

ENERGY RESOURCE AND CARBON EMISSION**REDUCTION INITIATIVE**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE**General Description:**

This bill provides that an electrical corporation or municipal electric utility maintain a percentage of electricity sold in the form of renewable energy resources.

Highlighted Provisions:

This bill:

- ▶ addresses the application of Title 54, Chapter 17, Energy Resource Procurement Act to certain renewable energy resources;
- ▶ defines terms;
- ▶ provides that 20% of an electrical corporation's or municipal electric utility's adjusted retail electric sales beginning in the year 2025 come from qualifying electricity, including renewable energy resources, if cost effective;
- ▶ provides for the issuance and recognition of a renewable energy certificate for certain electrical generation and actions by an energy user;
- ▶ requires plans and reports concerning an electrical corporation's or municipal electric utility's progress in acquiring qualifying electricity;
- ▶ addresses cost recovery for certain energy resources;
- ▶ requires certain state agencies to make rules concerning carbon capture and geological storage of captured carbon emissions; and
- ▶ makes technical changes.



Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:**AMENDS:****54-17-201**, as last amended by Laws of Utah 2007, Chapter 289**54-17-302**, as last amended by Laws of Utah 2007, Chapter 289**54-17-303**, as enacted by Laws of Utah 2005, Chapter 11**ENACTS:****10-19-101**, Utah Code Annotated 1953**10-19-102**, Utah Code Annotated 1953**10-19-201**, Utah Code Annotated 1953**10-19-202**, Utah Code Annotated 1953**10-19-301**, Utah Code Annotated 1953**10-19-302**, Utah Code Annotated 1953**54-17-502**, Utah Code Annotated 1953**54-17-601**, Utah Code Annotated 1953**54-17-602**, Utah Code Annotated 1953**54-17-603**, Utah Code Annotated 1953**54-17-604**, Utah Code Annotated 1953**54-17-605**, Utah Code Annotated 1953**54-17-606**, Utah Code Annotated 1953**54-17-607**, Utah Code Annotated 1953**54-17-701**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **10-19-101** is enacted to read:**CHAPTER 19. MUNICIPAL ELECTRIC UTILITY CARBON****EMISSION REDUCTION ACT****Part 1. General Provisions**

10-19-101. Title.

This chapter is known as the "Municipal Electric Utility Carbon Emission Reduction Act."

Section 2. Section **10-19-102** is enacted to read:

10-19-102. Definitions.

As used in this chapter:

(1) "Adjusted retail electric sales" means the total kilowatt-hours of retail electric sales of a municipal electric utility to customers in this state in a calendar year, reduced by:

(a) the amount of those kilowatt-hours attributable to electricity generated or purchased in that calendar year from qualifying zero carbon emissions generation and qualifying carbon sequestration generation;

(b) the amount of those kilowatt-hours attributable to electricity generated or purchased in that calendar year from generation located within the geographic boundary of the Western Electricity Coordinating Council that derives its energy from one or more of the following but that does not satisfy the definition of a renewable energy source or that otherwise has not been used to satisfy Subsection 10-19-201(1):

(i) wind energy;

(ii) solar photovoltaic and solar thermal energy;

(iii) wave, tidal, and ocean thermal energy;

(iv) except for combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass byproducts, including:

(A) organic waste;

(B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;

(C) agricultural residues;

(D) dedicated energy crops; and

(E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;

(v) geothermal energy;

(vi) hydro-electric energy; or

90 (vii) waste gas and waste heat capture or recovery; and

91 (c) the number of kilowatt-hours attributable to reductions in retail sales in that
92 calendar year from activities or programs promoting electric energy efficiency or conservation
93 or more efficient management of electric energy load.

94 (2) "Amount of kilowatt-hours attributable to electricity generated or purchased in that
95 calendar year from qualifying carbon sequestration generation," for qualifying carbon
96 sequestration generation, means the kilowatt-hours supplied by a facility during the calendar
97 year multiplied by the ratio of the amount of carbon dioxide captured from the facility and
98 sequestered to the sum of the amount of carbon dioxide captured from the facility and
99 sequestered plus the amount of carbon dioxide emitted from the facility during the same
100 calendar year.

101 (3) "Banked renewable energy certificate" means a bundled or unbundled renewable
102 energy certificate that is:

103 (a) not used in a calendar year to comply with this part or with a renewable energy
104 program in another state; and

105 (b) carried forward into a subsequent year.

106 (4) "Bundled renewable energy certificate" means a renewable energy certificate for
107 qualifying electricity that is acquired:

108 (a) by a municipal electric utility by a trade, purchase, or other transfer of electricity
109 that includes the renewable energy attributes of, or certificate that is issued for, the electricity;
110 or

111 (b) by a municipal electric utility by generating the electricity for which the renewable
112 energy certificate is issued.

113 (5) "Commission" means the Public Service Commission.

114 (6) "Municipal electric utility" means any municipality that owns, operates, controls, or
115 manages a facility that provides electric power for a retail customer, whether domestic,
116 commercial, industrial, or otherwise.

117 (7) "Qualifying carbon sequestration generation" means a fossil-fueled generating
118 facility located within the geographic boundary of the Western Electricity Coordinating
119 Council that:

120 (a) becomes operational or is retrofitted on or after January 1, 2008; and

(b) reduces carbon dioxide emissions into the atmosphere through permanent geological sequestration or through other verifiably permanent reductions in carbon dioxide emissions through the use of technology.

(8) "Qualifying electricity" means electricity generated on or after January 1, 1995 from a renewable energy source if:

(a) (i) the renewable energy source is located within the geographic boundary of the Western Electricity Coordinating Council; or

(ii) the qualifying electricity is delivered to the transmission system of a municipal electric utility or a delivery point designated by the municipal electric utility for the purpose of subsequent delivery to the municipal electric utility; and

(b) the renewable energy attributes of the electricity are not traded, sold, transferred, or otherwise used to satisfy another state's renewable energy program.

(9) "Qualifying zero carbon emissions generation":

(a) means a generation facility located within the geographic boundary of the Western Electricity Coordinating Council that:

(i) becomes operational on or after January 1, 2008; and

(ii) does not produce carbon as a byproduct of the generation process;

(b) includes generation powered by nuclear fuel; and

(c) does not include renewable energy sources used to satisfy a target established under Section 10-19-201.

