

**Senator Curtis S. Bramble** proposes the following substitute bill:

**ENERGY RESOURCE AND CARBON EMISSION**

**REDUCTION INITIATIVE**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: David Clark

Cosponsor: Mike Dmitrich

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**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 and makes other changes concerning the acquisition of energy resources.

**Highlighted Provisions:**

This bill:

- ▶ addresses independent and qualifying power producers;
- ▶ 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



- 26 electric utility's progress in acquiring qualifying electricity;
- 27       ▶ addresses cost recovery for certain energy resources;
- 28       ▶ requires certain state agencies to make rules concerning carbon capture and
- 29 geological storage of captured carbon emissions; and
- 30       ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32       None

33 **Other Special Clauses:**

34       This bill provides an immediate effective date.

35 **Utah Code Sections Affected:**

36 AMENDS:

- 37       **54-2-1**, as last amended by Laws of Utah 2001, Chapter 212
- 38       **54-12-1**, as enacted by Laws of Utah 1985, Chapter 180
- 39       **54-12-2**, as last amended by Laws of Utah 1989, Chapter 4
- 40       **54-12-3**, as enacted by Laws of Utah 1985, Chapter 180
- 41       **54-17-201**, as last amended by Laws of Utah 2007, Chapter 289
- 42       **54-17-302**, as last amended by Laws of Utah 2007, Chapter 289
- 43       **54-17-303**, as enacted by Laws of Utah 2005, Chapter 11

44 ENACTS:

- 45       **10-19-101**, Utah Code Annotated 1953
- 46       **10-19-102**, Utah Code Annotated 1953
- 47       **10-19-201**, Utah Code Annotated 1953
- 48       **10-19-202**, Utah Code Annotated 1953
- 49       **10-19-301**, Utah Code Annotated 1953
- 50       **10-19-302**, Utah Code Annotated 1953
- 51       **54-17-502**, Utah Code Annotated 1953
- 52       **54-17-601**, Utah Code Annotated 1953
- 53       **54-17-602**, Utah Code Annotated 1953
- 54       **54-17-603**, Utah Code Annotated 1953
- 55       **54-17-604**, Utah Code Annotated 1953
- 56       **54-17-605**, Utah Code Annotated 1953

57           **54-17-606**, Utah Code Annotated 1953  
 58           **54-17-607**, Utah Code Annotated 1953  
 59           **54-17-701**, Utah Code Annotated 1953



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

62           Section 1. Section **10-19-101** is enacted to read:

63                           **CHAPTER 19. MUNICIPAL ELECTRIC UTILITY CARBON**

64   **EMISSION REDUCTION ACT**

65   **Part 1. General Provisions**

66           **10-19-101. Title.**

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

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

70           **10-19-102. Definitions.**

71           As used in this chapter:

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

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

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

82                           (i) wind energy;

83                           (ii) solar photovoltaic and solar thermal energy;

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

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

- 88           (A) organic waste;
- 89           (B) forest or rangeland woody debris from harvesting or thinning conducted to improve
- 90 forest or rangeland ecological health and to reduce wildfire risk;
- 91           (C) agricultural residues;
- 92           (D) dedicated energy crops; and
- 93           (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic
- 94 digesters, or municipal solid waste;
- 95           (v) geothermal energy;
- 96           (vi) hydro-electric energy; or
- 97           (vii) waste gas and waste heat capture or recovery; and
- 98           (c) the number of kilowatt-hours attributable to reductions in retail sales in that
- 99 calendar year from activities or programs promoting electric energy efficiency or conservation
- 100 or more efficient management of electric energy load.
- 101           (2) "Amount of kilowatt-hours attributable to electricity generated or purchased in that
- 102 calendar year from qualifying carbon sequestration generation," for qualifying carbon
- 103 sequestration generation, means the kilowatt-hours supplied by a facility during the calendar
- 104 year multiplied by the ratio of the amount of carbon dioxide captured from the facility and
- 105 sequestered to the sum of the amount of carbon dioxide captured from the facility and
- 106 sequestered plus the amount of carbon dioxide emitted from the facility during the same
- 107 calendar year.
- 108           (3) "Banked renewable energy certificate" means a bundled or unbundled renewable
- 109 energy certificate that is:
- 110           (a) not used in a calendar year to comply with this part or with a renewable energy
- 111 program in another state; and
- 112           (b) carried forward into a subsequent year.
- 113           (4) "Bundled renewable energy certificate" means a renewable energy certificate for
- 114 qualifying electricity that is acquired:
- 115           (a) by a municipal electric utility by a trade, purchase, or other transfer of electricity
- 116 that includes the renewable energy attributes of, or certificate that is issued for, the electricity;
- 117 or
- 118           (b) by a municipal electric utility by generating the electricity for which the renewable

119 energy certificate is issued.

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

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

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

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

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

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

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

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

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

140 (9) "Qualifying zero carbon emissions generation":

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

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

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

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

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

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

150           (11) "Renewable energy source" means:  
151           (a) an electric generation facility or generation capability or upgrade that becomes  
152 operational on or after January 1, 1995 that derives its energy from one or more of the  
153 following:  
154           (i) wind energy;  
155           (ii) solar photovoltaic and solar thermal energy;  
156           (iii) wave, tidal, and ocean thermal energy;  
157           (iv) except for combustion of wood that has been treated with chemical preservatives  
158 such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass  
159 byproducts, including:  
160           (A) organic waste;  
161           (B) forest or rangeland woody debris from harvesting or thinning conducted to improve  
162 forest or rangeland ecological health and to reduce wildfire risk;  
163           (C) agricultural residues;  
164           (D) dedicated energy crops; and  
165           (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic  
166 digesters, or municipal solid waste;  
167           (v) geothermal energy located outside the state;  
168           (vi) waste gas and waste heat capture or recovery; or  
169           (vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon  
170 which the facility became operational, if the upgrades become operational on or after January  
171 1, 1995;  
172           (b) any of the following:  
173           (i) up to 50 average megawatts of electricity per year per municipal electric utility from  
174 a certified low-impact hydroelectric facility, without regard to the date upon which the facility  
175 becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after  
176 January 1, 1995, by a national certification organization;  
177           (ii) geothermal energy if located within the state, without regard to the date upon which  
178 the facility becomes operational; and  
179           (iii) hydroelectric energy if located within the state, without regard to the date upon  
180 which the facility becomes operational;

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

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

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

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

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

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

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

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

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

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

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

212 was issued; or

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

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

215 **Part 2. Renewable Energy Provisions**

216 **10-19-201. Target amount of qualifying electricity -- Renewable energy certificate**  
217 **-- Cost-effectiveness.**

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

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

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

227 (i) 17,500 megawatt-hours; or

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

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

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

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

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

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

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

240 (1):

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



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

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

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

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

251 (b) electricity allocated to this state that is produced by a hydroelectric facility  
252 becoming operational after December 31, 2007 if the hydroelectric facility is located in any  
253 state in which the municipal electric utility, or the interlocal entity with which the municipal  
254 electric utility has a contract, provides electric service.

