

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;
- ▶ 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



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **54-17-601**, as last amended by Laws of Utah 2010, Chapters 119, 125, and 268

29 **54-17-602**, as enacted by Laws of Utah 2008, Chapter 374

30 **54-17-603**, as last amended by Laws of Utah 2009, Chapter 140

31 **54-17-604**, as enacted by Laws of Utah 2008, Chapter 374

32 **54-17-605**, as enacted by Laws of Utah 2008, Chapter 374

33 ENACTS:

34 **54-17-604.5**, Utah Code Annotated 1953



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

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

38 **54-17-601. Definitions.**

39 As used in this part:

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

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

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

51 (i) wind energy;

52 (ii) solar photovoltaic and solar thermal energy;

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

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

- 57 (A) organic waste;
- 58 (B) forest or rangeland woody debris from harvesting or thinning conducted to improve
59 forest or rangeland ecological health and to reduce wildfire risk;
- 60 (C) agricultural residues;
- 61 (D) dedicated energy crops; and
- 62 (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic
63 digesters, or municipal solid waste;
- 64 (v) geothermal energy;
- 65 (vi) hydroelectric energy; or
- 66 (vii) waste gas and waste heat capture or recovery; and
- 67 (c) the number of kilowatt-hours attributable to reductions in retail sales in that
68 calendar year from demand side management as defined in Section 54-7-12.8, with the
69 kilowatt-hours for an electrical corporation whose rates are regulated by the commission and
70 adjusted by the commission to exclude kilowatt-hours for which a renewable energy certificate
71 is issued under Subsection 54-17-603(4)(b).

72 (2) Beginning January 1, 2026, "adjusted retail electric sales" means the total
73 kilowatt-hours of a large-scale electric utility's annual retail electric sales to customers in the
74 state in a calendar year, excluding any load served by a clean energy resource acquired under
75 Sections 54-17-801, 54-17-802, 54-17-803, 54-17-804, 54-17-805, and 54-17-806.

76 ~~[(2)]~~ (3) "Amount of kilowatt-hours attributable to electricity generated or purchased in
77 that calendar year from qualifying carbon sequestration generation," for qualifying carbon
78 sequestration generation, means the kilowatt-hours supplied by a facility during the calendar
79 year multiplied by the ratio of the amount of carbon dioxide captured from the facility and
80 sequestered to the sum of the amount of carbon dioxide captured from the facility and
81 sequestered plus the amount of carbon dioxide emitted from the facility during the same
82 calendar year.

83 ~~[(3)]~~ (4) "Banked renewable energy certificate" means a bundled or unbundled
84 renewable energy certificate that is:

- 85 (a) not used in a calendar year to comply with this part or with a renewable energy
86 program in another state; and
- 87 (b) carried forward into a subsequent year.

88 ~~[(4)]~~ (5) "Bundled renewable energy certificate" means a renewable energy certificate
89 for qualifying electricity that is acquired:

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

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

94 (6) "Clean energy source" means:

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

97 (i) wind energy;

98 (ii) solar photovoltaic and solar thermal energy;

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

100 (iv) geothermal energy;

101 (v) hydroelectric energy;

102 (vi) nuclear energy;

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

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

107 (A) an abandoned coal mine; or

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

109 (ix) municipal solid waste;

110 (b) hydrogen gas derived from any source of energy described in Subsection (6)(a);

111 (c) if an electric generation facility employs multiple energy sources, that portion of the
112 electricity generated that is attributable to energy sources described in Subsections (6)(a) and
113 (b); and

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

115 ~~[(5)]~~ (7) "Electrical corporation":

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

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

118 ~~[(6)]~~ (8) "Qualifying carbon sequestration generation" means a fossil-fueled generating

119 facility located within the geographic boundary of the Western Electricity Coordinating
120 Council that:

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

125 (9) "Qualifying clean electricity" means electricity generated from a clean energy
126 source if:

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

129 (ii) the electricity is delivered to:

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

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

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

135 (c) the clean energy source was not acquired under Sections [54-17-801](#), [54-17-802](#),
136 [54-17-803](#), [54-17-804](#), [54-17-805](#), and [54-17-806](#).

