

1 **RENEWABLE ENERGY PROVISIONS**

2 2008 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Scott D. McCoy**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses renewable energy standards, development of electrical transmission
10 infrastructure, and the establishment of a task force to study renewable energy
11 development zones.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ requires certain electrical corporations and municipal electrical utilities to provide
16 specified amounts of electricity from renewable energy sources;
- 17 ▶ provides exemptions from the requirements to provide a specified amount of
18 electricity from renewable energy sources;
- 19 ▶ provides for the issuance and use of renewable energy certificates;
- 20 ▶ requires the submission of an implementation plan by an electrical corporation;
- 21 ▶ addresses the recovery of costs of compliance;
- 22 ▶ requires the submission of compliance reports;
- 23 ▶ provides for alternative compliance payments in lieu of using renewable energy
24 sources;
- 25 ▶ creates the Utah Infrastructure Authority, which may address electrical
26 infrastructure concerns;
- 27 ▶ allows the authority to build, finance, and operate electrical transmission



28 infrastructure;

- 29 ▶ requires certain notices before the authority may undertake a project;
- 30 ▶ addresses the operation of a facility the authority owns;
- 31 ▶ allows the authority to issue revenue bonds to finance certain projects;
- 32 ▶ addresses the manner of issuing bonds; and
- 33 ▶ creates a task force to study the establishment of renewable energy zones.

34 **Monies Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 ENACTS:

- 40 **54-18-101**, Utah Code Annotated 1953
- 41 **54-18-102**, Utah Code Annotated 1953
- 42 **54-18-201**, Utah Code Annotated 1953
- 43 **54-18-202**, Utah Code Annotated 1953
- 44 **54-18-203**, Utah Code Annotated 1953
- 45 **54-18-204**, Utah Code Annotated 1953
- 46 **54-18-205**, Utah Code Annotated 1953
- 47 **54-18-206**, Utah Code Annotated 1953
- 48 **54-18-207**, Utah Code Annotated 1953
- 49 **54-18-208**, Utah Code Annotated 1953
- 50 **54-18-209**, Utah Code Annotated 1953
- 51 **54-18-210**, Utah Code Annotated 1953
- 52 **54-19-101**, Utah Code Annotated 1953
- 53 **54-19-102**, Utah Code Annotated 1953
- 54 **54-19-103**, Utah Code Annotated 1953
- 55 **54-19-201**, Utah Code Annotated 1953
- 56 **54-19-202**, Utah Code Annotated 1953
- 57 **54-19-203**, Utah Code Annotated 1953
- 58 **54-19-204**, Utah Code Annotated 1953

- 59 **54-19-301**, Utah Code Annotated 1953
- 60 **54-19-302**, Utah Code Annotated 1953
- 61 **54-19-303**, Utah Code Annotated 1953
- 62 **54-19-304**, Utah Code Annotated 1953
- 63 **54-19-401**, Utah Code Annotated 1953

64 **Uncodified Material Affected:**

65 ENACTS UNCODIFIED MATERIAL



67 *Be it enacted by the Legislature of the state of Utah:*

68 Section 1. Section **54-18-101** is enacted to read:

69 **CHAPTER 18. RENEWABLE ENERGY STANDARDS ACT**

70 **Part 1. General Provisions**

71 **54-18-101. Title.**

72 This chapter is known as the "Renewable Energy Standards Act."

73 Section 2. Section **54-18-102** is enacted to read:

74 **54-18-102. Definitions.**

75 As used in this chapter:

76 (1) "Banked renewable energy certificate" means a bundled or unbundled renewable
77 energy certificate that is not used by an electrical corporation or municipal electrical utility to
78 comply with a renewable portfolio standard in a calendar year and that is carried forward for
79 the purpose of complying with Section 54-18-201 in a subsequent year.

80 (2) "Biomass" or "biomass byproducts":

81 (a) includes:

82 (i) organic human or animal waste;

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

85 (iii) agricultural residues;

86 (iv) dedicated energy crops; and

87 (v) landfill gas or biogas produced from organic matter, wastewater, anaerobic
88 digesters, or municipal solid waste; and

89 (b) does not include:

90 (i) spent pulping liquor;

91 (ii) the following if directly combusted to generate electricity:

92 (A) municipal solid waste; or

93 (B) wood that has been treated with chemical preservatives such as creosote,

94 pentachlorophenol, or chromated copper arsenate.

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

97 (a) by an electrical corporation or a municipal electrical utility by a trade, purchase, or
98 other transfer of qualifying electricity that includes the certificate that is issued for the
99 qualifying electricity; or

100 (b) by an electrical corporation or a municipal electrical utility by generation of the
101 electricity for which the certificate is issued.

