

## HB0194S01 compared with HB0194

~~deleted text~~ shows text that was in HB0194 but was deleted in HB0194S01.

inserted text shows text that was not in HB0194 but was inserted into HB0194S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Raymond P. Ward proposes the following substitute bill:

### CLEAN AND RENEWABLE ENERGY REQUIREMENT

#### AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Raymond P. Ward**

Senate Sponsor: ~~\_\_\_\_\_~~ Curtis S. Bramble

---

---

#### LONG TITLE

##### General Description:

This bill modifies provisions relating to clean energy requirements for certain electrical corporations.

##### Highlighted Provisions:

This bill:

- ▶ requires that, on or after a certain date, a certain percentage of a large-scale electric utility's annual retail sales come from qualifying clean electricity if compliance is cost effective;
- ▶ amends provisions relating to the issuance, expiration, and use of renewable energy certificates;

## HB0194S01 compared with HB0194

- ▶ amends and requires plans and reports concerning a large-scale electric utility's progress in acquiring qualifying electricity and qualifying clean electricity; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**54-17-601**, as last amended by Laws of Utah 2010, Chapters 119, 125, and 268

**54-17-602**, as enacted by Laws of Utah 2008, Chapter 374

**54-17-603**, as last amended by Laws of Utah 2009, Chapter 140

**54-17-604**, as enacted by Laws of Utah 2008, Chapter 374

**54-17-605**, as enacted by Laws of Utah 2008, Chapter 374

**54-17-903**, as enacted by Laws of Utah 2019, Chapter 471

**54-17-904**, as enacted by Laws of Utah 2019, Chapter 471

ENACTS:

**54-17-604.5**, Utah Code Annotated 1953

---

---

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

Section 1. Section **54-17-601** is amended to read:

#### **54-17-601. Definitions.**

As used in this part:

(1) ~~["Adjusted"]~~ Until January 1, 2026, "adjusted retail electric sales" means the total kilowatt-hours of retail electric sales of an electrical corporation to customers in this state in a calendar year, reduced by:

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

(b) the amount of those kilowatt-hours attributable to electricity generated or purchased in that calendar year from generation located within the geographic boundary of the Western

## HB0194S01 compared with HB0194

Electricity Coordinating Council that derives its energy from one or more of the following but that does not satisfy the definition of a renewable energy source or that otherwise has not been used to satisfy Subsection 54-17-602(1):

- (i) wind energy;
- (ii) solar photovoltaic and solar thermal energy;
- (iii) wave, tidal, and ocean thermal energy;
- (iv) except for combustion of wood that has been treated with chemical preservatives

such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass byproducts, including:

- (A) organic waste;
- (B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;
- (C) agricultural residues;
- (D) dedicated energy crops; and
- (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;
- (v) geothermal energy;
- (vi) hydroelectric energy; or
- (vii) waste gas and waste heat capture or recovery; and

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

(2) Beginning January 1, 2026, "adjusted retail electric sales" means the total kilowatt-hours of a large-scale electric utility's annual retail electric sales to customers in the state in a calendar year, excluding any load served by a clean energy resource acquired under Part 8, Renewable Energy Contracts.

~~(2)~~ (3) "Amount of kilowatt-hours attributable to electricity generated or purchased in that calendar year from qualifying carbon sequestration generation," for qualifying carbon sequestration generation, means the kilowatt-hours supplied by a facility during the calendar

## HB0194S01 compared with HB0194

year multiplied by the ratio of the amount of carbon dioxide captured from the facility and sequestered to the sum of the amount of carbon dioxide captured from the facility and sequestered plus the amount of carbon dioxide emitted from the facility during the same calendar year.

~~(3)~~(4) "Banked renewable energy certificate" means a bundled or unbundled renewable energy certificate that is:

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

(b) carried forward into a subsequent year.

~~(4)~~(5) "Bundled renewable energy certificate" means a renewable energy certificate for qualifying electricity that is acquired:

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

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

~~(5)~~(6) "Clean energy source" means:

(a) an electric generation facility or generation capability or upgrade that derives its energy from one or more of the following:

(i) wind energy;

(ii) solar photovoltaic and solar thermal energy;

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

(iv) geothermal energy;

(v) hydroelectric energy;

(vi) nuclear energy;

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

(viii) waste gas and waste heat capture or recovery, whether or not it is renewable, including methane gas from:

(A) an abandoned coal mine; or

(B) a coal degassing operation associated with a state-approved mine permit; or

(ix) municipal solid waste;

## HB0194S01 compared with HB0194

(b) hydrogen gas derived from any source of energy described in Subsection ~~(576)~~(a);

(c) if an electric generation facility employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in Subsections ~~(576)~~(a) and (b); and

(d) electricity generated or purchased from qualifying carbon sequestration generation.

