HB0241S01 compared with HB0241

~~{deleted text}~~ shows text that was in HB0241 but was deleted in HB0241S01.

inserted text shows text that was not in HB0241 but was inserted into HB0241S01.

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 Carl R. Albrecht proposes the following substitute bill:

CLEAN ENERGY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: ~~{~~}Carl R. Albrecht

Senate Sponsor: ~~{ _____ }~~Derrin R. Owens

LONG TITLE

General Description:

This bill modifies provisions relating to clean energy.

Highlighted Provisions:

This bill:

- changes the term renewable to clean where appropriate in statute.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-401, as last amended by Laws of Utah 2023, Chapter 88

10-19-102, as last amended by Laws of Utah 2010, Chapters 119, 125 and 268

10-19-201, as enacted by Laws of Utah 2008, Chapter 374

10-19-202, as enacted by Laws of Utah 2008, Chapter 374

10-19-301, as enacted by Laws of Utah 2008, Chapter 374

11-13-218, as last amended by Laws of Utah 2016, Chapter 371

11-17-2, as last amended by Laws of Utah 2020, Chapter 354

11-42a-102, as last amended by Laws of Utah 2023, Chapter 16

11-42a-103, as enacted by Laws of Utah 2017, Chapter 470

11-58-102, as last amended by Laws of Utah 2023, Chapters 16, 259

11-58-203, as last amended by Laws of Utah 2022, Chapter 82

11-59-102, as last amended by Laws of Utah 2023, Chapters 16, 263

11-59-202, as last amended by Laws of Utah 2023, Chapter 139

11-65-101, as last amended by Laws of Utah 2023, Chapter 16

11-65-203, as enacted by Laws of Utah 2022, Chapter 59

11-68-201, as renumbered and amended by Laws of Utah 2023, Chapter 502

17-27a-401, as last amended by Laws of Utah 2023, Chapters 34, 88

17-50-335, as last amended by Laws of Utah 2020, Chapter 354

17B-1-202, as last amended by Laws of Utah 2023, Chapter 15

17D-1-201, as last amended by Laws of Utah 2021, Chapter 339

54-17-502, as enacted by Laws of Utah 2008, Chapter 374

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

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

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

54-17-801, as last amended by Laws of Utah 2017, Chapter 409

54-17-802, as enacted by Laws of Utah 2012, Chapter 182

54-17-803, as enacted by Laws of Utah 2012, Chapter 182

54-17-804, as enacted by Laws of Utah 2012, Chapter 182

54-17-805, as enacted by Laws of Utah 2012, Chapter 182

54-17-806, as last amended by Laws of Utah 2020, Chapter 126

54-17-807, as last amended by Laws of Utah 2019, Chapter 136

54-17-901, as enacted by Laws of Utah 2019, Chapter 471

54-17-902, as enacted by Laws of Utah 2019, Chapter 471

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

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

54-17-905, as enacted by Laws of Utah 2019, Chapter 471

54-17-906, as enacted by Laws of Utah 2019, Chapter 471

54-17-908, as enacted by Laws of Utah 2019, Chapter 471

59-2-102, as last amended by Laws of Utah 2023, Chapter 16

59-7-614, as last amended by Laws of Utah 2023, Chapter 482

59-10-1014, as last amended by Laws of Utah 2021, Chapter 280

59-10-1106, as last amended by Laws of Utah 2023, Chapter 482

63A-5b-702, as last amended by Laws of Utah 2021, Chapter 382

63H-1-201, as last amended by Laws of Utah 2022, Chapter 274

63L-11-304, as renumbered and amended by Laws of Utah 2021, Chapter 382

79-3-202, as last amended by Laws of Utah 2022, Chapter 216

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

Section 1. Section **10-9a-401** is amended to read:

10-9a-401. General plan required -- Content.

(1) To accomplish the purposes of this chapter, a municipality shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the municipality; and

(b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and [~~renewable~~] clean energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and

(j) an official map.

(3) (a) The general plan of a specified municipality, as defined in Section 10-9a-408, shall include a moderate income housing element that meets the requirements of Subsection 10-9a-403(2)(a)(iii).

(b) (i) This Subsection (3)(b) applies to a municipality that is not a specified municipality as of January 1, 2023.

(ii) As of January 1, if a municipality described in Subsection (3)(b)(i) changes from one class to another or grows in population to qualify as a specified municipality as defined in Section 10-9a-408, the municipality shall amend the municipality's general plan to comply with Subsection (3)(a) on or before August 1 of the first calendar year beginning on January 1 in which the municipality qualifies as a specified municipality.

(4) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

(5) Except for a city of the fifth class or a town, on or before December 31, 2025, a municipality that has a general plan that does not include a water use and preservation element that complies with Section 10-9a-403 shall amend the municipality's general plan to comply with Section 10-9a-403.

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

10-19-102. Definitions.

As used in this chapter:

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

(a) the amount of those kilowatt-hours attributable to electricity generated or purchased

in that calendar year from qualifying zero carbon emissions generation and qualifying carbon sequestration generation;

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

(i) wind energy;

(ii) solar photovoltaic and solar thermal energy;

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

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

(A) organic waste;

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

(C) agricultural residues;

(D) dedicated energy crops; and

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

(v) geothermal energy;

(vi) hydro-electric energy; or

(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 activities or programs promoting electric energy efficiency or conservation or more efficient management of electric energy load.

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

sequestered plus the amount of carbon dioxide emitted from the facility during the same calendar year.

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

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

(b) carried forward into a subsequent year.

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

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

(5) "Clean energy source" means:

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

(i) wind energy;

(ii) solar photovoltaic and solar thermal energy;

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

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

(A) organic waste;

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

(C) agricultural residues;

(D) dedicated energy crops; and

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

(v) geothermal energy located outside the state;

(vi) waste gas and waste heat capture or recovery, 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) a compressed air energy storage process, if:

(A) the process used to compress the air is a renewable energy source and the associated renewable energy certificates are retired for the purpose of the compressed air energy storage process; or

(B) equivalent renewable energy certificates are obtained and retired for the purpose of the compressed air energy storage process;

(ix) municipal solid waste;

(x) nuclear fuel; or

(xi) carbon capture utilization and sequestration;

(b) any of the following:

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

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

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

(c) hydrogen gas derived from any source of energy described in Subsection (5)(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 (5)(a) through (c); and

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

(i) a demand side management measure, as defined by Subsection 54-7-12.8(1) with

the quantity of renewable energy certificates to which the user is entitled determined by the equivalent energy saved by the measure;

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

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

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

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

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

[~~(5)~~] (6) "Commission" means the Public Service Commission.

[~~(6)~~] (7) "Municipal electric utility" means any municipality that owns, operates, controls, or manages a facility that provides electric power for a retail customer, whether domestic, commercial, industrial, or otherwise.

[~~(7)~~] (8) "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 other verifiably permanent reductions in carbon dioxide emissions through the use of technology.

[~~(8)~~] (9) "Qualifying electricity" means electricity generated on or after January 1, 1995 from a renewable energy source if:

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

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

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

[~~(9)~~] (10) "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~~] clean energy sources used to satisfy a target established under Section 10-19-201.

[~~(10)~~] (11) "Renewable energy certificate" means a certificate issued in accordance with the requirements of Sections 10-19-202 and 54-17-603.

[~~(11) "Renewable energy source" means:~~]

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

[~~(i) wind energy;~~]

[~~(ii) solar photovoltaic and solar thermal energy;~~]

[~~(iii) wave, tidal, and ocean thermal energy;~~]

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

[~~(A) organic waste;~~]

[~~(B) forest or rangeland woody debris from harvesting or thinning conducted to~~

~~improve forest or rangeland ecological health and to reduce wildfire risk;~~]

[~~(C) agricultural residues;~~]

[~~(D) dedicated energy crops; and~~]

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

[~~(v) geothermal energy located outside the state;~~]

[~~(vi) waste gas and waste heat capture or recovery 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) a compressed air energy storage process, if:~~]

[~~(A) the process used to compress the air is a renewable energy source and the associated renewable energy certificates are retired for the purpose of the compressed air energy storage process; or~~]

[~~(B) equivalent renewable energy certificates are obtained and retired for the purpose of the compressed air energy storage process; or~~]

[~~(ix) municipal solid waste;~~]

[~~(b) any of the following:~~]

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

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

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

[~~(c) hydrogen gas derived from any source of energy described in Subsection (11)(a) or (b);~~]

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

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

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

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

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

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

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

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

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

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

(b) activities listed in Subsection [~~(11)(e)~~.] (5)(e).