102 (4) "Compliance year" means the calendar year for which the electrical corporation or
103 municipal electrical utility is required to comply with Section 54-18-201.

104 (5) "Municipal electrical utility" means a municipality or its subdivision that owns,
105 operates, controls, or manages a facility providing electrical power for a retail consumer,
106 whether domestic, commercial, industrial, or otherwise.

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

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

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

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

117 (7) "Renewable energy source" means:

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

- 121 (i) wind energy;
122 (ii) solar photovoltaic and solar thermal energy;
123 (iii) wave, tidal, and ocean thermal energy;
124 (iv) geothermal energy; and
125 (v) electricity attributable to efficiency upgrades to a hydroelectric facility, without
126 regard to the date upon which the facility became operational, if the upgrades become
127 operational on or after January 1, 1995;
- 128 (b) any of the following:
- 129 (i) electricity from a certified low-impact hydroelectric facility, without regard to the
130 date upon which the facility becomes operational, if the facility is certified as a low-impact
131 hydroelectric facility on or after January 1, 1995, by a national certification organization; and
- 132 (ii) electricity produced by a generation unit with a nameplate capacity of not more
133 than 15 megawatts that converts heat from exhaust stacks or pipes that would otherwise be lost
134 to electricity and that does not combust additional fossil fuel, except for energy produced by a
135 system using energy, lost or otherwise, from a process whose primary purpose is the generation
136 of electricity, including any process involving engine-driven generation or pumped
137 hydroelectricity generation;
- 138 (c) hydrogen gas derived from any source of energy described in Subsection (7)(a) or
139 (b); and
- 140 (d) if an electric generation facility employs multiple energy sources, that portion of the
141 electricity generated that is attributable to energy sources described in Subsections (7)(a)
142 through (c).
- 143 (8) "Retail electricity customer" means a person who purchases electricity for
144 consumption, not resale, whether the electricity is used domestically, commercially,
145 industrially, or otherwise.
- 146 (9) "Retail electricity sales" means the total amount of electricity sold to an electrical
147 corporation's or municipal electrical utility's retail electricity customers.
- 148 (10) "Unbundled renewable energy certificate" means a renewable energy certificate
149 for qualifying electricity that is acquired by an electrical corporation or municipal electrical
150 utility by trade, purchase, or other transfer without acquiring the electricity for which the
151 certificate was issued if the qualifying electricity for which the certificate is issued is located

152 within the geographic boundary of the Western Electricity Coordinating Council.

153 Section 3. Section **54-18-201** is enacted to read:

154 **Part 2. Qualifying Electricity Requirements**

155 **54-18-201. Percentage of qualifying electricity.**

156 (1) For an electrical corporation or a municipal electrical utility whose retail electricity
157 sales exceed 3% of all retail electricity sales in the state on May 5, 2008, the electrical
158 corporation or municipal electrical utility shall:

159 (a) provide at least 5% of electricity sold to its retail electricity customers in this state
160 from qualifying electricity in the compliance years of 2012 through 2015;

161 (b) provide at least 15% of electricity sold to its retail electricity customers in this state
162 from qualifying electricity in the compliance years of 2016 through 2020;

163 (c) provide at least 20% of electricity sold to its retail electricity customers in this state
164 from qualifying electricity in the compliance years of 2021 through 2025;

165 (d) provide at least 25% of electricity sold to its retail electricity customers in this state
166 from qualifying electricity for each compliance year beginning on or after January 1, 2026; and

167 (e) (i) provide at least 4% of the qualifying electricity required to be provided in
168 Subsections (1)(a) through (d) from solar electric generation technologies, with half of that
169 amount derived from solar-electric generation technologies located on the site where the
170 electricity is used; and

171 (ii) provide at least 2% of electricity sold to its retail electricity customers from solar
172 electric generation technologies in 2020 and every year thereafter.

173 (2) For an electrical corporation or a municipal electrical utility whose retail electricity
174 sales exceed 3% of all retail electricity sales in the state after May 5, 2008, the electrical
175 corporation or municipal electrical utility shall:

176 (a) beginning with the first compliance year that starts at least four years after the year
177 in which the electrical corporation or municipal electrical utility first exceeds 3% of all retail
178 sales in the state, provide at least 5% of electricity sold to its retail electricity customers in this
179 state from qualifying electricity;

180 (b) beginning with the first compliance year that starts at least ten years after the year
181 in which the electrical corporation or municipal electrical utility first exceeds 3% of all retail
182 sales in the state, provide at least 15% of electricity sold to its retail electricity customers in this

183 state from qualifying electricity;

184 (c) beginning with the first compliance year that starts at least 15 years after the year in
185 which the electrical corporation or municipal electrical utility first exceeds 3% of all retail sales
186 in the state, provide at least 20% of electricity sold to its retail electricity customers in this state
187 from qualifying electricity; and

188 (d) beginning with the first compliance year that starts at least 20 years after the year in
189 which the electrical corporation or municipal electrical utility first exceeds 3% of all retail sales
190 in the state, provide at least 25% of electricity sold to its retail electricity customers in this state
191 from qualifying electricity.