~~(5)~~ ~~(677)~~ "Electrical corporation":

(a) ~~[is as]~~ means the same as that term is defined in Section 54-2-1; and

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

~~(6)~~ ~~(778)~~ "Qualifying carbon sequestration generation" means a fossil-fueled generating facility located within the geographic boundary of the Western Electricity Coordinating Council that:

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

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

~~(89)~~ "Qualifying clean electricity" means electricity generated from a clean energy source if:

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

(ii) the electricity is delivered to:

(A) the transmission system of an electrical corporation; or

(B) a delivery point designated by the electrical corporation for the purpose of subsequent delivery to the electrical corporation; ~~and~~

(b) the clean energy attributes of the electricity are not traded, sold, transferred, or ~~otherwise~~ used to satisfy another state's renewable, zero carbon energy, or clean energy program; and

(c) the clean energy source was not acquired under Part 8, Renewable Energy Contracts.

~~(7)~~ ~~(910)~~ "Qualifying electricity" means electricity generated on or after January 1, 1995 from a renewable energy source if:

(a) (i) the renewable energy source is located within the geographic boundary of the

## HB0194S01 compared with HB0194

Western Electricity Coordinating Council; or

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

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

~~[(8)]~~ ~~(~~10~~;11)~~ "Qualifying zero carbon emissions generation":

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

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

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

(b) includes generation powered by nuclear fuel; and

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

~~[(9)]~~ ~~(~~11~~;12)~~ "Renewable energy certificate" means a certificate issued under Section 54-17-603.

~~[(10)]~~ ~~(~~12~~;13)~~ "Renewable energy source" means:

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

(i) wind energy;

(ii) solar photovoltaic and solar thermal energy;

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

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

(A) organic waste;

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

(C) agricultural residues;

(D) dedicated energy crops; and

## HB0194S01 compared with HB0194

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

(v) geothermal energy located outside the state;

(vi) waste gas and waste heat capture or recovery whether or not it is renewable, including methane gas from:

(A) an abandoned coal mine; or

(B) a coal degassing operation associated with a state-approved mine permit;

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

(viii) compressed air, if:

(A) the compressed air is taken from compressed air energy storage; and

(B) the energy used to compress the air is a renewable energy source; or

(ix) municipal solid waste;

(b) any of the following:

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

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

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

(c) hydrogen gas derived from any source of energy described in Subsection [~~(10)~~ (12;13)](a) or (b);

(d) if an electric generation facility employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in Subsections [~~(10)~~ (12;13)](a) through (c); and

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

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

## HB0194S01 compared with HB0194

equivalent energy saved by the measure;

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

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

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

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

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

[(11)] ~~(13)~~ 14 "Unbundled renewable energy certificate" means a renewable energy certificate associated with:

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

(b) activities listed in Subsection [(10)] ~~(12)~~ 13(e).

Section 2. Section **54-17-602** is amended to read:

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

(1) (a) To the extent that it is cost effective to do so and unless Subsection (3) applies, beginning in 2025 the annual retail electric sales in this state of each electrical corporation shall consist of qualifying electricity or renewable energy certificates in an amount equal to at least



## HB0194S01 compared with HB0194

20% of adjusted retail electric sales.

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

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

(i) 17,500 megawatt-hours; or

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

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

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

(3) (a) Beginning July 1, 2030, at least 50% of the total kilowatt-hours of a large-scale electric utility's annual **adjusted** retail electric sales to customers in the state in a calendar year shall consist of qualifying clean electricity or renewable energy certificates to the extent that it is cost effective to do so.

(b) A large-scale electric utility's annual **adjusted** retail electric sales to customers computed under Subsection (3)(a) is based upon annual **adjusted** retail electric sales for the calendar year commencing 36 months before the first day of the year for which the target calculated under Subsection (3)(a) applies.