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

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

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

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

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

(i) 17,500 megawatt-hours; or

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

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

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

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

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

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

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

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

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

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

energy certificate.

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

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

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

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

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

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

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

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

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

(3) A renewable energy certificate:

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

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

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

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

10-19-301. Plans and reports.

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

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

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

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

(b) the source of qualifying electricity;

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

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

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

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

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

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

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

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

Section 6. Section **11-13-218** is amended to read:

11-13-218. Authority of public agencies or interlocal entities to issue bonds -- Applicable provisions.

(1) A public agency may, in the same manner as it may issue bonds for its individual acquisition of a facility or improvement or for constructing, improving, or extending a facility or improvement, issue bonds to:

(a) acquire an interest in a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other facility or improvement; or

(b) pay all or part of the cost of constructing, improving, or extending a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other

facility or improvement.

(2) (a) An interlocal entity may issue bonds or notes under a resolution, trust indenture, or other security instrument for the purpose of:

(i) financing its facilities or improvements; or

(ii) providing for or financing an energy efficiency upgrade, a [~~renewable~~] clean energy system, or electric vehicle charging infrastructure in accordance with Title 11, Chapter 42, Assessment Area Act.

(b) The bonds or notes may be sold at public or private sale, mature at such times and bear interest at such rates, and have such other terms and security as the entity determines.

(c) The bonds or notes described in this Subsection (2) are not a debt of any public agency that is a party to the agreement.

(3) The governing board may, by resolution, delegate to one or more officers of the interlocal entity or to a committee of designated members of the governing board the authority to:

(a) in accordance with and within the parameters set forth in the resolution, approve the final interest rate, price, principal amount, maturity, redemption features, or other terms of a bond or note; and

(b) approve and execute all documents relating to the issuance of the bond or note.

(4) Bonds and notes issued under this chapter are declared to be negotiable instruments and their form and substance need not comply with the Uniform Commercial Code.

(5) (a) An interlocal entity shall issue bonds in accordance with, as applicable:

(i) Chapter 14, Local Government Bonding Act;

(ii) Chapter 27, Utah Refunding Bond Act;

(iii) this chapter; or

(iv) any other provision of state law that authorizes issuance of bonds by a public body.

(b) An interlocal entity is a public body as defined in Section 11-30-2.

Section 7. Section **11-17-2** is amended to read:

11-17-2. Definitions.

As used in this chapter:

(1) "Bonds" means bonds, notes, or other evidences of indebtedness.

(2) "Clean energy system" means a product, system, device, or interacting group of

devices that is permanently affixed to real property and that produces energy from clean resources, including:

(a) a photovoltaic system;

(b) a solar thermal system;

(c) a wind system;

(d) a geothermal system, including:

(i) a direct-use system; or

(ii) a ground source heat pump system;

(e) a micro-hydro system;

(f) nuclear fuel;

(g) carbon capture utilization and sequestration; or

(h) another clean energy system approved by the governing body.

[~~(2)~~] (3) "Energy efficiency upgrade" means an improvement that is permanently affixed to real property and that is designed to reduce energy consumption, including:

(a) insulation in:

(i) a wall, ceiling, roof, floor, or foundation; or

(ii) a heating or cooling distribution system;

(b) an insulated window or door, including:

(i) a storm window or door;

(ii) a multiglazed window or door;

(iii) a heat-absorbing window or door;

(iv) a heat-reflective glazed and coated window or door;

(v) additional window or door glazing;

(vi) a window or door with reduced glass area; or

(vii) other window or door modifications that reduce energy loss;

(c) an automatic energy control system;

(d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(e) caulking or weatherstripping;

(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;

(g) an energy recovery system;

(h) a daylighting system;

(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:

(i) installation of a low-flow toilet or showerhead;

(ii) installation of a timer or timing system for a hot water heater; or

(iii) installation of a rain catchment system; or

(j) any other modified, installed, or remodeled fixture that is approved as a utility cost-savings measure by the governing body.

[~~(3)~~] (4) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or state university for the purpose of using a portion, or all or substantially all of the proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the acquisition of facilities of a project, or to create funds for the project itself where appropriate, whether these costs are incurred by the municipality, the county, the state university, the user, or a designee of the user. If title to or in these facilities at all times remains in the user, the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the sinking fund or other arrangement as in the judgment of the governing body is appropriate for the purpose of assuring repayment of the bond obligations to investors in accordance with their terms.

[~~(4)~~] (5) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102;

(c) for a state university except as provided in Subsection [~~(4)(d)(,)~~] (5)(d), the board or body having the control and supervision of the state university; and

(d) for a nonprofit corporation or foundation created by and operating under the auspices of a state university, the board of directors or board of trustees of that corporation or foundation.

[~~(5)~~] (6) (a) "Industrial park" means land, including all necessary rights, appurtenances,

easements, and franchises relating to it, acquired and developed by a municipality, county, or state university for the establishment and location of a series of sites for plants and other buildings for industrial, distribution, and wholesale use.

(b) "Industrial park" includes the development of the land for an industrial park under this chapter or the acquisition and provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or any combination of them, but only to the extent that these facilities are incidental to the use of the land as an industrial park.

[~~(6)~~] (7) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other lending institution that lends, loans, or leases proceeds of a financing to the user or a user's designee.

[~~(7)~~] (8) "Mortgage" means a mortgage, trust deed, or other security device.

[~~(8)~~] (9) "Municipality" means any incorporated city, town, or metro township in the state, including cities or towns operating under home rule charters.

[~~(9)~~] (10) "Pollution" means any form of environmental pollution including water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

[~~(10)~~] (11) (a) "Project" means:

(i) an industrial park, land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, whether or not in existence or under construction:

(A) that is suitable for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, or any other business purposes;

(B) that is suitable to provide services to the general public;

(C) that is suitable for use by any corporation, person, or entity engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities; or

(D) that is suitable for use by a state university for the purpose of aiding in the accomplishment of its authorized academic, scientific, engineering, technical, and economic development functions;

(ii) any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, used by any individual, partnership, firm, company, corporation, public utility, association, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for the reduction, abatement, or prevention of pollution, including the removal or treatment of any substance in process material, if that material would cause pollution if used without the removal or treatment;

(iii) an energy efficiency upgrade;

(iv) a [~~renewable~~] clean energy system;

(v) facilities, machinery, or equipment, the manufacturing and financing of which will maintain or enlarge domestic or foreign markets for Utah industrial products; or

(vi) any economic development or new venture investment fund to be raised other than from:

(A) municipal or county general fund money;

(B) money raised under the taxing power of any county or municipality; or

(C) money raised against the general credit of any county or municipality.

(b) "Project" does not include any property, real, personal, or mixed, for the purpose of the construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1.

[~~(11) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from renewable resources, including:~~]

[~~(a) a photovoltaic system;~~]

[~~(b) a solar thermal system;~~]

[~~(c) a wind system;~~]

[~~(d) a geothermal system, including:~~]

[~~(i) a direct-use system; or~~]

[~~(ii) a ground source heat pump system;~~]

[~~(e) a micro-hydro system; or~~]

[~~(f) another renewable energy system approved by the governing body.~~]

(12) "State university" means an institution of higher education as described in Section

53B-2-101 and includes any nonprofit corporation or foundation created by and operating under their authority.

(13) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

Section 8. Section **11-42a-102** is amended to read:

11-42a-102. Definitions.

(1) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(2) (a) "Assessment" means the assessment that a local entity or the C-PACE district levies on private property under this chapter to cover the costs of an energy efficiency upgrade, a [~~renewable~~] clean energy system, or an electric vehicle charging infrastructure.