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

256 **10-19-202. Renewable energy certificate -- Use to satisfy other requirements.**

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

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

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

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

268 (3) A renewable energy certificate:

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

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

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

274 requirement.

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

276 **Part 3. Administrative Provisions**

277 **10-19-301. Plans and reports.**

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

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

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

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

284 (b) the source of qualifying electricity;

285 (c) an estimate of the cost of achieving the target;

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

288 (e) any recommendation for a suggested legislative or program change.

289 (4) The plan and progress report required by Subsections (1) and (2) may include  
290 procedures that will be used by the municipal electric utility to identify and select any  
291 cost-effective renewable energy resource and qualifying electricity.

292 (5) By July 1, 2026, the municipal electric utility shall file a final progress report  
293 demonstrating:

294 (a) how Subsection 10-19-201(1) is satisfied for the year 2025; or

295 (b) the reason why Subsection 10-19-201(1) is not satisfied for the year 2025, if it is  
296 not satisfied.

297 (6) The plan and any progress report filed under this section shall be publicly available  
298 at the municipal legislative body's office.

299 Section 6. Section **10-19-302** is enacted to read:

300 **10-19-302. Municipal authority -- Commission authority.**

301 (1) The municipal legislative body may adopt procedures necessary to implement this  
302 chapter.

303 (2) Nothing in this chapter authorizes the commission to exercise any power over a  
304 municipal electric utility's electrical generation, demand-side management program, or other

305 operation.

306 Section 7. Section **54-2-1** is amended to read:

307 **54-2-1. Definitions.**

308 As used in this title:

309 (1) "Avoided costs" means the incremental costs to an electrical corporation of electric  
310 energy or capacity or both which, due to the purchase of electric energy or capacity or both  
311 from small power production or cogeneration facilities, the electrical corporation would not  
312 have to generate itself or purchase from another electrical corporation.

313 (2) "Cogeneration facility":

314 (a) means a facility which produces:

315 (i) electric energy; and

316 (ii) steam or forms of useful energy, including heat, which are used for industrial,  
317 commercial, heating, or cooling purposes; and

318 (b) is a qualifying cogeneration facility under federal law.

319 (3) "Commission" means the Public Service Commission of Utah.

320 (4) "Commissioner" means a member of the commission.

321 (5) (a) "Corporation" includes an association, and a joint stock company having any  
322 powers or privileges not possessed by individuals or partnerships.

323 (b) "Corporation" does not include towns, cities, counties, conservancy districts,  
324 improvement districts, or other governmental units created or organized under any general or  
325 special law of this state.

326 (6) "Distribution electrical cooperative" includes an electrical corporation that:

327 (a) is a cooperative;

328 (b) conducts a business that includes the retail distribution of electricity the cooperative  
329 purchases or generates for the cooperative's members; and

330 (c) is required to allocate or distribute savings in excess of additions to reserves and  
331 surplus on the basis of patronage to the cooperative's:

332 (i) members; or

333 (ii) patrons.

334 (7) "Electrical corporation" includes every corporation, cooperative association, and  
335 person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any

336 electric plant, or in any way furnishing electric power for public service or to its consumers or  
337 members for domestic, commercial, or industrial use, within this state, except independent  
338 energy producers, and except where electricity is generated on or distributed by the producer  
339 solely for the producer's own use, or the use of the producer's tenants, or for the use of  
340 members of an association of unit owners formed under Title 57, Chapter 8, Condominium  
341 Ownership Act, and not for sale to the public generally.

342 (8) "Electric plant" includes all real estate, fixtures, and personal property owned,  
343 controlled, operated, or managed in connection with or to facilitate the production, generation,  
344 transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits,  
345 ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying  
346 conductors used or to be used for the transmission of electricity for light, heat, or power.

347 (9) "Gas corporation" includes every corporation and person, their lessees, trustees, and  
348 receivers, owning, controlling, operating, or managing any gas plant for public service within  
349 this state or for the selling or furnishing of natural gas to any consumer or consumers within the  
350 state for domestic, commercial, or industrial use, except in the situation that:

351 (a) gas is made or produced on, and distributed by the maker or producer through,  
352 private property:

353 (i) solely for the maker's or producer's own use or the use of the maker's or producer's  
354 tenants; and

355 (ii) not for sale to others;

356 (b) gas is compressed on private property solely for the owner's own use or the use of  
357 the owner's employees as a motor vehicle fuel; or

358 (c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely  
359 for sale as a motor vehicle fuel.

360 (10) "Gas plant" includes all real estate, fixtures, and personal property owned,  
361 controlled, operated, or managed in connection with or to facilitate the production, generation,  
362 transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

363 (11) "Heat corporation" includes every corporation and person, their lessees, trustees,  
364 and receivers, owning, controlling, operating, or managing any heating plant for public service  
365 within this state.

366 (12) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances, and

367 personal property controlled, operated, or managed in connection with or to facilitate the  
368 production, generation, transmission, delivery, or furnishing of artificial heat.

369 (b) "Heating plant" does not include either small power production facilities or  
370 cogeneration facilities.

371 (13) "Independent energy producer" means every electrical corporation, person,  
372 corporation, or government entity, their lessees, trustees, or receivers, that own, operate,  
373 control, or manage ~~[a small]~~ an independent power production or cogeneration facility.

374 (14) "Independent power production facility" means a facility that:

375 (a) produces electric energy solely by the use, as a primary energy source, of biomass,  
376 waste, a renewable resource, a geothermal resource, or any combination of the preceding  
377 sources; or

378 (b) is a qualifying power production facility.