(c) Cost-effectiveness under Subsection (3)(a) of acquiring qualifying clean electricity means that, on a life-cycle basis and taking into account the long-term risks, the present value of the long-term costs of acquiring qualifying clean electricity is less than or equal to the present value of the long-term costs of other electricity resource options.

(d) (i) A large-scale electric utility and a county or municipality participating in a community renewable energy program, as defined in Section 54-17-902, may agree on how the clean energy standard under Subsection (3)(a) interacts with the community renewable energy program.

(ii) An agreement under Subsection (3)(d)(i) shall be incorporated into the agreement

## HB0194S01 compared with HB0194

under Subsection 54-17-903(2)(b).

(iii) If the large-scale electric utility and county or municipality are unable to agree as provided in Subsection (3)(d)(i), the commission shall determine the interaction as provided in Subsection 54-17-904(4).

~~[(3)]~~ (4) This section does not require an electrical corporation to:

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

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

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

~~[(4)]~~ (5)(a) For the purpose of Subsection (1), an electrical corporation may combine the following:

~~[(a)]~~ (i) qualifying electricity from a renewable energy source owned by the electrical corporation;

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

~~[(c)]~~ (iii) a bundled or unbundled renewable energy certificate, including a banked renewable energy certificate.

(b) For the purpose of Subsection (3), a large-scale electric utility may combine the following:

(i) qualifying clean electricity from a clean energy source owned by the large-scale electric utility;

(ii) qualifying clean electricity acquired by the large-scale electric utility through trade, power purchase, or other transfer; and

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

~~[(5)]~~ (6) For an electrical corporation whose rates the commission regulates, the following rules concerning renewable energy certificates apply:

(a) a banked renewable energy certificate with an older issuance date shall be used

## HB0194S01 compared with HB0194

before any other banked renewable energy certificate issued at a later date is used; and

(b) the total of all unbundled renewable energy certificates, including unbundled banked renewable energy certificates, may not [~~exceed~~] be used to satisfy more than 20% of the amount of the annual target provided for in Subsection (1) or (3).

~~[(6)] (7)~~ An electrical corporation that is a cooperative association may count towards Subsection (1) any of the following:

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

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

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

~~[(7)] (8)~~ (a) The use of the renewable attributes associated with qualifying electricity to satisfy any federal renewable energy requirement does not preclude the electricity from being qualifying electricity for the purpose of this chapter.

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

Section 3. Section **54-17-603** is amended to read:

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

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

(2) The commission process under Subsection (1) shall provide for the issuance,

## HB0194S01 compared with HB0194

monitoring, accounting, transfer, and use of a renewable energy certificate, including in electronic form.

(3) The commission may:

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

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

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

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

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

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

(6) (a) For the purpose of satisfying Subsection 54-17-602(1) and the issuance of a renewable energy certificate under this section before January 1, 2021, a renewable energy source located in this state that derives its energy from solar photovoltaic or solar thermal energy shall be credited for 2.4 kilowatt-hours of qualifying electricity for each 1.0 kilowatt-hour generated.

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

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

~~[(a) does not expire; and]~~

(a) expires three years after the date that it was issued; and

(b) may be banked.

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

## HB0194S01 compared with HB0194

the renewable energy certificate is for qualifying electricity.

(9) A renewable energy certificate:

(a) may be used only once to satisfy Subsection 54-17-602(1) or (3);

(b) may be used for the purpose of Subsection 54-17-602(1) or (3) and the qualifying electricity on which the renewable energy certificate is based may be used to satisfy any federal renewable energy requirement; and

(c) may not be used if it has been used to satisfy ~~(c)~~

~~(i) any other state's renewable energy or clean energy requirement ~~(i)~~; ~~(i)~~; or~~

~~(ii) a requirement of participating in a community renewable energy program under Chapter 17, Part 9, Community Renewable Energy Act.~~

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

Section 4. Section **54-17-604** is amended to read:

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

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

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

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

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

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

(b) the source of qualifying electricity;

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

(ii) an estimate of the cost of achieving the target for an electrical corporation that is a

## HB0194S01 compared with HB0194

cooperative association;

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

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

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

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

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

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

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

~~[(6)] (5) By January 1 of each of the years 2011[;] and 2016, [2021, and 2025,] the Division of Public Utilities shall submit to the Legislature a report containing a summary of any progress report filed under Subsections (2) through [(5)] (4).~~

~~[(7)] (6) The summary required by Subsection [(6)] (5) shall include any recommendation for legislative changes.~~

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

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

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

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

## HB0194S01 compared with HB0194

~~customers of the electrical corporation paying the penalty.]~~

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

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

~~[(b) force majeure.]~~

~~[(11)]~~ (7) By July 1, 2026, an electrical corporation that is a cooperative association shall file a final progress report demonstrating:

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

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

~~[(12)]~~ (8) The plan and any progress report ~~[file]~~ filed under this section by an electrical corporation that is a cooperative association shall be publicly available at the cooperative association's office or posted on the cooperative association's website.