(10) "Renewable energy certificate" means a certificate issued in accordance with the requirements of Sections 10-19-202 and 54-17-603.

(11) "Renewable energy source" means:

(a) an electric generation facility or generation capability or upgrade that becomes operational on or after January 1, 1995 that derives its energy from one or more of the following:

(i) wind energy;

(ii) solar photovoltaic and solar thermal energy;

(iii) wave, tidal, and ocean thermal energy;

(iv) except for combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass

byproducts, including:

(A) organic waste;

(B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;

(C) agricultural residues;

(D) dedicated energy crops; and

(E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;

(v) geothermal energy located outside the state;

(vi) waste gas and waste heat capture or recovery; or

(vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon which the facility became operational, if the upgrades become operational on or after January 1, 1995;

(b) any of the following:

(i) up to 50 average megawatts of electricity per year per municipal electric utility from a certified low-impact hydroelectric facility, without regard to the date upon which the facility becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995, by a national certification organization;

(ii) geothermal energy if located within the state, without regard to the date upon which the facility becomes operational; and

(iii) hydroelectric energy if located within the state, without regard to the date upon which the facility becomes operational;

(c) hydrogen gas derived from any source of energy described in Subsection (11)(a) or

(b);

(d) if an electric generation facility employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in Subsections (11)(a) through (c); and

(e) any of the following located in the state and owned by a user of energy:

(i) a demand side management measure, as defined by Subsection 54-7-12.8(1) with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent energy saved by the measure;

(ii) a solar thermal system that reduces the consumption of fossil fuels, with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent kilowatt-hours saved, except to the extent the commission determines otherwise with respect to net-metered energy;

(iii) a solar photovoltaic system that reduces the consumption of fossil fuels with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy;

(iv) a hydroelectric or geothermal facility, with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the facility, except to the extent the commission determines otherwise with respect to net-metered energy;

(v) a waste gas or waste heat capture or recovery system other than from a combined cycle combustion turbine that does not use waste gas or waste heat, with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy; and

(vi) the station use of solar thermal energy, solar photovoltaic energy, hydroelectric energy, geothermal energy, waste gas, or waste heat capture and recovery.

(12) "Unbundled renewable energy certificate" means a renewable energy certificate associated with:

(a) qualifying electricity that is acquired by a municipal electric utility or other person by trade, purchase, or other transfer without acquiring the electricity for which the certificate was issued; or

(b) activities listed in Subsection (11)(e).

Section 3. Section **10-19-201** is enacted to read:

Part 2. Renewable Energy Provisions

10-19-201. Target amount of qualifying electricity -- Renewable energy certificate -- Cost-effectiveness.

(1) (a) To the extent that it is cost-effective to do so, beginning in 2025 the annual retail electric sales in this state of each municipal electric utility shall consist of qualifying electricity or renewable energy certificates in an amount equal to at least 20% of adjusted retail

electric sales.

(b) The amount under Subsection (1)(a) is computed based upon adjusted retail sales for the calendar year commencing 36 months before the first day of the year for which the target calculated under Subsection (1)(a) applies.

(c) Notwithstanding Subsections (1)(a) and (b) an increase in the annual target from one year to the next is limited to the greater of:

(i) 17,500 megawatt-hours; or

(ii) 20% of the prior year's amount under Subsections (1)(a) and (b).

(2) Cost-effectiveness under Subsection (1) is determined using any criteria applicable to the municipal electric utility's acquisition of a significant energy resource established by the municipality's legislative body.

(3) This section does not require a municipal electric utility to:

(a) substitute qualifying electricity for electricity from a generation source owned or contractually committed, or from a contractual commitment for a power purchase;

(b) enter into any additional electric sales commitment or any other arrangement for the sale or other disposition of electricity that is not already, or would not be, entered into by the municipal electric utility; or

(c) acquire qualifying electricity in excess of its adjusted retail electric sales.

(4) A municipal electrical corporation may combine the following to meet Subsection (1):

(a) qualifying electricity from a renewable energy source owned by the municipal electric utility;

(b) qualifying electricity acquired by the municipal electric utility through trade, power purchase, or other transfer; and

(c) a bundled or unbundled renewable energy certificate, including a banked renewable energy certificate.

(5) To meet Subsection (1), a municipal electric utility may also count:

(a) qualifying electricity generated or acquired or renewable energy certificates acquired for a program permitting the municipal electric utility's customers to voluntarily contribute to a renewable energy source; and

(b) electricity allocated to this state that is produced by a hydroelectric facility

becoming operational after December 31, 2007 if the hydroelectric facility is located in any state in which the municipal electric utility, or the interlocal entity with which the municipal electric utility has a contract, provides electric service.

Section 4. Section **10-19-202** is enacted to read:

10-19-202. Renewable energy certificate -- Use to satisfy other requirements.

(1) A municipal electric utility may buy, sell, trade, or otherwise transfer a renewable energy certificate issued or recognized under Section 54-17-603.

(2) For the purpose of satisfying Subsection 10-19-201(1) and the issuance of a renewable energy certificate under Section 54-17-603:

(a) a renewable energy source located in this state that derives its energy from solar photovoltaic and solar thermal energy shall be credited for 2.4 kilowatt-hours of qualifying electricity for each 1.0 kilowatt-hour generated; and

(b) if two or more municipal electric utilities jointly own a renewable energy resource, each municipal electric utility shall be credited with 1.0 kilowatt-hour of qualifying electricity for 1.0 kilowatt-hour of the renewable energy resource allocated to the municipal electric utility by contract, unless the contract otherwise provides.

(3) A renewable energy certificate:

(a) may be used only once to satisfy Subsection 10-19-201(1);

(b) may be used to satisfy Subsection 10-19-201(1) and the qualifying electricity on which the renewable energy certificate is based may be used to satisfy any federal renewable energy requirement; and

(c) may not be used if it has been used to satisfy any other state's renewable energy requirement.

Section 5. Section **10-19-301** is enacted to read:

Part 3. Administrative Provisions

10-19-301. Plans and reports.

(1) A municipal electric utility shall develop and maintain a plan for implementing Subsection 10-19-201(1).