(b) "Assessment" does not constitute a property tax but shares the same priority lien as a property tax.

(3) "Assessment fund" means a special fund that a local entity establishes under Section 11-42a-206.

(4) "Benefitted property" means private property within an energy assessment area that directly benefits from improvements.

(5) "Bond" means an assessment bond and a refunding assessment bond.

(6) (a) "Clean energy system" means a product, system, device, or interacting group of devices that is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as that term is defined in Section 54-2-1, and:

(i) produces energy from renewable resources, including:

(A) a photovoltaic system;

(B) a solar thermal system;

(C) a wind system;

(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;

(E) a micro-hydro system;

(F) a biofuel system;

(G) energy derived from nuclear fuel; or

(H) any other clean source system that the governing body of the local entity approves;

(ii) stores energy, including:

(A) a battery storage system; or

(B) any other energy storing system that the governing body or chief executive officer of a local entity approves; or

(iii) any improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection (6)(a)(i) or (ii).

(b) "Clean energy system" does not include a system described in Subsection (6)(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:

(i) (A) existed before the creation of the energy assessment area; and

(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area; or

(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter.

[~~(6)~~] (7) (a) "Commercial or industrial real property" means private real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) agricultural;

(iv) industrial;

(v) manufacturing;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes:

(i) private real property that is used as or held for dwelling purposes and contains:

(A) more than four rental units; or

(B) one or more owner-occupied or rental condominium units affiliated with a hotel; and

(ii) real property owned by:

(A) the military installation development authority, created in Section 63H-1-201; or

(B) the Utah Inland Port Authority, created in Section 11-58-201.

[~~(7)~~] (8) "Contract price" means:

(a) up to 100% of the cost of installing, acquiring, refinancing, or reimbursing for an improvement, as determined by the owner of the property benefitting from the improvement; or

(b) the amount payable to one or more contractors for the assessment, design, engineering, inspection, and construction of an improvement.

[~~(8)~~] (9) "C-PACE" means commercial property assessed clean energy.

[~~(9)~~] (10) "C-PACE district" means the statewide authority established in Section 11-42a-106 to implement the C-PACE Act in collaboration with governing bodies, under the direction of OED.

[~~(10)~~] (11) "Electric vehicle charging infrastructure" means equipment that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying plug-in hybrid vehicle.

[~~(11)~~] (12) "Energy assessment area" means an area:

(a) within the jurisdictional boundaries of a local entity that approves an energy assessment area or, if the C-PACE district or a state interlocal entity levies the assessment, the C-PACE district or the state interlocal entity;

(b) containing only the commercial or industrial real property of owners who have voluntarily consented to an assessment under this chapter for the purpose of financing the costs of improvements that benefit property within the energy assessment area; and

(c) in which the proposed benefitted properties in the area are:

(i) contiguous; or

(ii) located on one or more contiguous or adjacent tracts of land that would be contiguous or adjacent property but for an intervening right-of-way, including a sidewalk,

street, road, fixed guideway, or waterway.

[~~(12)~~] (13) "Energy assessment bond" means a bond:

(a) issued under Section 11-42a-401; and

(b) payable in part or in whole from assessments levied in an energy assessment area.

[~~(13)~~] (14) "Energy assessment lien" means a lien on property within an energy assessment area that arises from the levy of an assessment in accordance with Section 11-42a-301.

[~~(14)~~] (15) "Energy assessment ordinance" means an ordinance that a local entity adopts under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

[~~(15)~~] (16) "Energy assessment resolution" means one or more resolutions adopted by a local entity under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

[~~(16)~~] (17) "Energy efficiency upgrade" means an improvement that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to reduce energy or water consumption, including:

(i) insulation in:

(A) a wall, roof, floor, or foundation; or

(B) a heating and cooling distribution system;

(ii) a window or door, including:

(A) a storm window or door;

(B) a multiglazed window or door;

(C) a heat-absorbing window or door;

(D) a heat-reflective glazed and coated window or door;

(E) additional window or door glazing;

(F) a window or door with reduced glass area; or

(G) other window or door modifications;

(iii) an automatic energy control system;

(iv) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(v) caulk or weatherstripping;

(vi) a light fixture that does not increase the overall illumination of a building, unless an increase is necessary to conform with the applicable building code;

(vii) an energy recovery system;

(viii) a daylighting system;

(ix) measures to reduce the consumption of water, through conservation or more efficient use of water, including installation of:

(A) low-flow toilets and showerheads;

(B) timer or timing systems for a hot water heater; or

(C) rain catchment systems;

(x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body or executive of a local entity;

(xi) measures or other improvements to effect seismic upgrades;

(xii) structures, measures, or other improvements to provide automated parking or parking that reduces land use;

(xiii) the extension of an existing natural gas distribution company line;

(xiv) an energy efficient elevator, escalator, or other vertical transport device;

(xv) any other improvement that the governing body or executive of a local entity approves as an energy efficiency upgrade; or

(xvi) any improvement that relates physically or functionally to any of the improvements listed in Subsections [~~(16)(b)(i)~~] (17)(b)(i) through (xv).

[~~(17)~~] (18) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for a special district, the board of trustees of the special district;

(c) for a special service district:

(i) if no administrative control board has been appointed under Section 17D-1-301, the legislative body of the county, city, town, or metro township that established the special service

district; or

(ii) if an administrative control board has been appointed under Section 17D-1-301, the administrative control board of the special service district;

(d) for the military installation development authority created in Section 63H-1-201, the board, as that term is defined in Section 63H-1-102; and

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

[~~(18)~~] (19) "Improvement" means a publicly or privately owned energy efficiency upgrade, [~~renewable~~] clean energy system, or electric vehicle charging infrastructure that:

(a) a property owner has requested; or

(b) has been or is being installed on a property for the benefit of the property owner.

[~~(19)~~] (20) "Incidental refunding costs" means any costs of issuing a refunding assessment bond and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, and the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bond and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of a refunding assessment bond; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bond.

[~~(20)~~] (21) "Installment payment date" means the date on which an installment payment of an assessment is payable.

[~~(21)~~] (22) "Jurisdictional boundaries" means:

(a) for the C-PACE district or any state interlocal entity, the boundaries of the state; and

(b) for each local entity, the boundaries of the local entity.

[~~(22)~~] (23) (a) "Local entity" means:

(i) a county, city, town, or metro township;

(ii) a special service district, a special district, or an interlocal entity as that term is defined in Section 11-13-103;

(iii) a state interlocal entity;

(iv) the military installation development authority, created in Section 63H-1-201;

(v) the Utah Inland Port Authority, created in Section 11-58-201; or

(vi) any political subdivision of the state.

(b) "Local entity" includes the C-PACE district solely in connection with:

(i) the designation of an energy assessment area;

(ii) the levying of an assessment; and

(iii) the assignment of an energy assessment lien to a third-party lender under Section 11-42a-302.

[~~(23)~~] (24) "Local entity obligations" means energy assessment bonds and refunding assessment bonds that a local entity issues.

[~~(24)~~] (25) "OED" means the Office of Energy Development created in Section 79-6-401.

[~~(25)~~] (26) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

[~~(26)~~] (27) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred in connection with an energy assessment area, including:

(a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;

(b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;

(c) publishing and mailing costs;

(d) costs of levying an assessment;

(e) recording costs; and

(f) all other incidental costs.

[~~(27)~~] (28) "Parameters resolution" means a resolution or ordinance that a local entity adopts in accordance with Section 11-42a-201.

[~~(28)~~] (29) "Prior bonds" means the energy assessment bonds refunded in part or in whole by a refunding assessment bond.

[~~(29)~~] (30) "Prior energy assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

[~~(30)~~] (31) "Prior energy assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

[~~(31)~~] (32) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

[~~(32)~~] (33) "Public electrical utility" means a large-scale electric utility as that term is defined in Section 54-2-1.

[~~(33)~~] (34) "Qualifying electric vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas;

(c) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity; and

(d) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection [~~(33)(c)(.)~~] (34)(c).