Section 5. Section ~~54-17-604.5~~ is enacted to read:

### **54-17-604.5. Plans and reports.**

(1) A large-scale electric utility that is required to comply with the requirement in Subsection 54-17-602(3) shall:

(a) develop and maintain a plan for implementing Subsection 54-17-602(3), consistent with the cost-effectiveness standard described in Subsection 54-17-602(3)(c); and

(b) by May 1, 2026, file with the commission a progress report concerning a plan under Subsection (1)(a).

(2) The progress report under Subsection (1)(b) shall contain:

(a) the actual and projected amount of qualifying clean electricity through 2030;

(b) the source of qualifying clean electricity;

(c) an analysis of the cost-effectiveness of clean energy sources;

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

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

(f) a final progress report demonstrating:

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

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

## HB0194S01 compared with HB0194

not satisfied; and

(g) any other information requested by the commission or considered relevant by the large-scale electric utility.

(3) By November 1, 2026, the commission shall, after taking public comment and evidence, submit to the Legislature a report summarizing the progress reports and public comments and recommending any legislative changes.

(4) By May 1, 2031, a large-scale electric utility that is required to comply with Subsection 54-17-602(3) shall file a final progress report to the commission demonstrating:

(a) how Subsection 54-17-602(3) is satisfied for the year 2030; or

(b) the reason why Subsection 54-17-602(3) is not satisfied for the year 2030, if it is not satisfied.

(5) (a) By November 1, 2031, the commission, after taking public comment and evidence, shall submit to the Legislature a report summarizing the final progress reports, public comment and evidence, and recommending any legislative changes.

(b) The report described in Subsection (5)(a) may contain a recommendation to the Legislature concerning any action to be taken with respect to a large-scale electric utility that is required to comply with Subsection 54-17-602(3) and does not satisfy Subsection 54-17-602(3) for 2030.

(c) The commission shall provide an opportunity for public comment and take evidence before recommending any action to be taken with respect to a large-scale electric utility that is required to comply with Subsection 54-17-602(3) and does not satisfy Subsection 54-17-602(3) for 2030.

Section 6. Section **54-17-605** is amended to read:

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

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

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

(i) the acquisition of a renewable energy certificate;

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



## HB0194S01 compared with HB0194

will be issued after the acquisition; and

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

(b) to the extent any qualifying electricity [~~or~~], renewable energy source, or clean energy source under Subsection (1)(a) satisfies the cost-effectiveness criteria:

(i) [~~of~~] under Subsection 54-17-201(2)(c)(ii)[~~;~~]; or

(ii) under Subsection 54-17-602(3)(c).

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

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

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

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

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

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

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

(3) (a) The commission [~~may~~] shall ~~{;}~~ ~~{~~  
~~— (i) }~~ allow an electrical corporation to use an adjustment mechanism or reasonable method other than a rate case under Sections 54-4-4 and 54-7-12 to allow recovery of costs identified in Subsection (2) ~~{}~~ ~~{; or}~~

~~{ — (ii) allow an electrical corporation to recover costs identified in Subsection (2) by including costs identified in Subsection (2) in rates pursuant to a rate case.~~

~~{~~ (b) [~~If the commission allows the use of an adjustment mechanism, both~~] Both the costs and any associated benefit shall be reflected in the mechanism[~~;~~] or method approved by

## HB0194S01 compared with HB0194

the commission in Subsection (3)(a) to the extent practicable.

~~[(c) This Subsection (3) creates no presumption for or against the use of an adjustment mechanism.]~~

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

- (i) siting;
- (ii) property acquisition;
- (iii) equipment;
- (iv) design;
- (v) licensing;
- (vi) permitting; and
- (vii) other reasonable items related to the renewable energy source.