192 (3) For an electrical corporation or a municipal electrical utility whose retail electricity
193 sales are at least 1-1/2 but not more than 3% of all retail electricity sales in the state, the
194 electrical corporation or municipal electrical utility shall, beginning in 2025, provide at least
195 10% of electricity sold to its retail electricity customers in this state from qualifying electricity.

196 (4) For an electrical corporation or a municipal electrical utility whose retail electricity
197 sales are less than 1.5% of all retail electricity sales in the state, the electrical corporation or
198 municipal electrical utility shall, beginning in 2025, provide at least 5% of electricity sold to its
199 retail electricity customers in this state from qualifying electricity.

200 Section 4. Section **54-18-202** is enacted to read:

201 **54-18-202. Exemptions from qualifying electricity requirement.**

202 An electrical corporation or a municipal electrical utility is exempt from Section
203 54-18-201 if:

204 (1) compliance with Section 54-18-201 would require the electrical corporation or
205 municipal electrical utility to acquire electricity in excess of the electrical corporation's or
206 municipal electrical utility's projected electricity requirement in any calendar year; and

207 (2) acquiring the additional electricity would require the utility to substitute qualifying
208 electricity for electricity derived from an energy source other than coal, natural gas, or
209 petroleum.

210 Section 5. Section **54-18-203** is enacted to read:

211 **54-18-203. Renewable energy certificates.**

212 (1) The commission shall establish a process for issuance or recognition of a renewable
213 energy certificate that may be used by an electrical corporation or a municipal electrical utility

214 as one method of satisfying Section 54-18-201.

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

218 (3) The commission may consult with another state or a federal agency and any
219 regional system or trading program to fulfil Subsection (1).

220 (4) A renewable energy certificate shall be issued for qualifying electricity generated
221 after January 1, 2008.

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

225 (6) A renewable energy certificate issued under this section:

226 (a) may be banked for up to three years; and

227 (b) shall be used or banked in the year in which the electricity upon which the
228 certificate is based is generated.

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

233 (8) A renewable energy certificate:

234 (a) may be used only once to satisfy Section 54-18-201; and

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

237 (9) A banked renewable energy certificate shall be used before any other renewable
238 energy certificate is used.

239 (10) A banked renewable energy certificate shall be used before another banked
240 renewable energy certificate having a more recent issuance date is used.

241 (11) (a) An unbundled renewable energy certificate may not be used to meet more than
242 20% of an electrical corporation's requirement under Section 54-18-201 for any compliance
243 year.

244 (b) Subsection (11)(a) does not apply to an unbundled renewable energy certificate

245 issued for electricity generated in Utah from a renewable energy source that is part of a net
246 metering program under Chapter 15, Net Metering of Electricity.

247 (12) The qualifying electricity on which a renewable energy certificate is based may be
248 used to satisfy any federal renewable energy requirement, in addition to Section 54-18-201.

249 Section 6. Section **54-18-204** is enacted to read:

250 **54-18-204. Demonstrating compliance with percentage of qualifying electricity**
251 **requirement.**

252 Compliance with Section 54-18-201 shall be demonstrated by:

253 (1) using a bundled, unbundled, or banked renewable energy certificate; or

254 (2) making an alternate compliance payment described in Section 54-18-209.

255 Section 7. Section **54-18-205** is enacted to read:

256 **54-18-205. Implementation plans.**

257 (1) An electrical corporation shall file an implementation plan that complies with this
258 section at a time established by the commission by rule.

259 (2) An updated implementation plan shall be filed within two years after the day on
260 which an implementation plan is filed under Subsection (1).

261 (3) An implementation plan shall contain:

262 (a) an annual target for the acquisition and use of qualifying electricity; and

263 (b) the estimated cost of meeting the annual target, including:

264 (i) transmission costs;

265 (ii) costs of firming, shaping, and integrating qualifying electricity;

266 (iii) the cost of acquiring any necessary renewable energy certificate; and

267 (iv) the cost of making an alternate compliance payment.