[~~(34)~~] (35) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas or propane;

(c) has a battery capacity that meets or exceeds the battery capacity described in Subsection 30D(b)(3), Internal Revenue Code; and

(d) is fueled by a combination of electricity and:

(i) diesel fuel;

(ii) gasoline; or

(iii) a mixture of gasoline and ethanol.

[~~(35)~~] (36) "Reduced payment obligation" means the full obligation of an owner of property within an energy assessment area to pay an assessment levied on the property after the local entity has reduced the assessment because of the issuance of a refunding assessment bond, in accordance with Section 11-42a-403.

[~~(36)~~] (37) "Refunding assessment bond" means an assessment bond that a local entity issues under Section 11-42a-403 to refund, in part or in whole, energy assessment bonds.

~~[(37) (a) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as that term is~~

~~defined in Section 54-2-1, and:~~]

[~~(i) produces energy from renewable resources, including:~~]

[~~(A) a photovoltaic system;~~]

[~~(B) a solar thermal system;~~]

[~~(C) a wind system;~~]

[~~(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;~~]

[~~(E) a microhydro system;~~]

[~~(F) a biofuel system; or~~]

[~~(G) any other renewable source system that the governing body of the local entity approves;~~]

[~~(ii) stores energy, including:~~]

[~~(A) a battery storage system; or~~]

[~~(B) any other energy storing system that the governing body or chief executive officer of a local entity approves; or~~]

[~~(iii) any improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection (37)(a)(i) or (ii).~~]

[~~(b) "Renewable energy system" does not include a system described in Subsection (37)(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:~~]

[~~(i) (A) existed before the creation of the energy assessment area; and~~]

[~~(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area; or~~]

[~~(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter.~~]

(38) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(39) "Special service district" means the same as that term is defined in Section 17D-1-102.

(40) "State interlocal entity" means:

(a) an interlocal entity created under Chapter 13, Interlocal Cooperation Act, by two or more counties, cities, towns, or metro townships that collectively represent at least a majority of the state's population; or

(b) an entity that another state authorized, before January 1, 2017, to issue bonds, notes, or other obligations or refunding obligations to finance or refinance projects in the state.

(41) "Third-party lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides loans directly to property owners for improvements authorized under this chapter.

Section 9. Section **11-42a-103** is amended to read:

11-42a-103. No limitation on other local entity powers -- Conflict with other statutory provisions.

(1) This chapter does not limit a power that a local entity has under other applicable law to:

(a) make an improvement or provide a service;

(b) create a district;

(c) levy an assessment or tax; or

(d) issue a bond or a refunding bond.

(2) If there is a conflict between a provision of this chapter and any other statutory provision, the provision of this chapter governs.

(3) After January 1, 2017, a local entity or the C-PACE district may create an energy assessment area within the certificated service territory of a public electrical utility for the installation of a [~~renewable~~] clean energy system with a nameplate rating of:

(a) no more than 2.0 megawatts; or

(b) more than 2.0 megawatts to serve load that the public electrical utility does not already serve.

Section 10. Section **11-58-102** is amended to read:

11-58-102. Definitions.

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land" means land within the authority boundary delineated:

(a) in the electronic shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) beginning April 1, 2020, as provided in Subsection 11-58-202(3).

(3) "Base taxable value" means:

(a) (i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and

(ii) for an area described in Section 11-58-600.7, the taxable value of that area in calendar year 2017; or

(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Contaminated land" means land:

(a) within a project area; and

(b) that contains hazardous materials, as defined in Section 19-6-302, hazardous substances, as defined in Section 19-6-302, or landfill material on, in, or under the land.

(7) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including public infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (7)(a).

(8) "Development project" means a project for the development of land within a project area.

(9) "Inland port" means one or more sites that:

(a) contain multimodal facilities, intermodal facilities, or other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain;

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

(10) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection (9);

(c) that complements or supports the purposes of an inland port, as stated in Subsection (9); or

(d) that depends upon the presence of the inland port for the viability of the use.

(11) "Intermodal facility" means a facility for transferring containerized cargo between rail, truck, air, or other transportation modes.

(12) "Landfill material" means garbage, waste, debris, or other materials disposed of or placed in a landfill.

(13) "Multimodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

(14) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(3) who does not have the power to vote on matters of authority business.

(15) "Project area" means:

(a) the authority jurisdictional land, subject to Section 11-58-605; or

(b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(16) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

(17) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

(18) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(19) "Property tax differential":

(a) means the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

(20) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(21) (a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) (A) benefit the public and are owned by a public entity or a utility; or

(B) benefit the public and are publicly maintained or operated by a public entity; or

(ii) (A) are privately owned;

(B) benefit the public;

(C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and

(D) are built according to applicable county or municipal design and safety standards.

(b) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, [~~renewable~~] clean energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, rail lines, intermodal facilities, multimodal facilities, and public transportation facilities;

(iii) an inland port; and

(iv) infrastructure, improvements, facilities, or buildings that are developed as part of a remediation project.

(22) "Remediation" includes:

(a) activities for the cleanup, rehabilitation, and development of contaminated land; and

(b) acquiring an interest in land within a remediation project area.

(23) "Remediation differential" means property tax differential generated from a remediation project area.

(24) "Remediation project" means a project for the remediation of contaminated land that:

(a) is owned by:

(i) the state or a department, division, or other instrumentality of the state;

(ii) an independent entity, as defined in Section 63E-1-102; or

(iii) a political subdivision of the state; and

(b) became contaminated land before the owner described in Subsection (24)(a)

obtained ownership of the land.

(25) "Remediation project area" means a project area consisting of contaminated land that is or is expected to become the subject of a remediation project.

(26) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

(27) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(28) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(29) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section 11. Section **11-58-203** is amended to read:

11-58-203. Policies and objectives of the authority -- Additional duties of the authority.

(1) The policies and objectives of the authority are to:

(a) maximize long-term economic benefits to the area, the region, and the state;

(b) maximize the creation of high-quality jobs;

(c) respect and maintain sensitivity to the unique natural environment of areas in proximity to the authority jurisdictional land and land in other authority project areas;

(d) improve air quality and minimize resource use;

(e) respect existing land use and other agreements and arrangements between property owners within the authority jurisdictional land and within other authority project areas and applicable governmental authorities;

(f) promote and encourage development and uses that are compatible with or complement uses in areas in proximity to the authority jurisdictional land or land in other authority project areas;

(g) take advantage of the authority jurisdictional land's strategic location and other features, including the proximity to transportation and other infrastructure and facilities, that make the authority jurisdictional land attractive to:

(i) businesses that engage in regional, national, or international trade; and

(ii) businesses that complement businesses engaged in regional, national, or international trade;

(h) facilitate the transportation of goods;

(i) coordinate trade-related opportunities to export Utah products nationally and internationally;

(j) support and promote land uses on the authority jurisdictional land and land in other authority project areas that generate economic development, including rural economic development;

(k) establish a project of regional significance;

(l) facilitate an intermodal facility;

(m) support uses of the authority jurisdictional land for inland port uses, including warehousing, light manufacturing, and distribution facilities;

(n) facilitate an increase in trade in the region and in global commerce;

(o) promote the development of facilities that help connect local businesses to potential foreign markets for exporting or that increase foreign direct investment;

(p) encourage all class 5 though 8 designated truck traffic entering the authority jurisdictional land to meet the heavy-duty highway compression-ignition diesel engine and urban bus exhaust emission standards for year 2007 and later;

(q) encourage the development and use of cost-efficient [~~renewable~~] clean energy in project areas;

(r) aggressively pursue world-class businesses that employ cutting-edge technologies to locate within a project area; and

(s) pursue land remediation and development opportunities for publicly owned land to add value to a project area.