(2) A progress report concerning a plan under Subsection (1) shall be filed with the municipality's legislative body by January 1 of each of the years 2010, 2015, 2020, and 2024.

(3) The progress report under Subsection (2) shall contain:

- 276 (a) the actual and projected amount of qualifying electricity through 2025;
277 (b) the source of qualifying electricity;
278 (c) an estimate of the cost of achieving the target;
279 (d) a discussion of conditions impacting the renewable energy source and qualifying
280 electricity markets; and
281 (e) any recommendation for a suggested legislative or program change.
282 (4) The plan and progress report required by Subsections (1) and (2) may include
283 procedures that will be used by the municipal electric utility to identify and select any
284 cost-effective renewable energy resource and qualifying electricity.
285 (5) By July 1, 2026, the municipal electric utility shall file a final progress report
286 demonstrating:
287 (a) how Subsection 10-19-201(1) is satisfied for the year 2025; or
288 (b) the reason why Subsection 10-19-201(1) is not satisfied for the year 2025, if it is
289 not satisfied.
290 (6) The plan and any progress report filed under this section shall be publicly available
291 at the municipal legislative body's office.
292 Section 6. Section **10-19-302** is enacted to read:
293 **10-19-302. Municipal authority -- Commission authority.**
294 (1) The municipal legislative body may adopt procedures necessary to implement this
295 chapter.
296 (2) Nothing in this chapter authorizes the commission to exercise any power over a
297 municipal electric utility's electrical generation, demand-side management program, or other
298 operation.
299 Section 7. Section **54-17-201** is amended to read:
300 **54-17-201. Solicitation process required -- Exception.**
301 (1) (a) An affected electrical utility shall comply with this chapter to acquire or
302 construct a significant energy resource after February 25, 2005.
303 (b) Notwithstanding Subsection (1)(a), this chapter does not apply to a significant
304 energy resource for which the affected electrical utility has issued a solicitation before February
305 25, 2005.
306 (2) (a) Except as provided in Subsection (3), to acquire or construct a significant

energy resource, an affected electrical utility shall conduct a solicitation process that is approved by the commission.

(b) To obtain the approval of the commission of a solicitation process, the affected electrical utility shall file with the commission a request for approval that includes:

- (i) a description of the solicitation process the affected electrical utility will use;
- (ii) a complete proposed solicitation; and
- (iii) any other information the commission requires by rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(c) In ruling on the request for approval of a solicitation process, the commission shall determine whether the solicitation process:

(i) complies with this chapter and rules made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act; and

(ii) is in the public interest taking into consideration:

(A) whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electrical utility located in this state;

(B) long-term and short-term impacts;

(C) risk;

(D) reliability;

(E) financial impacts on the affected electrical utility; and

(F) other factors determined by the commission to be relevant.

(d) Before approving a solicitation process under this section the commission:

(i) may hold a public hearing; and

(ii) shall provide an opportunity for public comment.

(e) As part of its review of a solicitation process, the commission may provide the affected electrical utility guidance on any additions or changes to its proposed solicitation process.

(f) Unless the commission determines that additional time to analyze a solicitation process is warranted and is in the public interest, within ~~[90]~~ 60 days of the day on which the affected electrical utility files a request for approval of the solicitation process, the commission shall:

- (i) approve a proposed solicitation process;
- (ii) suggest modifications to a proposed solicitation process; or
- (iii) reject a proposed solicitation process.

(3) Notwithstanding Subsection (2), an affected electrical utility may acquire or construct a significant energy resource without conducting a solicitation process if it obtains a waiver of the solicitation requirement in accordance with Section 54-17-501.

(4) In accordance with the commission's authority under Subsection 54-12-2(2), the commission shall determine:

(a) whether this chapter or another competitive bidding procedure shall apply to a purchase of a significant energy resource by an affected electrical utility from a small power producer or cogenerator; and

(b) if this chapter applies as provided in Subsection (4)(a), the manner in which this chapter applies to a purchase of a significant energy resource by an affected electrical utility from a small power producer or cogenerator.

Section 8. Section **54-17-302** is amended to read:

54-17-302. Approval of a significant energy resource decision required.

(1) If pursuant to Part 2, Solicitation Process, an affected electrical utility is required to conduct a solicitation for a significant energy resource or obtains a waiver of the requirement to conduct a solicitation under Section 54-17-501, but does not obtain a waiver of the requirement to obtain approval of the significant energy resource decision under Section 54-17-501, the affected electrical utility shall obtain approval of its significant energy resource decision:

(a) after the completion of the solicitation process, if the affected electrical utility is required to conduct a solicitation; and

(b) before an affected electrical utility may construct or enter into a binding agreement to acquire the significant energy resource.

(2) (a) To obtain the approval required by Subsection (1), the affected electrical utility shall file a request for approval with the commission.

(b) The request for approval required by this section shall include any information required by the commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(3) In ruling on a request for approval of a significant energy resource decision, the

commission shall determine whether the significant energy resource decision:

(a) is reached in compliance with this chapter and rules made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

(b) (i) is reached in compliance with the solicitation process approved by the commission in accordance with Part 2, Solicitation Process; or

(ii) is reached after the waiver of the solicitation process as provided in Subsection 54-17-201(3); and

(c) is in the public interest, taking into consideration:

(i) whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electrical utility located in this state;

(ii) long-term and short-term impacts;

(iii) risk;

(iv) reliability;

(v) financial impacts on the affected electrical utility; and

(vi) other factors determined by the commission to be relevant.

(4) The commission may not approve a significant energy resource decision under this section before holding a public hearing.

(5) Unless the commission determines that additional time to analyze a significant energy resource decision is warranted and is in the public interest, within ~~[180]~~ 120 days of the day on which the affected electrical utility files a request for approval, the commission shall:

(a) approve the significant energy resource decision;

(b) approve the significant energy resource decision subject to conditions imposed by the commission; or

(c) disapprove the significant energy resource decision.

(6) The commission shall include in its order under this section:

(a) findings as to the total projected costs for construction or acquisition of an approved significant energy resource; and

(b) the basis upon which the findings described in Subsection (6)(a) are made.

(7) Notwithstanding any other provision of this part, an affected electrical utility may acquire a significant energy resource without obtaining approval pursuant to this section if it

obtains a waiver of the requirement for approval in accordance with Section 54-17-501.