268 (4) The commission shall act on a plan received under this section within six months
269 after the day on which the plan is filed.

270 (5) With respect to an implementation plan filed under this section, the commission
271 may:

272 (a) approve the plan;

273 (b) reject the plan; or

274 (c) approve the plan with conditions.

275 (6) The commission may make rules concerning the preparation, filing, and approval of

276 an implementation plan filed under this section, which shall include an opportunity for public
277 comment on each implementation plan.

278 Section 8. Section **54-18-206** is enacted to read:

279 **54-18-206. Exemption -- Cost of compliance.**

280 (1) An electrical corporation or a municipal electrical utility is not subject to Section
281 54-18-201 if the incremental cost of complying with Section 54-18-201, the cost of any
282 unbundled renewable energy certificates, and the amount of any alternative compliance
283 payment, exceeds 4% of the electrical corporation's or municipal electrical utility's annual
284 revenue requirement for the compliance year.

285 (2) The annual revenue requirement shall be determined before January 1 of each
286 compliance year by:

287 (a) the commission for an electrical corporation; or

288 (b) the governing body of any municipal electrical utility.

289 (3) The annual revenue requirement includes only revenues required for electrical
290 service.

291 (4) The annual revenue requirement does not include any amount spent by the
292 electrical corporation or municipal electric utility for:

293 (a) energy efficiency programs for consumers;

294 (b) low income energy assistance;

295 (c) the incremental cost of complying with Section 54-18-201;

296 (d) the cost of any necessary unbundled renewable energy certificate; or

297 (e) the cost of an alternative compliance payment.

298 (5) The annual revenue requirement includes:

299 (a) all operating expenses for the compliance year, including depreciation and taxes;
300 and

301 (b) for an electrical corporation, an amount equal to the total rate base for the
302 compliance year, multiplied by the commission's established rate of return on the electrical
303 corporation's debt and equity.

304 (6) (a) The incremental cost of complying with Section 54-18-201 is the difference
305 between the levelized annual delivered cost of the qualifying electricity and the levelized
306 annual delivered cost of an equivalent amount of reasonably available electricity that is not

307 qualifying electricity.

308 (b) For the purpose of Subsection (6)(a), the net present value of delivered cost shall be
309 used, including:

310 (i) capital, operating, and maintenance costs of a generating facility;

311 (ii) financing costs attributable to capital, operating, and maintenance expenditure on a
312 generating facility;

313 (iii) transmission and substation costs;

314 (iv) load following and ancillary services costs; and

315 (v) costs associated with use of other assets, physical or financial, to integrate, firm, or
316 shape renewable energy sources on a firm annual basis to meet retail electricity needs.

317 (7) For the purpose of this section, the governing body of a municipal electrical utility
318 may include in the incremental cost of complying with Section 54-18-201 any cost associated
319 with a research, development, or demonstration project related to the municipal electrical
320 utility's generation of qualifying electricity.

321 Section 9. Section **54-18-207** is enacted to read:

322 **54-18-207. Cost recovery.**

323 (1) A prudently incurred cost associated with complying with Section 54-18-201 is
324 recoverable in an electrical corporation's rates, including a cost for:

325 (a) interconnection; and

326 (b) the use of physical or financial assets to integrate, firm, or shape a renewable
327 energy source on a firm annual basis to meet retail electricity needs.

328 (2) The commission may allow an electrical corporation to use an adjustment
329 mechanism or reasonable method other than a rate case under Sections 54-4-4 and 54-7-12 to
330 allow recovery under this section.

331 Section 10. Section **54-18-208** is enacted to read:

332 **54-18-208. Compliance reports.**

333 (1) An electrical corporation and a municipal electrical utility shall submit a
334 compliance report to the commission or governing body of the municipality, respectively, for
335 each compliance year reporting the electrical corporation's or municipal electrical utility's
336 compliance, or failure to comply, with Section 54-18-201.

337 (2) The commission or governing body of the municipality shall review any

338 compliance report submitted under this section, considering:

339 (a) any renewable energy certificate or other payment used by the company or supplier

340 to satisfy Section 54-18-201, including:

341 (i) a renewable energy certificate; and

342 (ii) an alternative compliance payment;

343 (b) the timing of electricity purchases;

344 (c) the market price for electricity purchases and any unbundled renewable energy
345 certificate;

346 (d) whether action taken by the electrical corporation or municipal electrical utility
347 contributes to long term development of generating capacity using renewable energy sources;

348 (e) the effect of any action taken by the electrical corporation or municipal electrical
349 utility on rates paid by retail electricity consumers;

350 (f) good faith forecasting differences associated with the projected number of retail
351 electricity consumers served and the availability of electricity from renewable energy sources;

352 (g) for an electrical corporation, consistency with the implementation plan filed under
353 Section 54-18-205, as approved by the commission; and

354 (h) any other factor considered relevant by the commission or governing body of the
355 municipality.