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

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

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

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

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

## HB0194S01 compared with HB0194

Section 7. Section 54-17-903 is amended to read:

### 54-17-903. Program requirement for a municipality or county.

(1) Customers of a qualified utility may be served by the community renewable energy program described in this part if the municipality or county satisfies the requirements of Subsection (2).

(2) The municipality or county in which the customer resides shall:

(a) adopt a resolution no later than December 31, 2019, that states a goal of achieving an amount equivalent to 100% of the annual electric energy supply for participating customers from a renewable energy resource by 2030;

(b) enter into an agreement with a qualified utility:

(i) with the stipulation of payment by the municipality or county to the qualified utility for the costs of:

(A) third-party expertise contracted for by the division and the office, for assistance with activities associated with initial approval of the community renewable energy program; and

(B) providing notice to the municipality's or county's customers as provided in Section 54-17-905;

(ii) determining the obligation for the payment of any termination charges under Subsection 54-17-905(3) that are not paid by a participating customer and not included in participating customer rates under Subsections 54-17-904(2) and (4); [and]

(iii) identifying any initially proposed replaced asset; and

(iv) if applicable, specifying how the standard under Subsection 54-17-602(3)(a) interacts with the community renewable energy program;

(c) adopt a local ordinance that:

(i) establishes participation in the renewable energy program; and

(ii) is consistent with the terms of the agreement entered into with the qualified utility under Subsection (2)(b); and

(d) comply with any other terms or conditions required by the commission.

(3) The local ordinance required in Subsection (2)(c) shall be adopted by the municipality or county within 90 days after the date of the commission order approving the community renewable energy program.

## HB0194S01 compared with HB0194

Section 8. Section 54-17-904 is amended to read:

### 54-17-904. Authority of commission to approve a community renewable energy program.

(1) After the commission has adopted administrative rules as required under Section 54-17-909, a qualified utility may file an application with the commission for approval of a community renewable energy program.

(2) The application shall include:

(a) the names of each municipality and county to be served by the community renewable energy program;

(b) a map of the geographic boundaries of each municipality and county;

(c) the number of customers served by the qualified utility within those boundaries;

(d) projected rates for participating customers that take into account:

(i) the estimated number of customers expected to participate in the program;

(ii) the quantifiable costs and benefits to the qualified utility and all of the qualified utility's customers in their capacity as ratepayers of the qualified utility, excluding costs or benefits that do not directly affect the qualified utility, including as applicable:

(A) replaced assets;

(B) auxiliary services; and

(C) new renewable energy resources used to serve the community renewable energy program; and

(iii) the ongoing costs at the time of the application;

(e) the agreement entered into with the qualified utility under Section 54-17-903;

(f) a proposed plan established by the participating community addressing low-income programs and assistance;

(g) a proposed solicitation process for the acquisition of renewable energy resources as provided in Section 54-17-908; and

(h) any other information the commission may require by rule.

(3) The commission may approve an application for a community renewable energy program if the commission finds:

(a) the application meets all of the requirements in this section and administrative rules adopted by the commission in accordance with Sections 54-17-908 and 54-17-909 to

## HB0194S01 compared with HB0194

implement this part; and

(b) the community renewable energy program is in the public interest.

(4) In approving an application under this section, the commission shall determine how the clean energy standard in Subsection 54-17-602(3)(a) interacts with the community renewable energy program, if the county or municipality and large-scale electric utility are unable to agree on that interaction.

~~[(4)]~~ (5) The rates approved by the commission for participating customers:

(a) shall be based on the factors included in Subsection (2)(d) and any other factor determined by the commission to be in the public interest;

(b) may not result in any shift of costs or benefits to any nonparticipating customer, or any other customer of the qualified utility beyond the participating community boundaries; and

(c) shall take into account any quantifiable benefits to the qualified utility, and the qualified utility's customers, including participating customers in their capacity as ratepayers of the qualified utility, excluding costs or benefits that do not directly affect the qualified utility's costs of service.

~~[(5)]~~ (6) (a) Each municipality or county included in the application shall be a party to the regulatory proceeding.

(b) A municipality or county identified in the application shall provide information to all relevant parties in accordance with the commission's rules for discovery, notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act.

~~[(6)]~~ (7) The community renewable energy program may not be implemented until after the municipality or county adopts the ordinance required in Section 54-17-903.