379 ~~[(14)]~~ (15) "Private telecommunications system" includes all facilities for the  
380 transmission of signs, signals, writing, images, sounds, messages, data, or other information of  
381 any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio  
382 facilities, that are owned, controlled, operated, or managed by a corporation or person,  
383 including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that  
384 corporation or person and not for the shared use with or resale to any other corporation or  
385 person on a regular basis.

386 ~~[(15)]~~ (16) (a) "Public utility" includes every railroad corporation, gas corporation,  
387 electrical corporation, distribution electrical cooperative, wholesale electrical cooperative,  
388 telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat  
389 corporation, and independent energy producer not described in Subsection ~~[(15)]~~ (16)(d),  
390 where the service is performed for, or the commodity delivered to, the public generally, or in  
391 the case of a gas corporation or electrical corporation where the gas or electricity is sold or  
392 furnished to any member or consumers within the state for domestic, commercial, or industrial  
393 use.

394 (b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone  
395 corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation,  
396 or independent energy producer not described in Subsection ~~[(15)]~~ (16)(d), performs a service  
397 for or delivers a commodity to the public, it is considered to be a public utility, subject to the

398 jurisdiction and regulation of the commission and this title.

399 (ii) If a gas corporation, independent energy producer not described in Subsection  
400 [~~(15)~~] (16)(d), or electrical corporation sells or furnishes gas or electricity to any member or  
401 consumers within the state, for domestic, commercial, or industrial use, for which any  
402 compensation or payment is received, it is considered to be a public utility, subject to the  
403 jurisdiction and regulation of the commission and this title.

404 (c) Any corporation or person not engaged in business exclusively as a public utility as  
405 defined in this section is governed by this title in respect only to the public utility owned,  
406 controlled, operated, or managed by the corporation or person, and not in respect to any other  
407 business or pursuit.

408 (d) An independent energy producer is exempt from the jurisdiction and regulations of  
409 the commission with respect to an independent power production facility if it meets the  
410 requirements of Subsection [~~(15)~~] (16)(d)(i), (ii), or (iii), or any combination of these:

411 (i) the commodity or service is produced or delivered, or both, by an independent  
412 energy producer solely for the uses exempted in Subsection (7) or for the use of state-owned  
413 facilities;

414 (ii) the commodity or service is sold by an independent energy producer solely to an  
415 electrical corporation or other wholesale purchaser; or

416 (iii) (A) the commodity or service delivered by the independent energy producer is  
417 delivered to an entity which controls, is controlled by, or affiliated with the independent energy  
418 producer or to a user located on real property managed by the independent energy producer;  
419 and

420 (B) the real property on which the service or commodity is used is contiguous to real  
421 property which is owned or controlled by the independent energy producer. Parcels of real  
422 property separated solely by public roads or easements for public roads shall be considered as  
423 contiguous for purposes of this Subsection [~~(15)~~] (16).

424 (e) Any person or corporation defined as an electrical corporation or public utility  
425 under this section may continue to serve its existing customers subject to any order or future  
426 determination of the commission in reference to the right to serve those customers.

427 (f) (i) "Public utility" does not include any person that is otherwise considered a public  
428 utility under this Subsection [~~(15)~~] (16) solely because of that person's ownership of an interest

429 in an electric plant, cogeneration facility, or small power production facility in this state if all of  
430 the following conditions are met:

431 (A) the ownership interest in the electric plant, cogeneration facility, or small power  
432 production facility is leased to:

433 (I) a public utility, and that lease has been approved by the commission;

434 (II) a person or government entity that is exempt from commission regulation as a  
435 public utility; or

436 (III) a combination of Subsections [~~(15)~~] (16)(f)(i)(A)(I) and (II);

437 (B) the lessor of the ownership interest identified in Subsection [~~(15)~~] (16)(f)(i)(A) is:

438 (I) primarily engaged in a business other than the business of a public utility; or

439 (II) a person whose total equity or beneficial ownership is held directly or indirectly by  
440 another person engaged in a business other than the business of a public utility; and

441 (C) the rent reserved under the lease does not include any amount based on or  
442 determined by revenues or income of the lessee.

443 (ii) Any person that is exempt from classification as a public utility under Subsection  
444 [~~(15)~~] (16)(f)(i) shall continue to be so exempt from classification following termination of the  
445 lessee's right to possession or use of the electric plant for so long as the former lessor does not  
446 operate the electric plant or sell electricity from the electric plant. If the former lessor operates  
447 the electric plant or sells electricity, the former lessor shall continue to be so exempt for a  
448 period of 90 days following termination, or for a longer period that is ordered by the  
449 commission. This period may not exceed one year. A change in rates that would otherwise  
450 require commission approval may not be effective during the 90-day or extended period  
451 without commission approval.

452 (g) "Public utility" does not include any person that provides financing for, but has no  
453 ownership interest in an electric plant, small power production facility, or cogeneration facility.  
454 In the event of a foreclosure in which an ownership interest in an electric plant, small power  
455 production facility, or cogeneration facility is transferred to a third-party financier of an electric  
456 plant, small power production facility, or cogeneration facility, then that third-party financier is  
457 exempt from classification as a public utility for 90 days following the foreclosure, or for a  
458 longer period that is ordered by the commission. This period may not exceed one year.

459 (h) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel

460 does not cause the distributor or transporter to be a "public utility," unless the commission,  
461 after notice and a public hearing, determines by rule that it is in the public interest to regulate  
462 the distributors or transporters, but the retail sale alone of compressed natural gas as a motor  
463 vehicle fuel may not cause the seller to be a "public utility."

464 (ii) In determining whether it is in the public interest to regulate the distributors or  
465 transporters, the commission shall consider, among other things, the impact of the regulation  
466 on the availability and price of natural gas for use as a motor fuel.

467 ~~[(16)]~~ (17) "Purchasing utility" means any electrical corporation that is required to  
468 purchase electricity from small power production or cogeneration facilities pursuant to the  
469 Public Utility Regulatory Policies Act, 16 U.S.C. Section 824a-3.

470 (18) "Qualifying power producer" means a corporation, cooperative association, or  
471 person, or the lessee, trustee, and receiver of the corporation, cooperative association, or  
472 person, who owns, controls, operates, or manages any qualifying power production facility or  
473 cogeneration facility.