(8) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules regarding the process for approval of a significant energy resource decision under this section.

Section 9. Section **54-17-303** is amended to read:

54-17-303. Cost recovery.

(1) (a) Except as otherwise provided in this section, if the commission approves a significant energy resource decision under Section 54-17-302, the commission shall, in a general rate case or other appropriate commission proceeding, include in the affected electrical utility's retail electric rates the state's share of costs:

(i) relevant to the proceeding;

(ii) incurred by the affected electrical utility in constructing or acquiring the approved significant energy resource; and

(iii) up to the projected costs specified in the commission's order issued under Section 54-17-302.

(b) (i) The commission shall, in a general rate case or other appropriate commission proceeding, include in the affected electrical utility's retail electric rates the state's share of the incremental cost relevant to the proceeding that were prudently incurred by the affected electrical utility to identify, evaluate, and submit a reasonable benchmark option, whether or not the benchmark option is selected or becomes operational.

(ii) A recoverable cost under Subsection (1)(b)(i) shall be included in the affected electrical utility's project costs for the purpose of evaluating the project's cost-effectiveness.

(iii) A recoverable cost under Subsection (1)(b)(i) may not be added to the cost or otherwise considered in the evaluation of a project proposed by any person other than the affected electrical utility for the purpose of evaluating that person's proposal.

~~[(b)]~~ (c) Except to the extent that the commission enters an order under Section 54-17-304, an increase from the projected costs specified in the commission's order issued under Section 54-17-302 shall be subject to review by the commission as part of a rate hearing under Section 54-7-12.

(2) (a) Subsequent to the commission issuing an order described in Subsection (2)(a)(i) or (ii), the commission may disallow some or all costs incurred in connection with an

approved significant energy resource decision if the commission finds that an affected electrical utility's actions in implementing an approved significant energy resource decision are not prudent because of new information or changed circumstances that occur after:

(i) the commission's approval of the significant energy resource decisions under Section 54-17-302; or

(ii) a commission order to proceed under Section 54-17-304.

(b) In making a determination of prudence under Subsection (2)(a), the commission shall use the standards identified in Section 54-4-4.

(3) Notwithstanding any other provision of this chapter, the commission may disallow some or all of the costs incurred by an affected electrical utility in connection with an approved significant energy resource decision upon a finding by the commission that the affected electrical utility is responsible for a material misrepresentation or concealment in connection with an approval process under this chapter.

Section 10. Section **54-17-502** is enacted to read:

54-17-502. Renewable energy source -- Solicitation -- Consultant.

(1) Sections 54-17-102 through 54-17-404 do not apply to a significant energy resource that is a renewable energy source as defined in Section 54-17-601 if the nameplate capacity of the renewable energy source does not exceed 300 megawatts or, if applicable, the quantity of capacity that is the subject of a contract for the purchase of electricity from a renewable energy source does not exceed 300 megawatts.

(2) (a) (i) An affected electrical utility shall issue a public solicitation of bids for a renewable energy source up to 300 megawatts in size by January 31 of each year in which it reasonably anticipates that it will need to acquire or commence construction of a renewable energy resource.

(ii) A solicitation for a renewable energy source issued by January 31, 2008 for up to 99 megawatts satisfies the requirement of this Subsection (2) for the year 2008 if:

(A) within 30 days after the day on which this section takes effect, the affected electrical utility amends the solicitation to seek bids for projects up to 300 megawatts in size; and

(B) within 60 days after the day on which this section takes effect and as soon as practicable, the commission retains a consultant in accordance with Subsection (3).

(b) A consultant hired under Subsection (2)(a)(ii)(B) shall perform the consultant's duties under Subsection (3) in relation to the status of the solicitation process at the time the consultant is retained and may not unreasonably delay the solicitation process.

(c) For a solicitation issued after January 31, 2008:

(i) the affected electrical utility shall develop a reasonable process for pre-approval of bidders; and

(ii) in addition to publicly issuing the solicitation in Subsection (2)(a)(i), the affected electrical utility shall send copies of the solicitation to each potential bidder who is pre-approved.

(d) The affected electrical utility shall evaluate in good faith each bid that is received and negotiate in good faith with each bidder whose bid appears to be cost effective, as defined in Section 54-17-602.

(e) Beginning on August 1, 2008, and on each August 1 thereafter, the affected electrical utility shall file a notice with the commission indicating whether it reasonably anticipates that it will need to acquire or commence construction of a renewable energy resource during the following year.

(3) (a) If the commission receives a notice under Subsection (2)(e) that the affected electrical utility reasonably anticipates that it will need to acquire or commence construction of a renewable energy source during the following year, the commission shall promptly retain a consultant to:

(i) validate that the affected electrical utility is following the bidder pre-approval process developed pursuant to Subsection (2)(c) and make recommendations for changes to the pre-approval process for future solicitations;

(ii) monitor and document all material aspects of the bids, bid evaluations, and bid negotiations between the affected electrical utility and any bidders in the solicitation process;

(iii) maintain adequate documentation of each bid, including the solicitation, evaluation, and negotiation processes and the reason for the conclusion of negotiations, which documentation shall be transmitted to the commission at the conclusion of all negotiations in the solicitation; and

(iv) be available to testify under oath before the commission in any relevant proceeding concerning all aspects of the public solicitation process.

493 **(b) The commission and the consultant shall use all reasonable efforts to not delay the**
494 **solicitation process.**

495 **(4) Documentation provided to the commission by the consultant shall be available to**
496 **the affected electrical utility, any bidder, or other interested person under terms and conditions**
497 **and at times determined appropriate by the commission.**

498 **(5) (a) The commission and the consultant shall execute a contract approved by the**
499 **commission with terms and conditions approved by the commission.**

500 **(b) Unless otherwise provided by contract, an invoice for the consultant's services shall**
501 **be sent to the Division of Public Utilities for review and approval.**

502 **(c) After approval under Subsection (5)(b), the invoice shall be forwarded to the**
503 **affected electrical utility for payment to the consultant.**

504 **(d) The affected electrical utility may, in a general rate case or other appropriate**
505 **commission proceeding, include, and the Commission shall allow, recovery by the affected**
506 **electrical utility of any amount paid by the affected electrical utility for the consultant.**