(2) In fulfilling its duties and responsibilities relating to the development of the authority jurisdictional land and land in other authority project areas and to achieve and implement the development policies and objectives under Subsection (1), the authority shall:

(a) work to identify funding sources, including federal, state, and local government funding and private funding, for capital improvement projects in and around the authority jurisdictional land and land in other authority project areas and for an inland port;

(b) review and identify land use and zoning policies and practices to recommend to municipal land use policymakers and administrators that are consistent with and will help to achieve:

(i) the policies and objectives stated in Subsection (1); and

(ii) the mutual goals of the state and local governments that have authority jurisdictional land with their boundaries with respect to the authority jurisdictional land;

(c) consult and coordinate with other applicable governmental entities to improve and enhance transportation and other infrastructure and facilities in order to maximize the potential of the authority jurisdictional land to attract, retain, and service users who will help maximize the long-term economic benefit to the state; and

(d) pursue policies that the board determines are designed to avoid or minimize negative environmental impacts of development.

(3) The board may consider the emissions profile of road, yard, or rail vehicles:

(a) in determining access by those vehicles to facilities that the authority owns or finances; or

(b) in setting fees applicable to those vehicles for the use of facilities that the authority owns or finances.

Section 12. Section **11-59-102** is amended to read:

11-59-102. Definitions.

As used in this chapter:

(1) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(2) "Board" means the authority's board, created in Section 11-59-301.

(3) "Development":

(a) means the construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including:

(i) the demolition or preservation or repurposing of a building, infrastructure, or other facility;

(ii) surveying, testing, locating existing utilities and other infrastructure, and other preliminary site work; and

(iii) any associated planning, design, engineering, and related activities; and

(b) includes all activities associated with:

(i) marketing and business recruiting activities and efforts;

(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; and

(iii) planning and funding for mass transit infrastructure to service the point of the mountain state land.

(4) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(5) "New correctional facility" means the state correctional facility being developed in Salt Lake City to replace the state correctional facility in Draper.

(6) "Point of the mountain state land" means the approximately 700 acres of state-owned land in Draper, including land used for the operation of a state correctional facility until completion of the new correctional facility and state-owned land in the vicinity of the current state correctional facility.

(7) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(8) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity; and

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, [~~renewable~~] clean energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking

facilities, and public transportation facilities; and

(iii) greenspace, parks, trails, recreational amenities, or other similar facilities.

(9) "Taxing entity" means the same as that term is defined in Section 59-2-102.

Section 13. Section **11-59-202** is amended to read:

11-59-202. Authority powers.

(1) The authority may:

(a) as provided in this chapter, plan, manage, and implement the development of the point of the mountain state land, including the ongoing operation of facilities on the point of the mountain state land;

(b) undertake, or engage a consultant to undertake, any study, effort, or activity the board considers appropriate to assist or inform the board about any aspect of the proposed development of the point of the mountain state land, including the best development model and financial projections relevant to the authority's efforts to fulfill its duties and responsibilities under this section and Section 11-59-203;

(c) sue and be sued;

(d) enter into contracts generally, including a contract for the sharing of records under Section 63G-2-206;

(e) buy, obtain an option upon, or otherwise acquire any interest in real or personal property, as necessary to accomplish the duties and responsibilities of the authority, including an interest in real property, apart from point of the mountain state land, or personal property, outside point of the mountain state land, for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(f) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(g) enter into a lease agreement on real or personal property, either as lessee or lessor;

(h) provide for the development of the point of the mountain state land under one or more contracts, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to the point of the mountain state land;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(k) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(l) subject to Subsection (2), issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(m) hire employees, including contract employees, in addition to or in place of staff provided under Section 11-59-304;

(n) transact other business and exercise all other powers provided for in this chapter;

(o) enter into a development agreement with a developer of some or all of the point of the mountain state land;

(p) provide for or finance an energy efficiency upgrade, a [~~renewable~~] clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

(q) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(r) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more local government entities for the delivery of services to the point of the mountain state land;

(s) enter into an agreement with the federal government or an agency of the federal government, as the board considers necessary or advisable, to enable or assist the authority to exercise its powers or fulfill its duties and responsibilities under this chapter;

(t) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the point of the mountain state land; and

(u) impose impact fees under Title 11, Chapter 36a, Impact Fees Act, and other fees related to development activities.

(2) The authority may not issue bonds under this part unless the board first:

(a) adopts a parameters resolution for the bonds that sets forth:

(i) the maximum:

(A) amount of bonds;

(B) term; and

(C) interest rate; and

(ii) the expected security for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(3) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

Section 14. Section **11-65-101** is amended to read:

11-65-101. Definitions.

As used in this chapter:

(1) "Adjacent political subdivision" means a political subdivision of the state with a boundary that abuts the lake authority boundary or includes lake authority land.

(2) "Board" means the lake authority's governing body, created in Section 11-65-301.

(3) "Lake authority" means the Utah Lake Authority, created in Section 11-65-201.

(4) "Lake authority boundary" means the boundary:

(a) defined by recorded boundary settlement agreements between private landowners and the Division of Forestry, Fire, and State Lands; and

(b) that separates privately owned land from Utah Lake sovereign land.

(5) "Lake authority land" means land on the lake side of the lake authority boundary.

(6) "Management" means work to coordinate and facilitate the improvement of Utah Lake, including work to enhance the long-term viability and health of Utah Lake and to produce economic, aesthetic, recreational, environmental, and other benefits for the state, consistent with the strategies, policies, and objectives described in this chapter.

(7) "Management plan" means a plan to conceptualize, design, facilitate, coordinate, encourage, and bring about the management of the lake authority land to achieve the policies

and objectives described in Section 11-65-203.

(8) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-65-302(6) who does not have the power to vote on matters of lake authority business.

(9) "Project area" means an area that is identified in a project area plan as the area where the management described in the project area plan will occur.

(10) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area.

(11) "Project area plan" means a written plan that, after the plan's effective date, manages activity within a project area within the scope of a management plan.

(12) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state.

(13) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity; and

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, [~~renewable~~] clean energy, microgrids, or telecommunications service; and

(ii) streets, roads, curbs, gutters, sidewalks, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(14) "Sovereign land" means land:

(a) lying below the ordinary high water mark of a navigable body of water at the date of statehood; and

(b) owned by the state by virtue of the state's sovereignty.

(15) "Utah Lake" includes all waters of Utah Lake and all land, whether or not submerged under water, within the lake authority boundary.

(16) "Voting member" means an individual appointed as a member of the board under Subsection 11-65-302(2).

Section 15. Section **11-65-203** is amended to read:

11-65-203. Policies and objectives of the lake authority -- Additional duties of the lake authority.

(1) The policies and objectives of the lake authority are to:

(a) protect and improve:

(i) the quality of Utah Lake's water, consistent with the Clean Water Act, 33 U.S.C. Sec. 1251 et seq., and Title 19, Chapter 5, Water Quality Act;

(ii) the beneficial and public trust uses of Utah Lake;

(iii) Utah Lake's environmental quality; and

(iv) the quality of Utah Lake's lakebed and sediments;

(b) enhance the recreational opportunities afforded by Utah Lake;

(c) enhance long-term economic benefits to the area, the region, and the state;

(d) respect and maintain sensitivity to the unique natural environment of areas in and around the lake authority boundary;

(e) improve air quality and minimize resource use;

(f) comply with existing land use and other agreements and arrangements between property owners and applicable governmental authorities;

(g) promote and encourage management and uses that are compatible with or complement the public trust and uses in areas in proximity to Utah Lake;

(h) take advantage of Utah Lake's strategic location and other features that make Utah Lake attractive:

(i) to residents for recreational purposes;

(ii) for tourism and leisure; and

(iii) for business opportunities;

(i) encourage the development and use of cost-efficient [~~renewable~~] clean energy in project areas;

(j) as consistent with applicable public trust, support and promote land uses on land

within the lake authority boundary and land in adjacent political subdivisions that generate economic development, including rural economic development;

(k) respect and not interfere with water rights or the operation of water facilities or water projects associated with Utah Lake;

(l) respect and maintain sensitivity to the unique Native American history, historical sites, and artifacts within and around the lake authority boundary; and

(m) protect the ability of the Provo airport to operate and grow, consistent with applicable environmental regulations, recognizing the significant state investment in the airport and the benefits that a thriving airport provides to the quality of life and the economy.