356 (3) The commission by rule may establish requirements for compliance reports
357 submitted by an electrical corporation.

358 Section 11. Section **54-18-209** is enacted to read:

359 **54-18-209. Alternative compliance payment rate.**

360 (1) For each compliance year, the commission shall establish an alternative compliance
361 payment rate for an electrical corporation.

362 (2) The alternative compliance payment rate shall be expressed in dollars per megawatt
363 hour.

364 (3) The alternative compliance payment rate shall be based on the cost of:

365 (a) qualifying electricity;

366 (b) contracts that the electrical corporation acquires for future delivery of qualifying
367 electricity; and

368 (c) the number of unbundled renewable energy certificates that the electrical

369 corporation anticipates using in the compliance year to satisfy Section 54-18-201.

370 (4) The alternative compliance payment rate shall be set at an amount sufficiently high
371 to encourage the purchase or generation of qualifying electricity, rather than the use of
372 alternative compliance payments to satisfy Section 54-18-201.

373 (5) The commission may require an electrical corporation to make an alternative
374 compliance payment to satisfy Section 54-18-201.

375 (6) The commission shall determine the portion of any alternative compliance payment
376 to be recovered in an electrical corporation's rates.

377 (7) The alternative compliance payment rate for a municipal electrical utility shall be
378 established by the municipal electrical utility's governing body in a manner consistent with the
379 establishment of the alternative compliance payment rate for an electrical corporation.

380 Section 12. Section **54-18-210** is enacted to read:

381 **54-18-210. Solar-electric generation rebate program.**

382 (1) An electrical corporation, other than a distribution electrical cooperative, or other
383 cooperative association, or a municipal electrical utility shall pay to a consumer a rebate of \$1
384 per watt of solar-electric generation capacity installed on the customer's property, up to a
385 maximum of 100 kilowatts per installation.

386 (2) Electricity generated by a solar-electric system qualifying for a rebate under
387 Subsection (1) is qualifying electricity that may be used by the electrical corporation to comply
388 with this chapter.

389 Section 13. Section **54-19-101** is enacted to read:

390 **CHAPTER 19. UTAH INFRASTRUCTURE AUTHORITY ACT**

391 **Part 1. General Provisions**

392 **54-19-101. Title.**

393 This chapter is known as the "Utah Infrastructure Authority Act."

394 Section 14. Section **54-19-102** is enacted to read:

395 **54-19-102. Definitions.**

396 As used in this chapter:

397 (1) "Advanced coal technology" means technology using coal for the generation of
398 electricity that removes or mitigates the effects of carbon emissions on the environment,
399 including carbon capture and storage technology.

400 (2) "Authority" means the Utah Infrastructure Authority created by this chapter.

401 (3) "Electrical transmission infrastructure" means the physical facilities, or interests in
402 physical facilities, necessary for the transmission of electricity between the place of the
403 electricity's generation and the place of the electricity's use.

404 Section 15. Section **54-19-103** is enacted to read:

405 **54-19-103. Authority not subject to commission.**

406 The authority, and any price, fee, or charge established by the authority, is not subject to
407 the commission.

408 Section 16. Section **54-19-201** is enacted to read:

409 **Part 2. Utah Infrastructure Authority**

410 **54-19-201. Utah Infrastructure Authority -- Created -- Membership --**

411 **Appointment -- Vacancies -- Chair -- Quorum -- Compensation.**

412 (1) (a) There is created a body corporate that is an instrumentality of the state called the
413 Utah Infrastructure Authority composed of five members, who shall each have at least five
414 years experience in a professional field related to the construction or operation of electrical
415 transmission infrastructure.

416 (b) Members of the authority shall be appointed by the governor and confirmed by the
417 Senate.

418 (c) A member shall be appointed for a four-year term.

419 (d) Notwithstanding Subsection (1)(c), at the time of appointment or reappointment,
420 the governor shall adjust the length of terms to ensure that approximately half of the members
421 of the authority are appointed every two years.

422 (e) When a vacancy occurs in the authority for any reason, a replacement member shall
423 be appointed in the same manner as the vacated member was appointed.

424 (2) The authority shall select a chair from among its members.

425 (3) (a) Three members of the authority constitute a quorum for the conduct of business.

426 (b) The vote of the majority of a quorum constitutes the action of the authority.