507 **(6) (a) Nothing in this section precludes an affected electrical utility from constructing**
508 **or acquiring any renewable energy source project outside the solicitation process provided for**
509 **in this section, including purchasing electricity from any renewable energy source project that**
510 **chooses to self-certify as a qualifying facility under the federal Public Utility Regulatory**
511 **Policies Act of 1978.**

512 **(b) An affected electrical utility that constructs a renewable energy source outside the**
513 **solicitation process of this section or Section 54-17-201 shall file a notice with the commission**
514 **at least 60 days before the date of commencement of construction, indicating the size and**
515 **location of the renewable energy source.**

516 **(c) The date of commencement of construction under Subsection (6)(b) is the date of**
517 **any directive from an affected electrical utility to the person responsible for the construction of**
518 **the renewable energy source authorizing or directing the person to proceed with construction.**

519 **(d) For an affected electrical utility whose rates are regulated by the commission, the**
520 **utility has the burden of proving in a rate case or other appropriate commission proceeding the**
521 **prudence, reasonableness, and cost-effectiveness of construction under this Subsection (6),**
522 **including the method used to evaluate the risks and value of any bid submitted in the**
523 **solicitation under this section.**

(7) Nothing in this section requires an affected electrical utility to enter into any transaction that it reasonably believes is not cost effective or otherwise is not in the public interest.

Section 11. Section **54-17-601** is enacted to read:

Part 6. Carbon Emission Reductions for Electrical Corporations

54-17-601. Definitions.

As used in this part:

(1) "Adjusted retail electric sales" means the total kilowatt-hours of retail electric sales of an electrical corporation to customers in this state in a calendar year, reduced by:

(a) the amount of those kilowatt-hours attributable to electricity generated or purchased in that calendar year from qualifying zero carbon emissions generation and qualifying carbon sequestration generation;

(b) the amount of those kilowatt-hours attributable to electricity generated or purchased in that calendar year from generation located within the geographic boundary of the Western Electricity Coordinating Council that derives its energy from one or more of the following but that does not satisfy the definition of a renewable energy source or that otherwise has not been used to satisfy Subsection 54-17-602(1):

(i) wind energy;

(ii) solar photovoltaic and solar thermal energy;

(iii) wave, tidal, and ocean thermal energy;

(iv) except for combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass byproducts, including:

(A) organic waste;

(B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;

(C) agricultural residues;

(D) dedicated energy crops; and

(E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;

(v) geothermal energy;

(vi) hydroelectric energy; or

(vii) waste gas and waste heat capture or recovery; and

(c) the number of kilowatt-hours attributable to reductions in retail sales in that calendar year from demand side management as defined in Section 54-7-12.8, with the kilowatt-hours for an electrical corporation whose rates are regulated by the commission and adjusted by the commission to exclude kilowatt-hours for which a renewable energy certificate is issued under Subsection 54-17-603(4)(b).

(2) "Amount of kilowatt-hours attributable to electricity generated or purchased in that calendar year from qualifying carbon sequestration generation," for qualifying carbon sequestration generation, means the kilowatt-hours supplied by a facility during the calendar year multiplied by the ratio of the amount of carbon dioxide captured from the facility and sequestered to the sum of the amount of carbon dioxide captured from the facility and sequestered plus the amount of carbon dioxide emitted from the facility during the same calendar year.

(3) "Banked renewable energy certificate" means a bundled or unbundled renewable energy certificate that is:

(a) not used in a calendar year to comply with this part or with a renewable energy program in another state; and

(b) carried forward into a subsequent year.

(4) "Bundled renewable energy certificate" means a renewable energy certificate for qualifying electricity that is acquired:

(a) by an electrical corporation by a trade, purchase, or other transfer of electricity that includes the renewable energy attributes of, or certificate that is issued for, the electricity; or

(b) by an electrical corporation by generating the electricity for which the renewable energy certificate is issued.

(5) "Electrical corporation":

(a) is as defined in Section 54-2-1; and

(b) does not include a person generating electricity that is not for sale to the public.

(6) "Qualifying carbon sequestration generation" means a fossil-fueled generating facility located within the geographic boundary of the Western Electricity Coordinating Council that:

586 (a) becomes operational or is retrofitted on or after January 1, 2008; and
587 (b) reduces carbon dioxide emissions into the atmosphere through permanent
588 geological sequestration or through another verifiably permanent reduction in carbon dioxide
589 emissions through the use of technology.

590 (7) "Qualifying electricity" means electricity generated on or after January 1, 1995
591 from a renewable energy source if:

592 (a) (i) the renewable energy source is located within the geographic boundary of the
593 Western Electricity Coordinating Council; or

594 (ii) the qualifying electricity is delivered to the transmission system of an electrical
595 corporation or a delivery point designated by the electrical corporation for the purpose of
596 subsequent delivery to the electrical corporation; and

597 (b) the renewable energy attributes of the electricity are not traded, sold, transferred, or
598 otherwise used to satisfy another state's renewable energy program.

599 (8) "Qualifying zero carbon emissions generation":

600 (a) means a generation facility located within the geographic boundary of the Western
601 Electricity Coordinating Council that:

602 (i) becomes operational on or after January 1, 2008; and

603 (ii) does not produce carbon as a byproduct of the generation process;

604 (b) includes generation powered by nuclear fuel; and

605 (c) does not include renewable energy sources used to satisfy the requirement
606 established under Subsection 54-17-602(1).

607 (9) "Renewable energy certificate" means a certificate issued under Section 54-17-603.