474 (19) "Qualifying power production facility" means a facility that:

475 (a) produces electrical energy solely by the use, as a primary energy source, of biomass,  
476 waste, a renewable resource, a geothermal resource, or any combination of the preceding  
477 sources;

478 (b) has a power production capacity that, together with any other facilities located at  
479 the same site, is no greater than 80 megawatts; and

480 (c) is a qualifying small power production facility under federal law.

481 ~~[(17)]~~ (20) "Railroad" includes every commercial, interurban, and other railway, other  
482 than a street railway, and each branch or extension of a railway, by any power operated,  
483 together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots,  
484 union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all  
485 other real estate, fixtures, and personal property of every kind used in connection with a  
486 railway owned, controlled, operated, or managed for public service in the transportation of  
487 persons or property.

488 ~~[(18)]~~ (21) "Railroad corporation" includes every corporation and person, their lessees,  
489 trustees, and receivers, owning, controlling, operating, or managing any railroad for public  
490 service within this state.



491           ~~[(19)]~~ (22) (a) "Sewerage corporation" includes every corporation and person, their  
492 lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage  
493 system for public service within this state.

494           (b) "Sewerage corporation" does not include private sewerage companies engaged in  
495 disposing of sewage only for their stockholders, or towns, cities, counties, conservancy  
496 districts, improvement districts, or other governmental units created or organized under any  
497 general or special law of this state.

498           ~~[(20) "Small power production facility" means a facility which:]~~

499           ~~[(a) produces electric energy solely by the use, as a primary energy source, of biomass,~~  
500 ~~waste, renewable resources, geothermal resources, or any combination of them;]~~

501           ~~[(b) has a power production capacity that, together with any other facilities located at~~  
502 ~~the same site, is not greater than 80 megawatts; and]~~

503           ~~[(c) is a qualifying small power production facility under federal law.]~~

504           ~~[(21)]~~ (23) "Telegraph corporation" includes every corporation and person, their  
505 lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line  
506 for public service within this state.

507           ~~[(22)]~~ (24) "Telegraph line" includes all conduits, ducts, poles, wires, cables,  
508 instruments, and appliances, and all other real estate, fixtures, and personal property owned,  
509 controlled, operated, or managed in connection with or to facilitate communication by  
510 telegraph, whether that communication be had with or without the use of transmission wires.

511           ~~[(23)]~~ (25) (a) "Telephone corporation" means any corporation or person, and their  
512 lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates,  
513 manages, or resells a public telecommunications service as defined in Section 54-8b-2.

514           (b) "Telephone corporation" does not mean a corporation, partnership, or firm  
515 providing:

516           (i) intrastate telephone service offered by a provider of cellular, personal  
517 communication systems (PCS), or other commercial mobile radio service as defined in 47  
518 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications  
519 Commission;

520           (ii) Internet service; or

521           (iii) resold intrastate toll service.

522           ~~[(24)]~~ (26) "Telephone line" includes all conduits, ducts, poles, wires, cables,  
523 instruments, and appliances, and all other real estate, fixtures, and personal property owned,  
524 controlled, operated, or managed in connection with or to facilitate communication by  
525 telephone whether that communication is had with or without the use of transmission wires.

526           ~~[(25)]~~ (27) "Transportation of persons" includes every service in connection with or  
527 incidental to the safety, comfort, or convenience of the person transported, and the receipt,  
528 carriage, and delivery of that person and that person's baggage.

529           ~~[(26)]~~ (28) "Transportation of property" includes every service in connection with or  
530 incidental to the transportation of property, including in particular its receipt, delivery,  
531 elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and  
532 hauling, and the transmission of credit by express companies.

533           ~~[(27)]~~ (29) "Water corporation" includes every corporation and person, their lessees,  
534 trustees, and receivers, owning, controlling, operating, or managing any water system for  
535 public service within this state. It does not include private irrigation companies engaged in  
536 distributing water only to their stockholders, or towns, cities, counties, water conservancy  
537 districts, improvement districts, or other governmental units created or organized under any  
538 general or special law of this state.

539           ~~[(28)]~~ (30) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes,  
540 headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures,  
541 and personal property owned, controlled, operated, or managed in connection with or to  
542 facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage,  
543 appointment, apportionment, or measurement of water for power, fire protection, irrigation,  
544 reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

545           (b) "Water system" does not include private irrigation companies engaged in  
546 distributing water only to their stockholders.

547           ~~[(29)]~~ (31) "Wholesale electrical cooperative" includes every electrical corporation that  
548 is:

549           (a) in the business of the wholesale distribution of electricity it has purchased or  
550 generated to its members and the public; and

551           (b) required to distribute or allocate savings in excess of additions to reserves and  
552 surplus to members or patrons on the basis of patronage.

553 Section 8. Section **54-12-1** is amended to read:

554 **54-12-1. Legislative policy.**

555 (1) The Legislature declares that in order to promote the more rapid development of  
556 new sources of electrical energy, to maintain the economic vitality of the state through the  
557 continuing production of goods and the employment of its people, and to promote the efficient  
558 utilization and distribution of energy, it is desirable and necessary to encourage independent  
559 energy producers to competitively develop sources of electric energy not otherwise available to  
560 Utah businesses, residences, and industries served by electrical corporations, and to remove  
561 unnecessary barriers to energy transactions involving independent energy producers and  
562 electrical corporations.

563 (2) It is the policy of this state to encourage the development of [~~small~~] independent  
564 and qualifying power production and cogeneration facilities, to promote a diverse array of  
565 economical and permanently sustainable energy resources in an environmentally acceptable  
566 manner, and to conserve our finite and expensive energy resources and provide for their most  
567 efficient and economic utilization.

568 Section 9. Section **54-12-2** is amended to read:

569 **54-12-2. Purchase of power from qualifying power producers.**

570 (1) Purchasing utilities shall offer to purchase power from [~~independent energy~~]  
571 qualifying power producers.

572 (2) The commission shall establish reasonable rates, terms, and conditions for the  
573 purchase or sale of electricity or electrical generating capacity, or both, between a purchasing  
574 utility and [~~an independent energy~~] a qualifying power producer. In establishing these rates,  
575 terms, and conditions, the commission shall either establish a procedure under which [~~small~~]  
576 qualifying power producers [~~and cogenerators~~] offer competitive bids for the sale of power to  
577 purchasing utilities or devise an alternative method which considers the purchasing utility's  
578 avoided costs. The capacity component of avoided costs shall reflect the purchasing utility's  
579 long-term deferral or cancellation of generating units which may result from the purchase of  
580 power from [~~independent energy~~] qualifying power producers.