427 (4) (a) (i) Members who are not government employees shall receive no compensation
428 or benefits for their services, but may receive per diem and expenses incurred in the
429 performance of the member's official duties at the rates established by the Division of Finance
430 under Sections 63A-3-106 and 63A-3-107.

431 (ii) Members may decline to receive per diem and expenses for their service.
432 (b) (i) State or local government officer or employee members who do not receive per
433 diem and expenses from their agency for their service may receive per diem and expenses
434 incurred in the performance of their official duties from the authority at the rates established by
435 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

436 (ii) State or local government officer or employee members may decline to receive per
437 diem and expenses for their service.

438 (5) The authority shall employ an executive director.

439 Section 17. Section **54-19-202** is enacted to read:

440 **54-19-202. Powers and duties.**

441 (1) The authority may:

442 (a) plan, finance, construct, develop, acquire, maintain, or operate electrical
443 transmission infrastructure, advanced coal technology, advanced energy technology, and
444 supporting infrastructure;

445 (b) own, lease, rent, or sell a facility, structure, or property necessary or incidental to
446 the production or transmission of energy;

447 (c) establish and collect fees or other charges for the use of the facilities the authority
448 owns;

449 (d) employ officers, agents, and employees as necessary;

450 (e) enter into contracts; and

451 (f) acquire property by eminent domain for use in connection with a project within the
452 authority's power to develop.

453 (2) The authority shall charge a fee for use of facilities it owns.

454 Section 18. Section **54-19-203** is enacted to read:

455 **54-19-203. Projects undertaken by authority -- Notice.**

456 (1) Notwithstanding any power under Section 54-19-202, the authority may not
457 participate in any way, other than financing, in a project if another person is planning or
458 developing a project designed to meet the same need as that proposed by the authority.

459 (2) Before beginning any activity concerning a project, other than preliminary
460 planning, the authority shall:

461 (a) provide notice, in accordance with Subsection (3), of its intent concerning the

462 project;

463 (b) provide the opportunity for a person to comment on the authority's proposed
464 project, including indicating the person has undertaken, or intends to undertake, a substantially
465 similar project designed to meet the same need as the project proposed by the authority; and

466 (c) evaluate any proposal from another person to undertake a substantially similar
467 project designed to meet the same need as the project proposed by the authority.

468 (3) The notice required by Subsection (2) shall be provided by publishing a notice of
469 intention that details the project the authority proposes and the need for the project at least once
470 a week for four weeks in a newspaper of general circulation in Salt Lake County and each
471 county in which the proposed project is located.

472 (4) A comment submitted under Subsection (2)(b) shall be submitted within 30 days
473 after the day on which the notice required by this section is last required to be published.

474 (5) If a person indicates that the person has undertaken, or intends to undertake, a
475 substantially similar project designed to meet the same need as the project proposed by the
476 authority, the authority may not pursue any further activity concerning the authority's proposed
477 project if the authority's evaluation reveals that the project is feasible and will meet the same
478 need as the authority's proposed project.

479 (6) If the authority is prohibited from further activity concerning a project under
480 Subsection (5), the person proposing the project on which the prohibition depends shall begin
481 development of the project within 180 days after the day on which the person provided
482 comments to the authority under this section.

483 (7) A person developing a project under Subsection (6) shall complete the project
484 within three years of the day on which the person provided comments to the authority under
485 this section.

486 (8) The authority may require a bond or agreement to pay liquidated damages to the
487 authority from any person developing a project described in this section in the event the project
488 is not completed within the time permitted by this section.

489 (9) Notwithstanding Subsection (8), the authority maintains any right of action against
490 a person for the person's failure to perform the person's obligations concerning a project.

491 Section 19. Section **54-19-204** is enacted to read:

492 **54-19-204. Charges for a facility -- Requirements.**

493 In establishing prices, rates, or charges for a facility, the authority shall ensure that the
494 price, rate, or charge is sufficient to:

495 (1) pay the expense of operating and maintaining the facility, for a facility the authority
496 operates and maintains;

497 (2) provide a sinking fund sufficient to assure prompt payment of the principal and
498 interest on any bond the authority issues for the facility;

499 (3) provide a fund for contingencies as may be required by a bond underwriter or the
500 resolution authorizing the bond; and

501 (4) provide an adequate depreciation fund for repairs or improvements to the facility.

502 Section 20. Section **54-19-301** is enacted to read:

503 **Part 3. Bonding**

504 **54-19-301. Bonds -- Bonds for projects to be owned by authority.**

505 (1) The authority may borrow money and evidence the borrowing through the issuance
506 and sale of bonds or other obligations of the authority.