608 (10) "Renewable energy source" means:

609 (a) an electric generation facility or generation capability or upgrade that becomes
610 operational on or after January 1, 1995 that derives its energy from one or more of the
611 following:

612 (i) wind energy;

613 (ii) solar photovoltaic and solar thermal energy;

614 (iii) wave, tidal, and ocean thermal energy;

615 (iv) except for combustion of wood that has been treated with chemical preservatives
616 such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass

617 byproducts, including:
618 (A) organic waste;
619 (B) forest or rangeland woody debris from harvesting or thinning conducted to improve
620 forest or rangeland ecological health and to reduce wildfire risk;
621 (C) agricultural residues;
622 (D) dedicated energy crops; and
623 (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic
624 digesters, or municipal solid waste;
625 (v) geothermal energy located outside the state;
626 (vi) waste gas and waste heat capture or recovery; or
627 (vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon
628 which the facility became operational, if the upgrades become operational on or after January
629 1, 1995;
630 (b) any of the following:
631 (i) up to 50 average megawatts of electricity per year per electrical corporation from a
632 certified low-impact hydroelectric facility, without regard to the date upon which the facility
633 becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after
634 January 1, 1995, by a national certification organization;
635 (ii) geothermal energy if located within the state, without regard to the date upon which
636 the facility becomes operational; or
637 (iii) hydroelectric energy if located within the state, without regard to the date upon
638 which the facility becomes operational;
639 (c) hydrogen gas derived from any source of energy described in Subsection (10)(a) or
640 (b);
641 (d) if an electric generation facility employs multiple energy sources, that portion of the
642 electricity generated that is attributable to energy sources described in Subsections (10)(a)
643 through (c); and
644 (e) any of the following located in the state and owned by a user of energy:
645 (i) a demand side management measure, as defined by Subsection 54-7-12.8(1), with
646 the quantity of renewable energy certificates to which the user is entitled determined by the
647 equivalent energy saved by the measure;

(ii) a solar thermal system that reduces the consumption of fossil fuels, with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent kilowatt-hours saved, except to the extent the commission determines otherwise with respect to net-metered energy;

(iii) a solar photovoltaic system that reduces the consumption of fossil fuels with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy;

(iv) a hydroelectric or geothermal facility with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the facility, except to the extent the commission determines otherwise with respect to net-metered energy;

(v) a waste gas or waste heat capture or recovery system, other than from a combined cycle combustion turbine that does not use waste gas or waste heat, with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy; and

(vi) the station use of solar thermal energy, solar photovoltaic energy, hydroelectric energy, geothermal energy, waste gas, or waste heat capture and recovery.

(11) "Unbundled renewable energy certificate" means a renewable energy certificate associated with:

(a) qualifying electricity that is acquired by an electrical corporation or other person by trade, purchase, or other transfer without acquiring the electricity for which the certificate was issued; or

(b) activities listed in Subsection (10)(e).

Section 12. Section **54-17-602** is enacted to read:

54-17-602. Target amount of qualifying electricity -- Renewable energy certificate -- Cost-effectiveness -- Cooperatives.

(1) (a) To the extent that it is cost effective to do so, beginning in 2025 the annual retail electric sales in this state of each electrical corporation shall consist of qualifying electricity or renewable energy certificates in an amount equal to at least 20% of adjusted retail electric sales.

(b) The amount under Subsection (1)(a) is computed based upon adjusted retail electric sales for the calendar year commencing 36 months before the first day of the year for which the target calculated under Subsection (1)(a) applies.

(c) Notwithstanding Subsections (1)(a) and (b), an increase in the annual target from one year to the next may not exceed the greater of:

(i) 17,500 megawatt-hours; or

(ii) 20% of the prior year's amount under Subsections (1)(a) and (b).

(2) ~~§~~→ (a) ←~~§~~ Cost-effectiveness under Subsection (1) ~~§~~→ for other than a cooperative association ←~~§~~ is determined in comparison to other viable resource options using the criteria provided by Subsection 54-17-201(2)(c)(ii).

~~§~~→ (b) **For an electrical corporation that is a cooperative association, cost-effectiveness is determined using criteria applicable to the cooperative association's acquisition of a significant energy resource established by the cooperative association's board of directors.** ←~~§~~

(3) This section does not require an electrical corporation to:

(a) substitute qualifying electricity for electricity from a generation source owned or contractually committed, or from a contractual commitment for a power purchase;

(b) enter into any additional electric sales commitment or any other arrangement for the sale or other disposition of electricity that is not already, or would not be, entered into by the electrical corporation; or

(c) acquire qualifying electricity in excess of its adjusted retail electric sales.

(4) For the purpose of Subsection (1), an electrical corporation may combine the following:

(a) qualifying electricity from a renewable energy source owned by the electrical corporation;

(b) qualifying electricity acquired by the electrical corporation through trade, power purchase, or other transfer; and

(c) a bundled or unbundled renewable energy certificate, including a banked renewable energy certificate.

(5) For an electrical corporation whose rates the commission regulates, the following rules concerning renewable energy certificates apply:

(a) a banked renewable energy certificate with an older issuance date shall be used before any other banked renewable energy certificate issued at a later date is used; and

(b) the total of all unbundled renewable energy certificates, including unbundled banked renewable energy certificates, may not exceed 20% of the amount of the annual target provided for in Subsection (1).

(6) An electrical corporation that is a cooperative association may count towards Subsection (1) any of the following:

(a) electric production allocated to this state from hydroelectric facilities becoming operational after December 31, 2007 if the facilities are located in any state in which the cooperative association, or a generation and transmission cooperative with which the cooperative association has a contract, provides electric service;

(b) qualifying electricity generated or acquired or renewable energy certificates acquired for a program that permits a retail customer to voluntarily contribute to a renewable energy source; and

(c) notwithstanding Subsection 54-17-601(7), an unbundled renewable energy certificate purchased from a renewable energy source located outside the geographic boundary of the Western Electricity Coordinating Council if the electricity on which the unbundled renewable energy certificate is based would be considered qualifying electricity if the renewable energy source was located within the geographic boundary of the Western Electricity Coordinating Council.

(7) The use of the renewable attributes associated with qualifying electricity to satisfy any federal renewable energy requirement does not preclude the electricity from being qualifying electricity for the purpose of this chapter.

Section 13. Section **54-17-603** is enacted to read:

54-17-603. Renewable energy certificate -- Issuance -- Use to satisfy other requirements.

(1) The commission shall establish a process for issuance or recognition of a renewable energy certificate.

(2) The commission process under Subsection (1) shall provide for the issuance, monitoring, accounting, transfer, and use of a renewable energy certificate, including in electronic form.

(3) The commission **§→** :

(a) **←§** may consult with another state or a federal agency and any regional system or trading program to fulfil Subsection (1). **§→** ; and

(b) allow use of a renewable energy certificate that is issued, monitored, accounted for, or transferred by or through a regional system or trading program, including the Western Renewable Energy Generation Information system, to fulfil this part's provisions **←§**

(4) A renewable energy certificate shall be issued for:

(a) qualifying electricity generated on and after January 1, 1995; and

(b) the activities of an energy user described in Subsections 10-19-102(11)(e) and

54-17-601(10)(e) on and after January 1, 1995.