581 (3) Purchasing utilities and [~~independent energy~~] qualifying power producers may  
582 agree to rates, terms, or conditions for the sale of electricity or electrical capacity which differ  
583 from the rates, terms, and conditions adopted by the commission under Subsection (2).

584 (4) The commission may adopt further rules which encourage the development of  
585 small power production and cogeneration facilities.

586 Section 10. Section **54-12-3** is amended to read:

587 **54-12-3. Recovery of investment costs.**

588 The commission may not consider any purchasing utility's purchase of power from [~~an~~  
589 ~~independent energy~~] a qualifying power producer as a reason for disallowing recovery of the  
590 purchasing utility's investment costs for facilities which are in use prior to signing a contract  
591 for the purchase of power from [~~an independent energy~~] a qualifying power producer.

592 Section 11. Section **54-17-201** is amended to read:

593 **54-17-201. Solicitation process required -- Exception.**

594 (1) (a) An affected electrical utility shall comply with this chapter to acquire or  
595 construct a significant energy resource after February 25, 2005.

596 (b) Notwithstanding Subsection (1)(a), this chapter does not apply to a significant  
597 energy resource for which the affected electrical utility has issued a solicitation before February  
598 25, 2005.

599 (2) (a) Except as provided in Subsection (3), to acquire or construct a significant  
600 energy resource, an affected electrical utility shall conduct a solicitation process that is  
601 approved by the commission.

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

604 (i) a description of the solicitation process the affected electrical utility will use;

605 (ii) a complete proposed solicitation; and

606 (iii) any other information the commission requires by rule made in accordance with  
607 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

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

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

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

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

615 located in this state;

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

617 (C) risk;

618 (D) reliability;

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

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

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

622 (i) may hold a public hearing; and

623 (ii) shall provide an opportunity for public comment.

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

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

631 (i) approve a proposed solicitation process;

632 (ii) suggest modifications to a proposed solicitation process; or

633 (iii) reject a proposed solicitation process.

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

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

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

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

645 Section 12. Section **54-17-302** is amended to read:

646 **54-17-302. Approval of a significant energy resource decision required.**

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

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

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

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

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

661 (3) In ruling on a request for approval of a significant energy resource decision, the  
662 commission shall determine whether the significant energy resource decision:

663 (a) is reached in compliance with this chapter and rules made in accordance with Title  
664 63, Chapter 46a, Utah Administrative Rulemaking Act;

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

667 (ii) is reached after the waiver of the solicitation process as provided in Subsection  
668 54-17-201(3); and

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

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

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

674 (iii) risk;

675 (iv) reliability;

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

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

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

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

683 (a) approve the significant energy resource decision;

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

686 (c) disapprove the significant energy resource decision.

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

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

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

691 (7) Notwithstanding any other provision of this part, an affected electrical utility may  
692 acquire a significant energy resource without obtaining approval pursuant to this section if it  
693 obtains a waiver of the requirement for approval in accordance with Section 54-17-501.

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

697 Section 13. Section **54-17-303** is amended to read:

698 **54-17-303. Cost recovery.**

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

703 (i) relevant to the proceeding;

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

706 (iii) up to the projected costs specified in the commission's order issued under Section  
707 54-17-302.

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

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

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

718 ~~(b)~~ (c) Except to the extent that the commission enters an order under Section  
719 54-17-304, an increase from the projected costs specified in the commission's order issued  
720 under Section 54-17-302 shall be subject to review by the commission as part of a rate hearing  
721 under Section 54-7-12.

722 (2) (a) Subsequent to the commission issuing an order described in Subsection (2)(a)(i)  
723 or (ii), the commission may disallow some or all costs incurred in connection with an  
724 approved significant energy resource decision if the commission finds that an affected  
725 electrical utility's actions in implementing an approved significant energy resource decision are  
726 not prudent because of new information or changed circumstances that occur after:

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

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

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

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

737 Section 14. Section **54-17-502** is enacted to read:

738 **54-17-502. Renewable energy source -- Solicitation -- Consultant.**



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

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

748 (ii) A solicitation for a renewable energy source issued by January 31, 2008 for up to  
749 99 megawatts satisfies the requirement of this Subsection (2) for the year 2008 if:

750 (A) not later than 30 days after the day on which this section takes effect, the affected  
751 electrical utility amends the solicitation or initiates a new solicitation to seek bids for  
752 renewable energy source projects up to 300 megawatts in size; and

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

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

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

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

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

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

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

770 resource during the following year.

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

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

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

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

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

786 (b) The commission and the consultant shall use all reasonable efforts to not delay the  
787 solicitation process.

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

791 (5) (a) The commission and the consultant shall execute a contract approved by the  
792 commission with terms and conditions approved by the commission.

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

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

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

800 (6) (a) Nothing in this section precludes an affected electrical utility from constructing

801 or acquiring any renewable energy source project outside the solicitation process provided for  
802 in this section, including purchasing electricity from any renewable energy source project that  
803 chooses to self-certify as a qualifying facility under the federal Public Utility Regulatory  
804 Policies Act of 1978.

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

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

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

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

820 Section 15. Section **54-17-601** is enacted to read:

821 **Part 6. Carbon Emission Reductions for Electrical Corporations**

822 **54-17-601. Definitions.**

823 As used in this part:

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

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

829 (b) the amount of those kilowatt-hours attributable to electricity generated or purchased  
830 in that calendar year from generation located within the geographic boundary of the Western  
831 Electricity Coordinating Council that derives its energy from one or more of the following but

832 that does not satisfy the definition of a renewable energy source or that otherwise has not been  
833 used to satisfy Subsection 54-17-602(1):

834 (i) wind energy;

835 (ii) solar photovoltaic and solar thermal energy;

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

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

840 (A) organic waste;

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

843 (C) agricultural residues;

844 (D) dedicated energy crops; and

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

847 (v) geothermal energy;

848 (vi) hydroelectric energy; or

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

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

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

862 (3) "Banked renewable energy certificate" means a bundled or unbundled renewable

863 energy certificate that is:

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

866 (b) carried forward into a subsequent year.

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

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

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

873 (5) "Electrical corporation":

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

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

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

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

880 (b) reduces carbon dioxide emissions into the atmosphere through permanent  
881 geological sequestration or through another verifiably permanent reduction in carbon dioxide  
882 emissions through the use of technology.