507 (2) The principal and interest of a bond issued under this section shall be paid solely
508 from the revenues from a facility owned by the authority that are dedicated and pledged for the
509 payment of the bonds.

510 (3) A bond issued under this chapter:

511 (a) is solely the obligation of the authority;

512 (b) does not constitute an obligation of the state or any political subdivision of the
513 state; and

514 (c) shall contain, on its face, a statement that the bond does not constitute an obligation
515 of the state or any political subdivision of the state.

516 (4) A bond may be issued under this section upon resolution by the authority.

517 (5) A resolution under Subsection (4) or Subsection 54-19-302(4)(b) shall provide for:

518 (a) the series of the bond;

519 (b) the date of the bond;

520 (c) the maturation date of the bond;

521 (d) the interest rate for the bond;

522 (e) any registration or exchangeability provisions for the bond;

523 (f) an identification of the medium of payment for the bond;

524 (g) the terms of redemption for the bond, including time and place; and

525 (h) any priority on revenue given to the bond.

526 (6) A bond issued under this chapter:

527 (a) shall conform to the terms of the resolution authorizing the issuance of the bond;

528 and

529 (b) may be sold by the authority at, above, or below par value at a public or private sale

530 in a manner determined by the authority.

531 (7) Revenues pledged for and securing the payment of a bond issued under this section

532 shall be from:

533 (a) the operation of facilities constructed, acquired, or improved by the authority,

534 subject only to prior payment of reasonable and necessary expenses of operating and

535 maintaining the facilities; and

536 (b) any unexpended bond proceeds.

537 (8) To enforce payment of a bond when due, a bond holder may institute legal action to

538 compel performance of the authority's duties.

539 (9) (a) If a bond is in default as to the payment of principal or interest, the district court

540 may, upon application by a bond holder, appoint a receiver of the authority's facilities.

541 (b) A receiver appointed under Subsection (9)(a) shall operate any facility over which

542 the receiver is appointed and collect and distribute revenue in payment of the bond in

543 accordance with the bond's terms.

544 (10) A bond issued under this chapter is a negotiable instrument within the meaning of

545 Title 70A, Uniform Commercial Code.

546 (11) A bond issued under this chapter, and the income from a bond, is exempt from all

547 taxation within the state.

548 Section 21. Section **54-19-302** is enacted to read:

549 **54-19-302. Bonds for financing projects not owned by the authority.**

550 (1) The authority may finance a project not owned by the authority that is at least

551 partially located in the state through the issuance of bonds.

552 (2) The total amount of bonds outstanding under this section may not exceed

553 \$1,000,000,000.

554 (3) The principal amount of any bond that has been retired, redeemed, defeased, or

- 555 refunded by the authority is not included in the amount under Subsection (2).
- 556 (4) Before issuing bonds under this section, the authority shall:
- 557 (a) have contracts sufficient to justify the issuance of the bonds; and
- 558 (b) pass a resolution authorizing the bonds.
- 559 (5) The principal and interest of a bond issued under this section shall be:
- 560 (a) paid solely out of revenues from contracts designated in the resolution authorizing
- 561 the bond; and
- 562 (b) secured by:
- 563 (i) a pledge of revenues from the operation of the project financed by a first mortgage
- 564 on the project facilities; and
- 565 (ii) (A) the guarantee of the entity owning the project financed, or its parent entity; or
- 566 (B) another guarantee considered reasonable by the commission.
- 567 (6) A guarantee under Subsection (5) shall be on terms as favorable to the authority as
- 568 to any other lender of the same class for the same project.
- 569 (7) In addition to any guarantee under Subsection (5), the authority may require
- 570 additional security as it considers necessary.
- 571 (8) A pledge, mortgage, or guarantee given to the authority under Subsection (5):
- 572 (a) is effective when given; and
- 573 (b) upon effectiveness, subjects the revenues, receipts, monies, and assets pledged to a
- 574 lien without further act by the authority.
- 575 (9) A lien under Subsection (8)(b) is binding against any person whether or not the
- 576 person has actual notice of the authority's lien.
- 577 (10) A bond issued under this section:
- 578 (a) may be payable in installments; and
- 579 (b) may not bear a maturity date exceeding 40 years from the day of issuance.
- 580 Section 22. Section **54-19-303** is enacted to read:
- 581 **54-19-303. Publication of resolution authorizing issuance of bonds.**
- 582 (1) A resolution authorizing the issuance of bonds under this chapter shall be published
- 583 by the authority in a newspaper of general circulation in Salt Lake County and in any county in
- 584 the state in which a portion of the project for which the bonds are to be issued is located.
- 585 (2) An interested person may contest the legality of the authority's issuance of bonds

586 within 30 days after the day on which the authority publishes the resolution under Subsection
587 (1).