137 [~~7~~] (10) "Qualifying electricity" means electricity generated on or after January 1,
138 1995 from a renewable energy source if:

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

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

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

146 [~~8~~] (11) "Qualifying zero carbon emissions generation":

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

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

150 (ii) does not produce carbon as a byproduct of the generation process;
151 (b) includes generation powered by nuclear fuel; and
152 (c) does not include renewable energy sources used to satisfy the requirement
153 established under Subsection [54-17-602\(1\)](#).

154 [~~9~~] [\(12\)](#) "Renewable energy certificate" means a certificate issued under Section
155 [54-17-603](#).

156 [~~10~~] [\(13\)](#) "Renewable energy source" means:

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

160 (i) wind energy;
161 (ii) solar photovoltaic and solar thermal energy;
162 (iii) wave, tidal, and ocean thermal energy;
163 (iv) except for combustion of wood that has been treated with chemical preservatives
164 such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass
165 byproducts, including:

166 (A) organic waste;
167 (B) forest or rangeland woody debris from harvesting or thinning conducted to improve
168 forest or rangeland ecological health and to reduce wildfire risk;
169 (C) agricultural residues;
170 (D) dedicated energy crops; and
171 (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic
172 digesters, or municipal solid waste;

173 (v) geothermal energy located outside the state;
174 (vi) waste gas and waste heat capture or recovery whether or not it is renewable,
175 including methane gas from:

176 (A) an abandoned coal mine; or
177 (B) a coal degassing operation associated with a state-approved mine permit;
178 (vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon
179 which the facility became operational, if the upgrades become operational on or after January
180 1, 1995;

- 181 (viii) compressed air, if:
- 182 (A) the compressed air is taken from compressed air energy storage; and
- 183 (B) the energy used to compress the air is a renewable energy source; or
- 184 (ix) municipal solid waste;
- 185 (b) any of the following:
- 186 (i) up to 50 average megawatts of electricity per year per electrical corporation from a
- 187 certified low-impact hydroelectric facility, without regard to the date upon which the facility
- 188 becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after
- 189 January 1, 1995, by a national certification organization;
- 190 (ii) geothermal energy if located within the state, without regard to the date upon which
- 191 the facility becomes operational; or
- 192 (iii) hydroelectric energy if located within the state, without regard to the date upon
- 193 which the facility becomes operational;
- 194 (c) hydrogen gas derived from any source of energy described in Subsection [~~(10)~~]
- 195 (13)(a) or (b);
- 196 (d) if an electric generation facility employs multiple energy sources, that portion of the
- 197 electricity generated that is attributable to energy sources described in Subsections [~~(10)~~]
- 198 (13)(a) through (c); and
- 199 (e) any of the following located in the state and owned by a user of energy:
- 200 (i) a demand side management measure, as defined by Subsection 54-7-12.8(1), with
- 201 the quantity of renewable energy certificates to which the user is entitled determined by the
- 202 equivalent energy saved by the measure;
- 203 (ii) a solar thermal system that reduces the consumption of fossil fuels, with the
- 204 quantity of renewable energy certificates to which the user is entitled determined by the
- 205 equivalent kilowatt-hours saved, except to the extent the commission determines otherwise
- 206 with respect to net-metered energy;
- 207 (iii) a solar photovoltaic system that reduces the consumption of fossil fuels with the
- 208 quantity of renewable energy certificates to which the user is entitled determined by the total
- 209 production of the system, except to the extent the commission determines otherwise with
- 210 respect to net-metered energy;
- 211 (iv) a hydroelectric or geothermal facility with the quantity of renewable energy

212 certificates to which the user is entitled determined by the total production of the facility,
213 except to the extent the commission determines otherwise with respect to net-metered energy;

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

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

221 [(H)] (14) "Unbundled renewable energy certificate" means a renewable energy
222 certificate associated with:

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

226 (b) activities listed in Subsection [(H)] (13)(e).