(2) In fulfilling the lake authority's duties and responsibilities relating to the management of Utah Lake and to achieve and implement the management policies and objectives under Subsection (1), the lake authority shall:

(a) work to identify funding sources, including federal, state, and local government funding and private funding, for capital improvement projects in and around Utah Lake;

(b) review and identify land use and zoning policies and practices to recommend to land use policymakers and administrators of adjoining municipalities that are consistent with and will help to achieve the policies and objectives stated in Subsection (1);

(c) consult and coordinate with other applicable governmental entities to improve and enhance transportation and other infrastructure and facilities in order to maximize the potential of Utah Lake to attract, retain, and service users who will help enhance the long-term economic benefit to the state; and

(d) pursue policies that the board determines are designed to avoid or minimize negative environmental impacts of management.

(3) The lake authority shall respect:

(a) a permit issued by a governmental entity applicable to Utah Lake;

(b) a governmental entity's easement or other interest affecting Utah Lake;

(c) an agreement between governmental entities, including between a state agency and the federal government, relating to Utah Lake; and

(d) the public trust doctrine as applicable to land within the lake authority boundary.

(4) (a) The lake authority may use lake authority money to encourage, incentivize, fund, or require development that:

(i) mitigates noise, air pollution, light pollution, surface and groundwater pollution, and other negative environmental impacts;

(ii) includes building or project designs that minimize negative impacts to the June Sucker, avian species, and other wildlife;

(iii) mitigates traffic congestion; or

(iv) uses high efficiency building construction and operation.

(b) In consultation with the municipality in which management is expected to occur and applicable state agencies, the lake authority shall establish minimum mitigation and environmental standards for management occurring on land within the lake authority boundary.

Section 16. Section **11-68-201** is amended to read:

11-68-201. State Fair Park Authority -- Legal status -- Powers.

(1) There is created the State Fair Park Authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) (a) The fair corporation is dissolved and ceases to exist, subject to any winding down and other actions necessary for a transition to the authority.

(b) The authority:

(i) replaces and is the successor to the fair corporation;

(ii) succeeds to all rights, obligations, privileges, immunities, and assets of the fair corporation; and

(iii) shall fulfill and perform all contractual and other obligations of the fair corporation.

(c) The board shall take all actions necessary and appropriate to wind down the affairs of the fair corporation as quickly as practicable and to make a transition from the fair corporation to the authority.

(4) The authority shall:

(a) manage, supervise, and control:

(i) all activities relating to the annual exhibition described in Subsection (4)(j); and

(ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;

(b) for public entertainment, displays, and exhibits or similar events held at the state fair park:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

(A) private contributions;

(B) public appropriations;

(C) admission charges; and

(D) other lawful means;

(c) acquire and designate exposition sites;

(d) use generally accepted accounting principles in accounting for the authority's assets, liabilities, and operations;

(e) seek corporate sponsorships for the state fair park or for individual buildings or facilities on fair park land;

(f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Office of Tourism, and other entities to develop and promote expositions and the use of fair park land;

(g) develop and maintain a marketing program to promote expositions and the use of fair park land;

(h) in accordance with provisions of this chapter, operate and maintain state-owned buildings and facilities on fair park land, including the physical appearance and structural integrity of those buildings and facilities;

(i) prepare an economic development plan for the fair park land;

(j) hold an annual exhibition on fair park land that:

(i) is called the state fair or a similar name;

(ii) promotes and highlights agriculture throughout the state;

(iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the board's opinion, will best stimulate agricultural, industrial, artistic, and

educational pursuits and the sharing of talents among the people of the state;

(iv) includes the award of premiums for the best specimens of the exhibited articles and animals;

(v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and

(vi) is arranged according to plans approved by the board;

(k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and

(l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.

(5) In addition to the annual exhibition described in Subsection (4)(j), the authority may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of the state.

(6) The authority may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201 or any captive insurance company created by the risk manager; or

(ii) procure insurance against any loss in connection with the authority's property and other assets;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or the state;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the authority, subject to the conditions, if any, upon which the aid and contributions are made;

(e) enter into management agreements with any person or entity for the performance of the authority's functions or powers;

(f) establish accounts and procedures that are necessary to budget, receive, disburse,

account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8), lease any of the state-owned buildings or facilities located on fair park land;

(h) sponsor events as approved by the board;

(i) subject to Subsection (11), acquire any interest in real property that the board considers necessary or advisable to further a purpose of the authority or facilitate the authority's fulfillment of a duty under this chapter;

(j) in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, provide for or finance an energy efficiency upgrade, a [~~renewable~~] clean energy system, or electric vehicle charging infrastructure, as those terms are defined in Section 11-42a-102; and

(k) enter into one or more agreements to develop the fair park land.

(7) The authority shall comply with:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) Title 52, Chapter 4, Open and Public Meetings Act;

(d) Title 63G, Chapter 2, Government Records Access and Management Act;

(e) the provisions of Section 67-3-12;

(f) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:

(i) entertainment provided at the state fair park;

(ii) judges for competitive exhibits; or

(iii) sponsorship of an event on fair park land; and

(g) the legislative approval requirements for capital development projects established in Section 63A-5b-404.

(8) (a) Before the authority executes a lease described in Subsection (6)(g) with a term of 10 or more years, the authority shall:

(i) submit the proposed lease to the division for the division's approval or rejection; and

(ii) if the division approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(b) The Executive Appropriations Committee shall review a proposed lease submitted

in accordance with Subsection (8)(a) and recommend to the authority that the authority:

(i) execute the proposed lease, either as proposed or with changes recommended by the Executive Appropriations Committee; or

(ii) reject the proposed lease.

(9) (a) Subject to Subsection (9)(b), a department, division, or other instrumentality of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) The division shall provide assistance and resources to the authority as the division director determines is appropriate.

(10) The authority may share authority revenue with a municipality in which the fair park land is located, as provided in an agreement between the authority and the municipality, to pay for municipal services provided by the municipality.

(11) (a) As used in this Subsection (11), "new land" means land that, if acquired by the authority, would result in the authority having acquired over three acres of land more than the land described in Subsection 11-68-101(9)(a).

(b) In conjunction with the authority's acquisition of new land, the authority shall enter an agreement with the municipality in which the new land is located.

(c) To provide funds for the cost of increased municipal services that the municipality will provide to the new land, an agreement under Subsection (11)(b) shall:

(i) provide for:

(A) the payment of impact fees to the municipality for development activity on the new land; and

(B) the authority's sharing with the municipality tax revenue generated from the new land; and

(ii) be structured in a way that recognizes the needs of the authority and furthers mutual goals of the authority and the municipality.

Section 17. Section **17-27a-401** is amended to read:

17-27a-401. General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

(1) To accomplish the purposes of this chapter, a county shall prepare and adopt a comprehensive, long-range general plan:

(a) for present and future needs of the county;

(b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county; or

(ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and

(c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) To promote health, safety, and welfare, the general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and [~~renewable~~] clean energy resources;

(e) the protection of urban development;

(f) the protection and promotion of air quality;

(g) historic preservation;

(h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and

(i) an official map.

(3) (a) (i) The general plan of a specified county, as defined in Section 17-27a-408, shall include a moderate income housing element that meets the requirements of Subsection 17-27a-403(2)(a)(iii).

(ii) (A) This Subsection (3)(a)(ii) applies to a county that does not qualify as a specified county as of January 1, 2023.

(B) As of January 1, if a county described in Subsection (3)(a)(ii)(A) changes from one class to another or grows in population to qualify as a specified county as defined in Section

17-27a-408, the county shall amend the county's general plan to comply with Subsection (3)(a)(i) on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county.

(iii) A county described in Subsection (3)(a)(ii)(B) shall send a copy of the county's amended general plan to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member.

