the previous calendar year; the amount of energy the electric utility has generated, purchased or procured from alternative, ~~or~~ nonsolar renewable and renewable energy resources; a comparison of the budgeted and actual costs as compared to the estimated cost of the portfolio standard compliance plan; any information required by the commission to prevent the double-counting of credits and solar renewable energy credits; and any further information required by the commission.

(k) The commission shall impose a special assessment on all electric utilities required to file a compliance plan. The assessments shall be prorated among the covered electric utilities on the basis of kilowatt hours of retail sales in West Virginia and are due and payable on September 1 of each year. The amount of revenue collected pursuant to this subsection may not exceed $200,000 in the first year following the effective date of this article and may not exceed $100,000 in successive years. The funds generated from the assessments shall be used exclusively to offset all reasonable direct and indirect costs incurred by the commission in administering the provisions of this article.

§24-2F-7. Cost recovery and rate incentives for electric utility investment in alternative and renewable energy resources.

(a) An electric utility shall have the right to recover the costs of complying with the alternative and renewable energy portfolio standards set forth in this article in a manner

prescribed by the commission. Although the commission may approve costs that exceed the costs of current utility generation or purchased power, the electric utility has the burden to demonstrate that the costs are reasonable and represent the least cost of compliance. Notwithstanding any provision of this code to the contrary, an electric utility may not recover in rates the costs of compliance assessments imposed under this article.

(b) Upon a finding that it is in the public interest of this state, as provided in section one, article one of this chapter, the commission may authorize incentive rate-making allowances for electric utility investment in the construction of new alternative or renewable energy resource facilities in West Virginia to encourage investments in the use and development of alternative or renewable energy resource facilities.

(c) The commission shall determine, at such time and in such proceeding, form and manner as is considered appropriate by the commission, the extent to which any electric utility investment qualifies for the incentive rate making pursuant to this section.

§24-2F-8. Net metering and interconnection standards.

(a) The commission shall adopt a rule requiring that all electric utilities provide a rebate or discount at fair value, to be determined by the commission, to customer-generators for any electricity generation that is delivered to the utility under a net metering arrangement.

(b) The commission shall also consider adopting, by rule, a requirement that all sellers of electricity to retail customers in the state, including rural electric cooperatives, municipally owned electric facilities or utilities serving less than thirty thousand residential electric customers in this state, offer net metering rebates or discounts to customer-generators.

(c) The commission shall institute a general investigation for the purpose of adopting rules pertaining to net metering and the interconnection of eligible electric generating facilities intended to operate in parallel with an electric utility's system. As part of its investigation, the commission

shall take into consideration rules of other states within the applicable region of the regional transmission organization, as that term is defined in 18 C.F.R. §35.34, that manages a utility's transmission system in any part of this state. Furthermore, the commission shall consider increasing the allowed kilowatt capacity for commercial customer-generators to an amount not to exceed five hundred kilowatts and for industrial customer-generators to an amount not to exceed two megawatts. The commission shall further consider interconnection standards for combined heat and power.

(d) The commission shall promulgate these rules within twelve months of the effective date of this article.

§24-2F-9. Interagency agreements; alternative and renewable energy resource planning assessment.

(a) Interagency agreements. -- The commission may enter into interagency agreements with the Department of Environmental Protection and the Division of Energy to carry out the responsibilities set forth in this article.

(b) Alternative and renewable energy resource planning assessment. -- The commission, in cooperation with the Department of Environmental Protection and the Division of Energy, shall conduct an ongoing alternative and renewable energy resource planning assessment for this state that shall, at a minimum: (1) Identify current and operating alternative and renewable energy resource facilities in this state; (2) assess the potential to add future generating capacity in this state from alternative and renewable energy resource facilities; (3) assess the conditions of the alternative and renewable energy resource marketplace, including costs associated with alternative and renewable energy; (4) recommend methods to maintain or increase the relative competitiveness of the alternative and renewable energy resource market in this state; and (5) recommend to the Legislature additional compliance goals for alternative and renewable energy

portfolio standards beyond 2025.

The commission shall report the initial results of its assessment to the Governor, the President of the Senate and the Speaker of the House of Delegates within three years of the effective date of this article and shall report the ongoing results of the assessment on a yearly basis thereafter, except that on or before January 1, 2018, the commission, in collaboration with the Public Energy Authority, shall report the initial results of its assessment to the Joint Committee on Government and Finance.

§24-2F-10. Portfolio requirements for rural electric cooperatives, municipally owned electric facilities or utilities serving less than thirty thousand residential electric customers in West Virginia; and alternative and renewable energy resource credits for nonutility generators.