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

228 **54-17-602. Target amount of qualifying electricity -- Renewable energy certificate**
229 **-- Cost-effectiveness -- Cooperatives.**

230 (1) (a) To the extent that it is cost effective to do so and unless Subsection (3) applies,
231 beginning in 2025 the annual retail electric sales in this state of each electrical corporation shall
232 consist of qualifying electricity or renewable energy certificates in an amount equal to at least
233 20% of adjusted retail electric sales.

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

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

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

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

241 (2) (a) Cost-effectiveness under Subsection (1) for other than a cooperative association
242 is determined in comparison to other viable resource options using the criteria provided by

243 Subsection [54-17-201](#)(2)(c)(ii).

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

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

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

255 (c) Cost-effectiveness of acquiring qualifying clean electricity under this Subsection (3)
256 is determined in comparison to other viable resource options and includes evaluating long-term
257 risks and value associated with acquiring qualifying clean electricity.

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

262 (ii) An agreement under Subsection (3)(d)(i) shall be incorporated into the agreement
263 under Subsection [54-17-903](#)(2)(b).

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

267 [~~3~~] (4) This section does not require an electrical corporation to:

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

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

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

275 [~~(4)~~] (5) (a) For the purpose of Subsection (1), an electrical corporation may combine
276 the following:

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

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

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

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

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

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

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

291 [~~(5)~~] (6) For an electrical corporation whose rates the commission regulates, the
292 following rules concerning renewable energy certificates apply:

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

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

298 [~~(6)~~] (7) An electrical corporation that is a cooperative association may count towards
299 Subsection (1) any of the following:

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

304 (b) qualifying electricity generated or acquired or renewable energy certificates

305 acquired for a program that permits a retail customer to voluntarily contribute to a renewable
306 energy source; and

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

313 ~~[(7)]~~ (8) (a) The use of the renewable attributes associated with qualifying electricity to
314 satisfy any federal renewable energy requirement does not preclude the electricity from being
315 qualifying electricity for the purpose of this chapter.

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

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

320 **54-17-603. Renewable energy certificate -- Issuance -- Use to satisfy other**
321 **requirements.**

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

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

327 (3) The commission may:

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

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

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

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

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

336 54-17-601(10)(e) on and after January 1, 1995.

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

340 (6) (a) For the purpose of satisfying Subsection 54-17-602(1) and the issuance of a
341 renewable energy certificate under this section before January 1, 2026, a renewable energy
342 source located in this state that derives its energy from solar photovoltaic or solar thermal
343 energy shall be credited for 2.4 kilowatt-hours of qualifying electricity for each 1.0
344 kilowatt-hour generated.

345 (b) Notwithstanding Subsection (6)(a), the acquisition or construction by an electrical
346 corporation of a renewable energy source that derives its energy from solar photovoltaic or
347 solar thermal energy shall comply with the cost-effectiveness criteria of Subsection
348 54-17-201(2)(c)(ii).

349 (7) (a) A renewable energy certificate issued under this section [~~:(a) does not expire;~~
350 ~~and (b)~~] may be banked.

351 (b) For purposes of satisfying Subsection 54-17-602(1), a renewable energy certificate
352 does not expire.

353 (c) For purposes of satisfying Subsection 54-17-602(3), a renewable energy certificate
354 expires three years after the date the renewable energy certificate is issued.

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

359 (9) A renewable energy certificate:

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

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

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

366 (10) The commission shall establish procedures and reasonable rates permitting an

367 electrical corporation that is a purchasing utility under Section 54-12-2 to acquire or retain a
368 renewable energy certificate associated with the purchase of power from an independent energy
369 producer.

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

371 **54-17-604. Plans and reports.**

372 (1) An electrical corporation shall develop and maintain a plan for implementing
373 Subsection 54-17-602(1), consistent with the cost-effectiveness criteria of Subsection
374 54-17-201(2)(c)(ii).

375 (2) (a) A progress report concerning a plan under Subsection (1) for other than a
376 cooperative association shall be filed with the commission by January 1 of each of the years
377 2010, 2015, and 2020~~[, and 2024]~~.