(5) The person requesting a renewable energy certificate shall affirm that the renewable energy attributes of the electricity have not been traded, sold, transferred, or otherwise used to satisfy another state's renewable energy requirements.

(6) (a) For the purpose of satisfying Subsection 54-17-602(1) and the issuance of a renewable energy certificate under this section, a renewable energy source located in this state that derives its energy from solar photovoltaic or solar thermal energy shall be credited for 2.4 kilowatt-hours of qualifying electricity for each 1.0 kilowatt-hour generated.

(b) Notwithstanding Subsection (6)(a), the acquisition or construction by an electrical corporation of a renewable energy source that derives its energy from solar photovoltaic or solar thermal energy shall comply with the cost-effectiveness criteria of Subsection 54-17-201(2)(c)(ii).

(7) A renewable energy certificate issued under this section:

(a) does not expire; and

(b) may be banked.

(8) The commission may recognize a renewable energy certificate that is issued, monitored, accounted for, or transferred by or through another state or a regional system or trading program, including the Western Renewable Energy Generation Information System, if the renewable energy certificate is for qualifying electricity.

(9) A renewable energy certificate:

(a) may be used only once to satisfy Subsection 54-17-602(1);

(b) may be used for the purpose of Subsection 54-17-602(1) and the qualifying electricity on which the renewable energy certificate is based may be used to satisfy any federal renewable energy requirement; and

(c) may not be used if it has been used to satisfy any other state's renewable energy requirement.

(10) The commission shall establish procedures and reasonable rates permitting an electrical corporation that is a purchasing utility under Section 54-12-2 to acquire or retain a renewable energy certificate associated with the purchase of power from an independent energy producer.

Section 14. Section **54-17-604** is enacted to read:

54-17-604. Plans and reports.

(1) An electrical corporation shall develop and maintain a plan for implementing Subsection 54-17-602(1), consistent with the cost-effectiveness criteria of Subsection 54-17-201(2)(c)(ii).

(2) ~~§→ (a) ←§~~ A progress report concerning a plan under Subsection (1) ~~§→ for other than a cooperative association ←§~~ shall be filed with the commission by January 1 of each of the years 2010, 2015, 2020, and 2024.

~~§→ (b) For an electrical corporation that is a cooperative association, a progress report shall be filed with the cooperative association's board of directors by January 1 of each of the years 2010, 2015, 2020, and 2024. ←§~~

(3) The progress report under Subsection (2) shall contain:

(a) the actual and projected amount of qualifying electricity through 2025;

(b) the source of qualifying electricity;

(c) ~~§→ (i) ←§~~ an analysis of the cost-effectiveness of renewable energy sources ~~§→ for other than a cooperative association; or~~
(ii) an estimate of the cost of achieving the target for an electrical corporation that is a cooperative association ←§ ;

(d) a discussion of conditions impacting the renewable energy source and qualifying electricity markets;

(e) any recommendation for a suggested legislative or program change; and

(f) ~~§→ for other than a cooperative association, ←§~~ any other information requested by the commission or considered relevant by the electrical corporation.

(4) The plan and progress report required by Subsections (1) and (2) may include procedures that will be used by the electrical corporation to identify and select any renewable energy resource and qualifying electricity that satisfy the criteria of Subsection 54-17-201(2)(c)(ii).

(5) By July 1, 2026, each electrical corporation shall file a final progress report demonstrating:

(a) how Subsection 54-17-602(1) is satisfied for the year 2025; or

(b) the reason why Subsection 54-17-602(1) is not satisfied for the year 2025, if it is not satisfied.

(6) By January 1 of each of the years 2011, 2016, 2021, and 2025, the Division of Public Utilities shall submit to the Legislature a report containing a summary of any progress report filed under Subsections (2) through (5).

(7) The summary required by Subsection (6) shall include any recommendation for legislative changes.

(8) (a) By July 1, 2027, the commission shall submit to the Legislature a report summarizing the final progress reports and recommending any legislative changes.

(b) The 2027 summary may contain a recommendation to the Legislature concerning any action to be taken with respect to an electrical corporation that does not satisfy Subsection 54-17-602(1) for 2025.

(c) The commission shall provide an opportunity for public comment and take evidence before recommending any action to be taken with respect to an electrical corporation that does not satisfy Subsection 54-17-602(1) for 2025.

(9) If a recommendation containing a penalty for failure to satisfy Subsection 54-17-602(1) is made under Subsection (8), the proposal shall require that any amount paid by an electrical corporation as a penalty be utilized to fund demand-side management for the retail customers of the electrical corporation paying the penalty.

(10) A penalty may not be proposed under this section if an electrical corporation's failure to satisfy Subsection 54-17-602(1) is due to:

(a) a lack of cost-effective means to satisfy the requirement; or

(b) force majeure.

§→ (11) By July 1, 2026, an electrical corporation that is a cooperative association shall file a final progress report demonstrating:

(a) how Subsection 54-17-602(1) is satisfied for the year 2025; or

(b) the reason why Subsection 54-17-602(1) is not satisfied for the year 2025 if it is not satisfied.

(12) The plan and any progress report filed under this section by an electrical corporation that is a cooperative association shall be publicly available at the cooperative association's office or posted on the cooperative association's website. ←§

Section 15. Section **54-17-605** is enacted to read:

54-17-605. Recovery of costs for renewable energy activities.

(1) In accordance with other law, the commission shall include in the retail electric rates of an electrical corporation whose rates the commission regulates the state's share of any of the costs listed in Subsection (2) that are relevant to the proceeding in which the commission is considering the electrical corporation's rates:

(a) if the costs are prudently incurred by the electrical corporation in connection with:

(i) the acquisition of a renewable energy certificate;

(ii) the acquisition of qualifying electricity for which a renewable energy certificate will be issued after the acquisition; and

(iii) the acquisition, construction, and use of a renewable energy source; and

(b) to the extent any qualifying electricity or renewable energy source under Subsection (1)(a) satisfies the cost-effectiveness criteria of Subsection 54-17-201(2)(c)(ii).