(b) The general plan shall contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(c) The resource management plan described in Subsection (3)(b) shall address:

(i) mining;

(ii) land use;

(iii) livestock and grazing;

(iv) irrigation;

(v) agriculture;

(vi) fire management;

(vii) noxious weeds;

(viii) forest management;

(ix) water rights;

(x) ditches and canals;

(xi) water quality and hydrology;

(xii) flood plains and river terraces;

(xiii) wetlands;

(xiv) riparian areas;

(xv) predator control;

(xvi) wildlife;

(xvii) fisheries;

(xviii) recreation and tourism;

(xix) energy resources;

(xx) mineral resources;

(xxi) cultural, historical, geological, and paleontological resources;

(xxii) wilderness;

(xxiii) wild and scenic rivers;

(xxiv) threatened, endangered, and sensitive species;

(xxv) land access;

(xxvi) law enforcement;

(xxvii) economic considerations; and

(xxviii) air.

(d) For each item listed under Subsection (3)(c), a county's resource management plan shall:

(i) establish findings pertaining to the item;

(ii) establish defined objectives; and

(iii) outline general policies and guidelines on how the objectives described in Subsection (3)(d)(ii) are to be accomplished.

(4) (a) (i) The general plan shall include specific provisions related to an area within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303.

(ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

(A) the information identified in Section 19-3-305;

(B) information supported by credible studies that demonstrates that Subsection 19-3-307(2) has been satisfied; and

(C) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

(d) The county shall send a certified copy of the ordinance described in Subsection

(4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

(i) comply with Subsection (4)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan.

(8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23A, Wildlife Resources Act.

(9) On or before December 31, 2025, a county that has a general plan that does not include a water use and preservation element that complies with Section 17-27a-403 shall amend the county's general plan to comply with Section 17-27a-403.

Section 18. Section **17-50-335** is amended to read:

17-50-335. Energy efficiency upgrade, clean energy system, or electric vehicle charging infrastructure.

A county may provide or finance an energy efficiency upgrade, a [~~renewable~~] clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in a designated voluntary assessment area in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

Section 19. Section **17B-1-202** is amended to read:

17B-1-202. Special district may be created -- Services that may be provided -- Limitations.

(1) (a) A special district may be created as provided in this part to provide within its boundaries service consisting of:

(i) the operation of an airport;

(ii) the operation of a cemetery;

(iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;

(iv) garbage collection and disposal;

(v) health care, including health department or hospital service;

(vi) the operation of a library;

(vii) abatement or control of mosquitos and other insects;

(viii) the operation of parks or recreation facilities or services;

(ix) the operation of a sewage system;

(x) the construction and maintenance of a right-of-way, including:

(A) a curb;

(B) a gutter;

(C) a sidewalk;

(D) a street;

(E) a road;

(F) a water line;

(G) a sewage line;

(H) a storm drain;

(I) an electricity line;

(J) a communications line;

(K) a natural gas line; or

(L) street lighting;

(xi) transportation, including public transit and providing streets and roads;

(xii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;

(xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;

(xiv) law enforcement service;

(xv) subject to Subsection (1)(b), the underground installation of an electric utility line

or the conversion to underground of an existing electric utility line;

(xvi) the control or abatement of earth movement or a landslide;

(xvii) the operation of animal control services and facilities; or

(xviii) an energy efficiency upgrade, a [~~renewable~~] clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

(b) Each special district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.

(c) A groundwater management plan described in Subsection (1)(a)(xiii) may include the banking of groundwater rights by a special district in a critical management area as defined in Section 73-5-15 following the adoption of a groundwater management plan by the state engineer under Section 73-5-15.

(i) A special district may manage the groundwater rights it acquires under Subsection 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).

(ii) A groundwater right held by a special district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.

(iii) (A) A special district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).

(B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section 73-1-4 beginning on the date of divestiture.

(iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section 73-5-15, a groundwater right held by the special district is subject to Section 73-1-4.

(v) A special district created in accordance with Subsection (1)(a)(xiii) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in

accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

(2) As used in this section:

(a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.

(b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment.

(3) (a) A special district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).

(b) Subsection (3)(a) may not be construed to prohibit a special district from providing more than four services if, before April 30, 2007, the special district was authorized to provide those services.

(4) (a) Except as provided in Subsection (4)(b), a special district may not be created to provide and may not after its creation provide to an area the same service that may already be provided to that area by another political subdivision, unless the other political subdivision gives its written consent.

(b) For purposes of Subsection (4)(a), a special district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:

(i) sewage system; or

(ii) water system.

(5) (a) Except for a special district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a special district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.

(b) The area of a special district need not be contiguous.

(6) For a special district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:

(a) paramedic service; and

(b) emergency service, including hazardous materials response service.

(7) A special district created before May 11, 2010, authorized to provide the

construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection (1)(a)(x) on or after May 11, 2010.

(8) A special district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection (1)(a)(xii) on or after May 10, 2011.

(9) A special district may not be created under this chapter for two years after the date on which a special district is dissolved as provided in Section 17B-1-217 if the special district proposed for creation:

(a) provides the same or a substantially similar service as the dissolved special district; and

(b) is located in substantially the same area as the dissolved special district.

Section 20. Section **17D-1-201** is amended to read:

17D-1-201. Services that a special service district may be created to provide.

As provided in this part, a county or municipality may create a special service district to provide any combination of the following services:

(1) water;

(2) sewerage;

(3) drainage;

(4) flood control;

(5) garbage collection and disposal;

(6) health care;

(7) transportation, including the receipt of federal secure rural school funds under Section 51-9-603 for the purposes of constructing, improving, repairing, or maintaining public roads;

(8) recreation;

(9) fire protection, including:

(a) emergency medical services, ambulance services, and search and rescue services, if fire protection service is also provided;

(b) Firewise Communities programs and the development of community wildfire protection plans; and

(c) the receipt of federal secure rural school funds as provided under Section 51-9-603

for the purposes of carrying out Firewise Communities programs, developing community wildfire protection plans, and performing emergency services, including firefighting on federal land and other services authorized under this Subsection (9);

(10) providing, operating, and maintaining correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;

(11) street lighting;

(12) consolidated 911 and emergency dispatch;

(13) animal shelter and control;

(14) receiving federal mineral lease funds under Title 59, Chapter 21, Mineral Lease Funds, and expending those funds to be used in accordance with state and federal law;

(15) in a county of the first class, extended police protection;

(16) control or abatement of earth movement or a landslide;

(17) an energy efficiency upgrade, a [~~renewable~~] clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act; or

(18) cemetery.

Section 21. Section **54-17-502** is amended to read:

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

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

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

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

(A) not later than 30 days after the day on which this section takes effect, the affected electrical utility amends the solicitation or initiates a new solicitation to seek bids for

[~~renewable~~] clean energy source projects up to 300 megawatts in size; and

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

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

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

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

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

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

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

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

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

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

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

the solicitation; and

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

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

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

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

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

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

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

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

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

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

(d) For an affected electrical utility whose rates are regulated by the commission, the

utility has the burden of proving in a rate case or other appropriate commission proceeding the prudence, reasonableness, and cost-effectiveness of construction under this Subsection (6), including the method used to evaluate the risks and value of any bid submitted in the solicitation under this section.

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

Section 22. Section **54-17-601** is amended to read:

54-17-601. Definitions.

As used in this part:

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

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

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

(i) wind energy;

(ii) solar photovoltaic and solar thermal energy;

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

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

(A) organic waste;

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

(C) agricultural residues;

(D) dedicated energy crops; and

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

(v) geothermal energy;

(vi) hydroelectric energy; or

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

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

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

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

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

(b) carried forward into a subsequent year.

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

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

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

(5) "Clean energy source" means:

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

following:

(i) wind energy;

(ii) solar photovoltaic and solar thermal energy;

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

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

(A) organic waste;

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

(C) agricultural residues;

(D) dedicated energy crops; and

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

(v) geothermal energy located outside the state;

(vi) waste gas and waste heat capture or recovery, 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 clean energy source;

(ix) municipal solid waste; or

(x) energy derived from nuclear fuel;

(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 (5)(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 (5)(a) through (c); and

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

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

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

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

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

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

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

[~~(5)~~] (6) "Electrical corporation":

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

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

[~~(6)~~] (7) "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.