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

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

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

383 (b) the source of qualifying electricity;

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

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

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

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

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

393 (4) The plan and progress report required by Subsections (1) and (2) may include
394 procedures that will be used by the electrical corporation to identify and select any renewable
395 energy resource and qualifying electricity that satisfy the criteria of Subsection
396 54-17-201(2)(c)(ii).

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

398 demonstrating:]

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

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

402 [~~(6)~~] (5) By January 1 of each of the years 2011[;] and 2016, [2021, and 2025,] the
403 Division of Public Utilities shall submit to the Legislature a report containing a summary of
404 any progress report filed under Subsections (2) through [~~(5)~~] (4).

405 [~~(7)~~] (6) The summary required by Subsection [~~(6)~~] (5) shall include any
406 recommendation for legislative changes.

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

409 [~~(b) The 2027 summary may contain a recommendation to the Legislature concerning~~
410 ~~any action to be taken with respect to an electrical corporation that does not satisfy Subsection~~
411 ~~54-17-602(1) for 2025.~~]

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

415 [~~(9) If a recommendation containing a penalty for failure to satisfy Subsection~~
416 ~~54-17-602(1) is made under Subsection (8), the proposal shall require that any amount paid by~~
417 ~~an electrical corporation as a penalty be utilized to fund demand-side management for the retail~~
418 ~~customers of the electrical corporation paying the penalty.~~]

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

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

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

423 [~~(11)~~] (7) By July 1, 2026, an electrical corporation that is a cooperative association
424 shall file a final progress report demonstrating:

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

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

428 [~~(12)~~] (8) The plan and any progress report [~~file~~] filed under this section by an

429 electrical corporation that is a cooperative association shall be publicly available at the
430 cooperative association's office or posted on the cooperative association's website.

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

432 **54-17-604.5. Plans and reports.**

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

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

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

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

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

441 (b) the source of qualifying clean electricity;

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

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

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

446 (f) a final progress report demonstrating:

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

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

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

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

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

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

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

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

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

467 (c) The commission shall provide an opportunity for public comment and take
468 evidence before recommending any action to be taken with respect to a large-scale electric
469 utility that is required to comply with Subsection 54-17-602(3) and does not satisfy Subsection
470 54-17-602(3) for 2030.

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

472 **54-17-605. Recovery of costs for renewable energy activities.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

503 (3) (a) The commission [~~may~~] shall allow an electrical corporation to use an
504 adjustment mechanism or other reasonable method [~~other than a rate case under Sections~~
505 ~~54-4-4 and 54-7-12~~] to allow recovery of costs identified in Subsection (2)[~~], until otherwise~~
506 reflected in rates pursuant to a rate case, if:

507 (i) the commission action allowing the use of an adjustment mechanism or other
508 reasonable method occurs:

509 (A) within 48 months after the effective date of a rate approved in the electrical
510 corporation's most recent rate case; and

511 (B) before a rate case under Sections 54-4-4 and 54-7-12 occurs; and

512 (ii) the commission finds that:

513 (A) the costs are prudently incurred, consistent with Section 54-17-605; and

514 (B) allowing recovery of costs before a rate case occurs is in the public interest.

515 (b) The commission may allow an electrical corporation to use an adjustment
516 mechanism or other reasonable method to allow recovery of costs identified in Subsection (2),
517 until otherwise reflected in rates pursuant to a rate case, if:

518 (i) the commission action allowing the use of an adjustment mechanism or other
519 reasonable method occurs:

520 (A) after 48 months following the effective date of a rate approved in the electrical
521 corporation's most recent rate case; and

522 (B) before a rate case under Sections [54-4-4](#) and [54-7-12](#) occurs; and
523 (ii) the commission finds that allowing recovery of costs before a rate case occurs is in
524 the public interest.

525 [~~(b)~~] (c) If the commission allows the use of an adjustment mechanism, both the costs
526 and any associated benefit shall be reflected in the mechanism, to the extent practicable.

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

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

533 (i) siting;

534 (ii) property acquisition;

535 (iii) equipment;

536 (iv) design;

537 (v) licensing;

538 (vi) permitting; and

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

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

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

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

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

553 evaluating the project's cost-effectiveness.

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