(2) The following are costs that may be recoverable under Subsection (1):

(a) a cost of siting, acquisition of property rights, equipment, design, licensing, permitting, construction, owning, operating, or otherwise acquiring a renewable energy source and any associated asset, including transmission;

834 (b) a cost to acquire qualifying electricity through trade, power purchase, or other
835 transfer;

836 (c) a cost to acquire a bundled or unbundled renewable energy certificate, if any net
837 revenue from the sale of a renewable energy certificate allocable to this state is also included in
838 rates;

839 (d) a cost to interconnect a renewable energy source to the electrical corporation's
840 transmission and distribution system;

841 (e) a cost associated with using a physical or financial asset to integrate, firm, or shape
842 a renewable energy source on a firm annual basis to meet a retail electricity need; and

843 (f) any cost associated with transmission and delivery of qualifying electricity to a
844 retail electricity consumer.

845 (3) (a) The commission may allow an electrical corporation to use an adjustment
846 mechanism or reasonable method other than a rate case under Sections 54-4-4 and 54-7-12 to
847 allow recovery of costs identified in Subsection (2).

848 (b) If the commission allows the use of an adjustment mechanism, both the costs and
849 any associated benefit shall be reflected in the mechanism, to the extent practicable.

850 (c) This Subsection (3) creates no presumption for or against the use of an adjustment
851 mechanism.

852 (4) (a) The commission may permit an electrical corporation to include in its retail
853 electric rates the state's share of costs prudently incurred by the electrical corporation in
854 connection with a renewable energy source, whether or not the renewable energy source
855 ultimately becomes operational, including costs of:

856 (i) siting;

857 (ii) property acquisition;

858 (iii) equipment;

859 (iv) design;

860 (v) licensing;

861 (vi) permitting; and

862 (vii) other reasonable items related to the renewable energy source.

863 (b) Subsection (4)(a) creates no presumption concerning the prudence or recoverability
864 of the costs identified.

(c) To the extent deferral is consistent with other applicable law, the commission may allow an electrical corporation to defer costs recoverable under Subsection (4)(a) until the recovery of the deferred costs can be considered in a rate proceeding or an adjustment mechanism created under Subsection (3).

(d) An application to defer costs shall be filed within 60 days after the day on which the electrical corporation determines that the renewable energy source project is impaired under generally accepted accounting principles and will not become operational.

(e) Notwithstanding the opportunity to defer costs under Subsection (4)(c), a cost incurred by an electrical corporation for siting, property acquisition, equipment, design, licensing, and permitting of a renewable energy source that the electrical corporation proposes to construct shall be included in the electrical corporation's project costs for the purpose of evaluating the project's cost-effectiveness.

(f) A deferred cost under Subsection (4)(a) may not be added to, or otherwise considered in the evaluation of, the cost of a project proposed by any person other than the electrical corporation for the purpose of evaluating that person's proposal.

Section 16. Section **54-17-606** is enacted to read:

54-17-606. Commission rules.

The commission shall make rules as necessary to implement this part.

Section 17. Section **54-17-607** is enacted to read:

54-17-607. Procedure and appeals under this chapter.

(1) The governing authority, as defined in Section 54-15-102, has primary jurisdiction concerning issues of interpretation, implementation, and administration of this chapter.

(2) An appeal of a commission order under this chapter is governed by Chapter 7, Hearings, Practice, and Procedure.

Section 18. Section **54-17-701** is enacted to read:

Part 7. Carbon Sequestration

54-17-701. Rules for carbon capture and geological storage.

(1) By January 1, 2011, the Division of Water Quality and the Division of Air Quality, on behalf of the Board of Water Quality and the Board of Air Quality, respectively, in collaboration with the commission and the Division of Oil, Gas and Mining and the Utah Geological Survey, shall present recommended rules to the Legislature's Administrative Rules

Review Committee for the following in connection with carbon capture and accompanying geological sequestration of captured carbon:

(a) site characterization approval;

(b) geomechanical, geochemical, and hydrogeological simulation;

(c) risk assessment;

(d) mitigation and remediation protocols;

(e) issuance of permits for test, injection, and monitoring wells;

(f) specifications for the drilling, construction, and maintenance of wells;

(g) issues concerning ownership of subsurface rights and pore space;

(h) allowed composition of injected matter;

(i) testing, monitoring, measurement, and verification for the entirety of the carbon capture and geologic sequestration chain of operations, from the point of capture of the carbon dioxide to the sequestration site;

(j) closure and decommissioning procedure;

(k) short- and long-term liability and indemnification for sequestration sites;

(l) conversion of enhanced oil recovery operations to carbon dioxide geological sequestration sites; and

(m) other issues as identified.

(2) The entities listed in Subsection (1) shall report to the Legislature's Administrative Rules Review Committee any proposals for additional statutory changes needed to implement rules contemplated under Subsection (1).

(3) On or before July 1, 2009, the entities listed in Subsection (1) shall submit to the Legislature's Public Utilities and Technology and Natural Resources, Agriculture, and Environment Interim Committees a progress report on the development of the recommended rules required by this part.

(4) The recommended rules developed under this section apply to the injection of carbon dioxide and other associated injectants in allowable types of geological formations for the purpose of reducing emissions to the atmosphere through long-term geological sequestration as required by law or undertaken voluntarily or for subsequent beneficial reuse.

(5) The recommended rules developed under this section do not apply to the injection of fluids through the use of Class II injection wells as defined in 40 C.F.R. 144.69(b) for the

927 purpose of enhanced hydrocarbon recovery.

928 (6) Rules recommended under this section shall:

929 (a) ensure that adequate health and safety standards are met;

930 (b) minimize the risk of unacceptable leakage from the injection well and injection
931 zone for carbon capture and geologic sequestration; and

932 (c) provide adequate regulatory oversight and public information concerning carbon
933 capture and geologic sequestration.

934 **Section 19. Effective date.**

935 If approved by two-thirds of all the members elected to each house, this bill takes effect
936 upon approval by the governor, or the day following the constitutional time limit of Utah
937 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
938 the date of veto override.

Legislative Review Note

as of 2-11-08 12:15 PM

Office of Legislative Research and General Counsel

S.B. 202 - Energy Resource and Carbon Emission Reduction Initiative

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