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

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

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

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

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

893 (a) means a generation facility located within the geographic boundary of the Western

894 Electricity Coordinating Council that:

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

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

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

898 (c) does not include renewable energy sources used to satisfy the requirement

899 established under Subsection 54-17-602(1).

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

901 (10) "Renewable energy source" means:

902 (a) an electric generation facility or generation capability or upgrade that becomes

903 operational on or after January 1, 1995 that derives its energy from one or more of the

904 following:

905 (i) wind energy;

906 (ii) solar photovoltaic and solar thermal energy;

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

908 (iv) except for combustion of wood that has been treated with chemical preservatives

909 such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass

910 byproducts, including:

911 (A) organic waste;

912 (B) forest or rangeland woody debris from harvesting or thinning conducted to improve

913 forest or rangeland ecological health and to reduce wildfire risk;

914 (C) agricultural residues;

915 (D) dedicated energy crops; and

916 (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic

917 digesters, or municipal solid waste;

918 (v) geothermal energy located outside the state;

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

920 (vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon

921 which the facility became operational, if the upgrades become operational on or after January

922 1, 1995;

923 (b) any of the following:

924 (i) up to 50 average megawatts of electricity per year per electrical corporation from a

925 certified low-impact hydroelectric facility, without regard to the date upon which the facility  
926 becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after  
927 January 1, 1995, by a national certification organization;

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

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

932 (c) hydrogen gas derived from any source of energy described in Subsection (10)(a) or  
933 (b);

934 (d) if an electric generation facility employs multiple energy sources, that portion of the  
935 electricity generated that is attributable to energy sources described in Subsections (10)(a)  
936 through (c); and

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

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

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

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

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

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

956 net-metered energy; and

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

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

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

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

965 Section 16. Section **54-17-602** is enacted to read:

966 **54-17-602. Target amount of qualifying electricity -- Renewable energy certificate**  
967 **-- Cost-effectiveness -- Cooperatives.**

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

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

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

977 (i) 17,500 megawatt-hours; or

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

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

982 (b) For an electrical corporation that is a cooperative association, cost effectiveness is  
983 determined using criteria applicable to the cooperative association's acquisition of a significant  
984 energy resource established by the cooperative association's board of directors.

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

986 (a) substitute qualifying electricity for electricity from a generation source owned or



987 contractually committed, or from a contractual commitment for a power purchase;

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

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

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

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

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

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

1000 (5) For an electrical corporation whose rates the commission regulates, the following  
1001 rules concerning renewable energy certificates apply:

1002 (a) a banked renewable energy certificate with an older issuance date shall be used  
1003 before any other banked renewable energy certificate issued at a later date is used; and

1004 (b) the total of all unbundled renewable energy certificates, including unbundled  
1005 banked renewable energy certificates, may not exceed 20% of the amount of the annual target  
1006 provided for in Subsection (1).

1007 (6) An electrical corporation that is a cooperative association may count towards  
1008 Subsection (1) any of the following:

1009 (a) electric production allocated to this state from hydroelectric facilities becoming  
1010 operational after December 31, 2007 if the facilities are located in any state in which the  
1011 cooperative association, or a generation and transmission cooperative with which the  
1012 cooperative association has a contract, provides electric service;

1013 (b) qualifying electricity generated or acquired or renewable energy certificates  
1014 acquired for a program that permits a retail customer to voluntarily contribute to a renewable  
1015 energy source; and

1016 (c) notwithstanding Subsection 54-17-601(7), an unbundled renewable energy  
1017 certificate purchased from a renewable energy source located outside the geographic boundary

1018 of the Western Electricity Coordinating Council if the electricity on which the unbundled  
1019 renewable energy certificate is based would be considered qualifying electricity if the  
1020 renewable energy source was located within the geographic boundary of the Western  
1021 Electricity Coordinating Council.

1022 (7) The use of the renewable attributes associated with qualifying electricity to satisfy  
1023 any federal renewable energy requirement does not preclude the electricity from being  
1024 qualifying electricity for the purpose of this chapter.

1025 Section 17. Section **54-17-603** is enacted to read:

1026 **54-17-603. Renewable energy certificate -- Issuance -- Use to satisfy other**  
1027 **requirements.**

1028 (1) The commission shall establish a process for issuance or recognition of a renewable  
1029 energy certificate.

1030 (2) The commission process under Subsection (1) shall provide for the issuance,  
1031 monitoring, accounting, transfer, and use of a renewable energy certificate, including in  
1032 electronic form.

1033 (3) The commission:

1034 (a) may consult with another state or a federal agency and any regional system or  
1035 trading program to fulfil Subsection (1); and

1036 (b) allow use of a renewable energy certificate that is issued, monitored, accounted for,  
1037 or transferred by or through a regional system or trading program, including the Western  
1038 Renewable Energy Generation Information system, to fulfil this part's provisions.

1039 (4) A renewable energy certificate shall be issued for:

1040 (a) qualifying electricity generated on and after January 1, 1995; and

1041 (b) the activities of an energy user described in Subsections 10-19-102(11)(e) and  
1042 54-17-601(10)(e) on and after January 1, 1995.

1043 (5) The person requesting a renewable energy certificate shall affirm that the renewable  
1044 energy attributes of the electricity have not been traded, sold, transferred, or otherwise used to  
1045 satisfy another state's renewable energy requirements.

1046 (6) (a) For the purpose of satisfying Subsection 54-17-602(1) and the issuance of a  
1047 renewable energy certificate under this section, a renewable energy source located in this state  
1048 that derives its energy from solar photovoltaic or solar thermal energy shall be credited for 2.4

1049 kilowatt-hours of qualifying electricity for each 1.0 kilowatt-hour generated.

1050 (b) Notwithstanding Subsection (6)(a), the acquisition or construction by an electrical  
1051 corporation of a renewable energy source that derives its energy from solar photovoltaic or  
1052 solar thermal energy shall comply with the cost-effectiveness criteria of Subsection  
1053 54-17-201(2)(c)(ii).

1054 (7) A renewable energy certificate issued under this section:

1055 (a) does not expire; and

1056 (b) may be banked.

1057 (8) The commission may recognize a renewable energy certificate that is issued,  
1058 monitored, accounted for, or transferred by or through another state or a regional system or  
1059 trading program, including the Western Renewable Energy Generation Information System, if  
1060 the renewable energy certificate is for qualifying electricity.