(a) The commission shall consider adopting, by rule, alternative and renewable energy portfolio requirements for rural electric cooperatives, municipally owned electric facilities or utilities serving less than thirty thousand residential electric customers in this state. The commission shall institute a general investigation for the purpose of adopting the requirements.

(b) The commission shall consider extending, by rule, the awarding of alternative and renewable energy resource credits and solar renewable energy credits in accordance with the provisions of section four of this article to electric distribution companies or electric generation suppliers other than electric utilities. As part of its investigation, the commission shall examine any modifications to the statutory and regulatory structure necessary to permit the participation of the nonutility generators in the system of tradable credits and solar renewable energy credits authorized by this article. If the commission determines that statutory modifications to this article or other provisions of this code are necessary to permit such participation, the commission shall notify the Governor and the Legislature of the findings of its investigation and proposed legislation

necessary to effectuate its recommendations.

§24-2F-11. Alternative and renewable energy resources grant program.

(a) There is hereby established in the State Treasury a special revolving fund to be jointly administered by the Public Service Commission and the Division of Energy which shall be designated the "Alternative and Renewable Energy Resources Research Fund." Moneys in the fund shall be used to award matching grants for demonstration, commercialization, research and development projects relating to alternative and renewable energy resources and energy efficiency technologies.

(b) The fund shall consist of any moneys appropriated by the Legislature, any compliance assessments collected by the commission, any gifts, bequests or other contributions to the fund from private entities or electric customers and any interest or other return on the moneys in the fund. Any moneys remaining in the account at the end of a fiscal year, including accrued interest, do not revert to the General Revenue Fund and remain in the account.

(c) Any donations to the fund collected by an electric generation supplier or electric distribution company shall be forwarded to the Public Service Commission and the commission shall deposit such moneys in the fund.

(d) The Division of Energy shall provide for the distribution of moneys from the fund in the form of matching grants to state institutions of higher education for demonstration, commercialization, research and development projects relating to alternative and renewable energy resources and energy efficiency technologies. The Division of Energy shall consult with and receive recommendations from the Public Energy Authority, the Economic Development Authority and the Department of Environmental Protection to establish eligibility criteria for the awarding of grant moneys under this section. The Division of Energy may update said criteria as necessary to comply with the requirements of this section.

(e) Within two years of the effective date of this section, and each year thereafter, the Division of Energy shall file a report with the Governor, the President of the Senate and the Speaker of the House of Delegates containing, at a minimum: (1) A description of all actions taken by the Division of Energy pursuant to this section; (2) an accounting of total deposits into and expenditures from the fund during the previous twelve months; and (3) a description of any projects that received a distribution from the fund during the preceding twelve months, including the projects' objectives, current status and results, if any.

§24-2F-12. Rule-making authority.

The commission shall promulgate rules in accordance with section seven, article one, chapter twenty-four of this code to effectuate the purposes of this article.

NOTE: The purpose of this bill is to create an alternative and renewable energy portfolio standard. The bill sets forth legislative findings. The bill defines terms. The bill establishes standards for the sale of electricity generated from alternative and renewable energy resources. The bill provides for compliance assessments. The bill creates a system of tradable alternative and renewable energy resource credits. The bill provides for the awarding of credits based upon electricity generated or purchased from alternative and renewable energy resource facilities. The bill provides for the awarding of credits for certain greenhouse emissions reduction and offset projects. The bill provides for the awarding of credits for certain energy efficiency and demand-side energy initiative projects. The bill requires application to the Public Service Commission for approval of alternative and renewable energy portfolio standard compliance plans. The bill sets forth minimum requirements for compliance plan applications. The bill requires Public Service Commission approval of compliance plan applications. The bill requires annual progress reports. The bill provides for incentive rate making for investments in new alternative and renewable energy resource facilities in West Virginia. The bill requires the Public Service Commission to adopt certain net metering and interconnection rules and standards. The bill authorizes interagency agreements. The bill requires an ongoing assessment of alternative and renewable energy resources in West Virginia. The bill requires Public Service Commission to consider adopting portfolio standards for certain electric cooperatives and other electric facilities or utilities. The bill requires Public Service Commission to consider extending alternative and renewable resource credits to electric distribution companies or electric generation suppliers other than electric utilities. The bill establishes the Alternative and Renewable Energy Resources Research Fund. The bill provides for the awarding of matching grants for certain research projects. The bill authorizes the Public Service Commission to promulgate rules.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.