588 (3) A person may not challenge the authority's issuance of bonds under this chapter, the
589 validity of security issued for the bonds, or the resolution authorizing the bonds more than 30
590 days after the day on which the authority publishes the resolution under Subsection (1).

591 Section 23. Section **54-19-304** is enacted to read:

592 **54-19-304. Refunding bonds.**

593 (1) The authority may issue bonds for the purpose of refunding, extending, or unifying
594 any portion of the principal, interest, or redemption premiums on outstanding bonds issued
595 under this chapter.

596 (2) A refunding bond may be:

597 (a) sold, with the proceeds applied to retire outstanding bonds; or

598 (b) delivered in exchange for outstanding bonds.

599 (3) A refunding bond is treated as an original bond and shall be issued in a manner
600 consistent with the requirements for the issuance of bonds in this chapter.

601 Section 24. Section **54-19-401** is enacted to read:

602 **Part 4. Miscellaneous Provisions**

603 **54-19-401. Net revenues.**

604 (1) After providing for operation and maintenance of the authority's facilities and the
605 required payments on and incidental to bonds issued under this chapter, the authority may use
606 any net revenues derived from the authority's facilities or facilities for which it receives
607 payment under a contract to extend and improve the authority's facilities as warranted by the
608 need for electric transmission infrastructure.

609 (2) If the authority determines that net revenues under Subsection (1) are not needed to
610 address an electric transmission infrastructure need, the net revenues shall be paid to the state
611 treasurer for deposit in the General Fund.

612 Section 25. **Renewable Energy Zone Task Force.**

613 (1) There is created the Renewable Energy Zone Task Force comprised of 18 members,
614 as follows:

615 (a) the governor's energy advisor;

616 (b) nine members appointed by the governor representing each of the following

617 interests:

618 (i) cooperative electric associations that distribute electricity;

619 (ii) investor-owned electric utilities;

620 (iii) municipal utilities;

621 (iv) wind-electric generation;

622 (v) solar-electric generation;

623 (vi) geothermal-electric generation;

624 (vii) biomass;

625 (viii) the Governor's Rural Partnership Board; and

626 (ix) non-profit organizations addressing renewable energy issues;

627 (c) one member appointed by the president of the Senate;

628 (d) one member appointed by the speaker of the House of Representatives;

629 (e) one member from the Automated Geographic Reference Center, appointed by the

630 director of the Division of Integrated Technology;

631 (f) one member from the Public Service Commission, who need not be a member of

632 the Public Service Commission, appointed by the chair of the Public Service Commission;

633 (g) three members from universities located within the state, appointed by the

634 governor's energy advisor; and

635 (h) one member representing the Utah Science Technology and Research Governing

636 Authority with an understanding of renewable energy technologies, appointed by the executive

637 director of the authority.

638 (2) Members appointed under Subsection (1) shall be appointed by June 2, 2008.

639 (3) The task force shall:

640 (a) study the development of renewable energy resources within the state, including:

641 (i) the establishment of renewable energy development zones;

642 (ii) the establishment of an entity to build transmission infrastructure for renewable

643 resources; and

644 (iii) any needed policy changes for transmission infrastructure development, including

645 cost recovery mechanisms;

646 (b) identify and map the location of areas in the state with the potential for

647 economically feasible electrical power generation from wind, solar, geothermal, and biomass

- 648 resources;
649 (c) identify existing electrical transmission resources within the state and the location
650 of potential electrical transmission resources to aid in the development of renewable energy
651 development zones; and
652 (d) report to the governor and the Legislature concerning its activities and
653 recommendations by November 30, 2008.
654 (4) The task force may solicit and accept donations to pay expenses incurred in the
655 performance of its duties.
656 (5) The governor's energy advisor shall provide staff support for the task force.
657 (6) This section is repealed on December 31, 2008.
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Legislative Review Note
as of 1-24-08 6:02 PM

Office of Legislative Research and General Counsel

S.B. 173 - Renewable Energy Provisions

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will require an appropriations of \$103,500 from Commerce Service Fund-Public Utility Regulatory Fee restricted account to pay for additional duties that the Public Service Commission would be required to perform. Additionally, the bill may require appropriations to the Attorney General's Office for legal counsel on bonds authorized by the bill.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
Restricted Funds	\$0	\$110,500	\$110,500	\$0	\$0	\$0
Total	\$0	\$110,500	\$110,500	\$0	\$0	\$0

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.