1061 (9) A renewable energy certificate:

1062 (a) may be used only once to satisfy Subsection 54-17-602(1);

1063 (b) may be used for the purpose of Subsection 54-17-602(1) and the qualifying  
1064 electricity on which the renewable energy certificate is based may be used to satisfy any federal  
1065 renewable energy requirement; and

1066 (c) may not be used if it has been used to satisfy any other state's renewable energy  
1067 requirement.

1068 (10) The commission shall establish procedures and reasonable rates permitting an  
1069 electrical corporation that is a purchasing utility under Section 54-12-2 to acquire or retain a  
1070 renewable energy certificate associated with the purchase of power from an independent energy  
1071 producer.

1072 Section 18. Section **54-17-604** is enacted to read:

1073 **54-17-604. Plans and reports.**

1074 (1) An electrical corporation shall develop and maintain a plan for implementing  
1075 Subsection 54-17-602(1), consistent with the cost-effectiveness criteria of Subsection  
1076 54-17-201(2)(c)(ii).

1077 (2) (a) A progress report concerning a plan under Subsection (1) for other than a  
1078 cooperative association shall be filed with the commission by January 1 of each of the years  
1079 2010, 2015, 2020, and 2024.

1080 (b) For an electrical corporation that is a cooperative association, a progress report  
1081 shall be filed with the cooperative association's board of directors by January 1 of each of the  
1082 years 2010, 2015, 2020, and 2024.

1083 (3) The progress report under Subsection (2) shall contain:

1084 (a) the actual and projected amount of qualifying electricity through 2025;

1085 (b) the source of qualifying electricity;

1086 (c) (i) an analysis of the cost-effectiveness of renewable energy sources for other than a  
1087 cooperative association; or

1088 (ii) an estimate of the cost of achieving the target for an electrical corporation that is a  
1089 cooperative association;

1090 (d) a discussion of conditions impacting the renewable energy source and qualifying  
1091 electricity markets;

1092 (e) any recommendation for a suggested legislative or program change; and

1093 (f) for other than a cooperative association, any other information requested by the  
1094 commission or considered relevant by the electrical corporation.

1095 (4) The plan and progress report required by Subsections (1) and (2) may include  
1096 procedures that will be used by the electrical corporation to identify and select any renewable  
1097 energy resource and qualifying electricity that satisfy the criteria of Subsection  
1098 54-17-201(2)(c)(ii).

1099 (5) By July 1, 2026, each electrical corporation shall file a final progress report  
1100 demonstrating:

1101 (a) how Subsection 54-17-602(1) is satisfied for the year 2025; or

1102 (b) the reason why Subsection 54-17-602(1) is not satisfied for the year 2025, if it is  
1103 not satisfied.

1104 (6) By January 1 of each of the years 2011, 2016, 2021, and 2025, the Division of  
1105 Public Utilities shall submit to the Legislature a report containing a summary of any progress  
1106 report filed under Subsections (2) through (5).

1107 (7) The summary required by Subsection (6) shall include any recommendation for  
1108 legislative changes.

1109 (8) (a) By July 1, 2027, the commission shall submit to the Legislature a report  
1110 summarizing the final progress reports and recommending any legislative changes.

1111 (b) The 2027 summary may contain a recommendation to the Legislature concerning  
1112 any action to be taken with respect to an electrical corporation that does not satisfy Subsection  
1113 54-17-602(1) for 2025.

1114 (c) The commission shall provide an opportunity for public comment and take  
1115 evidence before recommending any action to be taken with respect to an electrical corporation  
1116 that does not satisfy Subsection 54-17-602(1) for 2025.

1117 (9) If a recommendation containing a penalty for failure to satisfy Subsection  
1118 54-17-602(1) is made under Subsection (8), the proposal shall require that any amount paid by  
1119 an electrical corporation as a penalty be utilized to fund demand-side management for the retail  
1120 customers of the electrical corporation paying the penalty.

1121 (10) A penalty may not be proposed under this section if an electrical corporation's  
1122 failure to satisfy Subsection 54-17-602(1) is due to:

1123 (a) a lack of cost-effective means to satisfy the requirement; or

1124 (b) force majeure.

1125 (11) By July 1, 2026, an electrical corporation that is a cooperative association shall  
1126 file a final progress report demonstrating:

1127 (a) how Subsection 54-17-602(1) is satisfied for the year 2025; or

1128 (b) the reason why Subsection 54-17-602(1) is not satisfied for the year 2025 if it is not  
1129 satisfied.

1130 (12) The plan and any progress report file under this section by an electrical  
1131 corporation that is cooperative association shall be publicly available at the cooperative  
1132 association's office or posted on the cooperative association's website.

1133 Section 19. Section **54-17-605** is enacted to read:

1134 **54-17-605. Recovery of costs for renewable energy activities.**

1135 (1) In accordance with other law, the commission shall include in the retail electric  
1136 rates of an electrical corporation whose rates the commission regulates the state's share of any  
1137 of the costs listed in Subsection (2) that are relevant to the proceeding in which the commission  
1138 is considering the electrical corporation's rates:

1139 (a) if the costs are prudently incurred by the electrical corporation in connection with:

1140 (i) the acquisition of a renewable energy certificate;

1141 (ii) the acquisition of qualifying electricity for which a renewable energy certificate

1142 will be issued after the acquisition; and  
1143 (iii) the acquisition, construction, and use of a renewable energy source; and  
1144 (b) to the extent any qualifying electricity or renewable energy source under Subsection  
1145 (1)(a) satisfies the cost-effectiveness criteria of Subsection 54-17-201(2)(c)(ii).  
1146 (2) The following are costs that may be recoverable under Subsection (1):  
1147 (a) a cost of siting, acquisition of property rights, equipment, design, licensing,  
1148 permitting, construction, owning, operating, or otherwise acquiring a renewable energy source  
1149 and any associated asset, including transmission;  
1150 (b) a cost to acquire qualifying electricity through trade, power purchase, or other  
1151 transfer;  
1152 (c) a cost to acquire a bundled or unbundled renewable energy certificate, if any net  
1153 revenue from the sale of a renewable energy certificate allocable to this state is also included in  
1154 rates;  
1155 (d) a cost to interconnect a renewable energy source to the electrical corporation's  
1156 transmission and distribution system;  
1157 (e) a cost associated with using a physical or financial asset to integrate, firm, or shape  
1158 a renewable energy source on a firm annual basis to meet a retail electricity need; and  
1159 (f) any cost associated with transmission and delivery of qualifying electricity to a  
1160 retail electricity consumer.  
1161 (3) (a) The commission may allow an electrical corporation to use an adjustment  
1162 mechanism or reasonable method other than a rate case under Sections 54-4-4 and 54-7-12 to  
1163 allow recovery of costs identified in Subsection (2).  
1164 (b) If the commission allows the use of an adjustment mechanism, both the costs and  
1165 any associated benefit shall be reflected in the mechanism, to the extent practicable.  
1166 (c) This Subsection (3) creates no presumption for or against the use of an adjustment  
1167 mechanism.  
1168 (4) (a) The commission may permit an electrical corporation to include in its retail  
1169 electric rates the state's share of costs prudently incurred by the electrical corporation in  
1170 connection with a renewable energy source, whether or not the renewable energy source  
1171 ultimately becomes operational, including costs of:  
1172 (i) siting;

1173 (ii) property acquisition;

1174 (iii) equipment;

1175 (iv) design;

1176 (v) licensing;

1177 (vi) permitting; and

1178 (vii) other reasonable items related to the renewable energy source.

1179 (b) Subsection (4)(a) creates no presumption concerning the prudence or recoverability  
1180 of the costs identified.

1181 (c) To the extent deferral is consistent with other applicable law, the commission may  
1182 allow an electrical corporation to defer costs recoverable under Subsection (4)(a) until the  
1183 recovery of the deferred costs can be considered in a rate proceeding or an adjustment  
1184 mechanism created under Subsection (3).

1185 (d) An application to defer costs shall be filed within 60 days after the day on which  
1186 the electrical corporation determines that the renewable energy source project is impaired under  
1187 generally accepted accounting principles and will not become operational.

1188 (e) Notwithstanding the opportunity to defer costs under Subsection (4)(c), a cost  
1189 incurred by an electrical corporation for siting, property acquisition, equipment, design,  
1190 licensing, and permitting of a renewable energy source that the electrical corporation proposes  
1191 to construct shall be included in the electrical corporation's project costs for the purpose of  
1192 evaluating the project's cost-effectiveness.

1193 (f) A deferred cost under Subsection (4)(a) may not be added to, or otherwise  
1194 considered in the evaluation of, the cost of a project proposed by any person other than the  
1195 electrical corporation for the purpose of evaluating that person's proposal.

1196 Section 20. Section **54-17-606** is enacted to read:

1197 **54-17-606. Commission rules.**

1198 The commission shall make rules as necessary to implement this part.

1199 Section 21. Section **54-17-607** is enacted to read:

1200 **54-17-607. Procedure and appeals under this chapter.**

1201 (1) The governing authority, as defined in Section 54-15-102, has primary jurisdiction  
1202 concerning issues of interpretation, implementation, and administration of this chapter.

1203 (2) An appeal of a commission order under this chapter is governed by Chapter 7,

1204 Hearings, Practice, and Procedure.

1205 Section 22. Section **54-17-701** is enacted to read:

1206 **Part 7. Carbon Sequestration**

1207 **54-17-701. Rules for carbon capture and geological storage.**

1208 (1) By January 1, 2011, the Division of Water Quality and the Division of Air Quality,  
1209 on behalf of the Board of Water Quality and the Board of Air Quality, respectively, in  
1210 collaboration with the commission and the Division of Oil, Gas and Mining and the Utah  
1211 Geological Survey, shall present recommended rules to the Legislature's Administrative Rules  
1212 Review Committee for the following in connection with carbon capture and accompanying  
1213 geological sequestration of captured carbon:

1214 (a) site characterization approval;

1215 (b) geomechanical, geochemical, and hydrogeological simulation;

1216 (c) risk assessment;

1217 (d) mitigation and remediation protocols;

1218 (e) issuance of permits for test, injection, and monitoring wells;

1219 (f) specifications for the drilling, construction, and maintenance of wells;

1220 (g) issues concerning ownership of subsurface rights and pore space;

1221 (h) allowed composition of injected matter;

1222 (i) testing, monitoring, measurement, and verification for the entirety of the carbon  
1223 capture and geologic sequestration chain of operations, from the point of capture of the carbon  
1224 dioxide to the sequestration site;

1225 (j) closure and decommissioning procedure;

1226 (k) short- and long-term liability and indemnification for sequestration sites;

1227 (l) conversion of enhanced oil recovery operations to carbon dioxide geological  
1228 sequestration sites; and

1229 (m) other issues as identified.

1230 (2) The entities listed in Subsection (1) shall report to the Legislature's Administrative  
1231 Rules Review Committee any proposals for additional statutory changes needed to implement  
1232 rules contemplated under Subsection (1).

1233 (3) On or before July 1, 2009, the entities listed in Subsection (1) shall submit to the  
1234 Legislature's Public Utilities and Technology and Natural Resources, Agriculture, and



1235 Environment Interim Committees a progress report on the development of the recommended  
1236 rules required by this part.

1237 (4) The recommended rules developed under this section apply to the injection of  
1238 carbon dioxide and other associated injectants in allowable types of geological formations for  
1239 the purpose of reducing emissions to the atmosphere through long-term geological  
1240 sequestration as required by law or undertaken voluntarily or for subsequent beneficial reuse.

1241 (5) The recommended rules developed under this section do not apply to the injection  
1242 of fluids through the use of Class II injection wells as defined in 40 C.F.R. 144.69(b) for the  
1243 purpose of enhanced hydrocarbon recovery.

1244 (6) Rules recommended under this section shall:

1245 (a) ensure that adequate health and safety standards are met;

1246 (b) minimize the risk of unacceptable leakage from the injection well and injection  
1247 zone for carbon capture and geologic sequestration; and

1248 (c) provide adequate regulatory oversight and public information concerning carbon  
1249 capture and geologic sequestration.

1250 **Section 23. Effective date.**

1251 If approved by two-thirds of all the members elected to each house, this bill takes effect  
1252 upon approval by the governor, or the day following the constitutional time limit of Utah  
1253 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
1254 the date of veto override.

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**Fiscal Note**

**S.B. 202 1st Sub. (Green) - Energy Resource and Carbon Emission Reduction Initiative**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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