[~~(7)~~] (8) "Qualifying electricity" means electricity generated on or after January 1, 1995, from a [~~renewable~~] clean energy source if:

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

(ii) the qualifying electricity is delivered to the transmission system of 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)~~] (9) "Qualifying zero carbon emissions generation":

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

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

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

(b) includes generation powered by nuclear fuel; and

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

[~~(9)~~] (10) "Renewable energy certificate" means a certificate issued under Section 54-17-603.

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

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

~~operational on or after January 1, 1995 that derives its energy from one or more of the following:~~]

[~~(i) wind energy;~~]

[~~(ii) solar photovoltaic and solar thermal energy;~~]

[~~(iii) wave, tidal, and ocean thermal energy;~~]

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

[~~(A) organic waste;~~]

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

[~~(C) agricultural residues;~~]

[~~(D) dedicated energy crops; and~~]

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

[~~(v) geothermal energy located outside the state;~~]

[~~(vi) waste gas and waste heat capture or recovery 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)(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)(a) through (c); and~~]

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

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

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

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

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

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

[~~(vi) the station use of solar thermal energy, solar photovoltaic energy, hydroelectric~~

~~energy, geothermal energy, waste gas, or waste heat capture and recovery.~~]

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

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

(b) activities listed in Subsection [~~(10)(c)~~] (5)(e).

Section 23. 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, beginning in 2025 the annual retail electric sales in this state of each electrical corporation shall consist of qualifying electricity or renewable energy certificates in an amount equal to at least 20% of adjusted retail electric sales.

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

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

(i) 17,500 megawatt-hours; or

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

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

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

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

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

(b) enter into any additional electric sales commitment or any other arrangement for the

sale or other disposition of electricity that is not already, or would not be, entered into by the electrical corporation; or

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

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

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

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

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

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

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

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

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

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

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

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

renewable energy source was located within the geographic boundary of the Western Electricity Coordinating Council.

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

Section 24. 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, 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~~] clean energy sources for other than a cooperative association; or

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

(d) a discussion of conditions impacting the [~~renewable~~] clean 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~~] clean energy resource and qualifying electricity that satisfy the criteria of Subsection

54-17-201(2)(c)(ii).

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

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

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

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

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

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

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

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

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

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

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

(b) force majeure.

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

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

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

satisfied.

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

Section 25. Section **54-17-605** is amended to read:

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

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

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

(i) the acquisition of a renewable energy certificate;

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

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

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

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

(a) a cost of siting, acquisition of property rights, equipment, design, licensing, permitting, construction, owning, operating, or otherwise acquiring a [~~renewable~~] 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~~] 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~~] 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 to a

retail electricity consumer.

(3) (a) The commission may 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).

(b) If the commission allows the use of an adjustment mechanism, both the costs and any associated benefit shall be reflected in the mechanism, 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~~] clean energy source, whether or not the [~~renewable~~] clean 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~~] clean 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~~] clean 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~~] clean energy source that the electrical corporation

proposes to construct shall be included in the electrical corporation's project costs for the purpose of evaluating the project's cost-effectiveness.

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

Section 26. Section **54-17-801** is amended to read:

54-17-801. Definitions.

As used in this part:

(1) "Clean energy contract" means a contract under this part for the delivery of electricity from one or more clean energy facilities to a contract customer requiring the use of a qualified utility's transmission or distribution system to deliver the electricity from a clean energy facility to the contract customer.

(2) (a) "Clean energy facility" means a clean energy source as defined in Section 54-17-601 that:

(i) is located in the state; or

(ii) (A) is located outside the state; and

(B) provides energy from baseload clean resources.

(b) "Clean energy facility" does not include an electric generating facility for which the electric generating facility's costs are included in a qualified utility's rates as a facility that provides electric service to the qualified utility's system.

(3) "Clean energy tariff" means a tariff offered by a qualified utility that allows the qualified utility to procure clean generation on behalf of and to serve its customers.

(4) "Contract customer" means a person who executes or will execute a [~~renewable~~] clean energy contract with a qualified utility.

[~~(2)~~] (5) "Qualified utility" means an electric corporation that serves more than 200,000 retail customers in the state.

[~~(3) "Renewable energy contract" means a contract under this part for the delivery of electricity from one or more renewable energy facilities to a contract customer requiring the use of a qualified utility's transmission or distribution system to deliver the electricity from a renewable energy facility to the contract customer.~~]

[~~(4) (a) "Renewable energy facility" means a renewable energy source as defined in~~

~~Section 54-17-601 that:~~]

[~~(i) is located in the state; or~~]

[~~(ii) (A) is located outside the state; and~~]

[~~(B) provides energy from baseload renewable resources.~~]

[~~(b) "Renewable energy facility" does not include an electric generating facility for which the electric generating facility's costs are included in a qualified utility's rates as a facility that provides electric service to the qualified utility's system.~~]

[~~(5) "Renewable energy tariff" means a tariff offered by a qualified utility that allows the qualified utility to procure renewable generation on behalf of and to serve its customers.~~]

Section 27. Section **54-17-802** is amended to read:

54-17-802. Contracts for the purchase of electricity from a clean energy facility.

(1) Within a reasonable time after receiving a request from a contract customer and subject to reasonable credit requirements, a qualified utility shall enter into a [~~renewable~~] clean energy contract with the requesting contract customer to supply some or all of the contract customer's electric service from one or more [~~renewable~~] clean energy facilities selected by the contract customer.

(2) Subject to a contract customer agreeing to pay the qualified utility for all incremental costs associated with metering facilities, communication facilities, and administration, a [~~renewable~~] clean energy contract may provide for electricity to be delivered to a contract customer:

(a) from one [~~renewable~~] clean energy facility to a contract customer's single metered delivery location;

(b) from multiple [~~renewable~~] clean energy facilities to a contract customer's single metered delivery location; or

(c) from one or more [~~renewable~~] clean energy facilities to a single contract customer's multiple metered delivery locations.

(3) (a) A single contract customer may aggregate multiple metered delivery locations to satisfy the minimum megawatt limit under Subsection (4).

(b) Multiple contract customers may not aggregate their separate metered delivery locations to satisfy the minimum megawatt limit under Subsection (4).

(4) The amount of electricity provided to a contract customer under a [~~renewable~~] clean

energy contract may not be less than 2.0 megawatts.

(5) The amount of electricity provided in any hour to a contract customer under a [~~renewable~~] clean energy contract may not exceed the contract customer's metered kilowatt-hour load in that hour at the metered delivery locations under the contract.

(6) A [~~renewable~~] clean energy contract that meets the requirements of Subsection (4) may provide for one or more increases in the amount of electricity to be provided under the contract even though the amount of electricity to be provided by the increase is less than the minimum amount required under Subsection (4).

(7) The total amount of electricity to be generated by [~~renewable~~] clean energy facilities and delivered to contract customers at any one time under all [~~renewable~~] clean energy contracts may not exceed 300 megawatts, unless the commission approves in advance a higher amount.

(8) Electricity generated by a [~~renewable~~] clean energy facility and delivered to a contract customer under a [~~renewable~~] clean energy contract may not be included in a net metering program under Chapter 15, Net Metering of Electricity.

Section 28. Section **54-17-803** is amended to read:

54-17-803. Ownership of a clean energy facility -- Joint ownership -- Ownership of environmental attributes.

(1) A [~~renewable~~] clean energy facility may be owned:

(a) by a person who will be a contract customer receiving electricity from the [~~renewable~~] clean energy facility;

(b) by a qualified utility;

(c) by a person other than a contract customer or qualified utility; or

(d) jointly by any combination of Subsections (1)(a), (b), and (c), whether in equal shares or otherwise.

(2) A qualified utility may be a joint owner of a [~~renewable~~] clean energy facility only if:

(a) the qualified utility consents to being a joint owner; and

(b) the joint ownership agreement requires the qualified utility to recover from contract customers receiving electricity from the [~~renewable~~] clean energy facility all of the qualified utility's costs associated with its ownership of the [~~renewable~~] clean energy facility, including

administrative, acquisition, operation, and maintenance costs, unless the commission, in an order issued in a separate regulatory proceeding:

(i) authorizes the qualified utility to recover some of those costs from customers other than contract customers;

(ii) determines that the rate to be paid for electricity from the [~~renewable~~] clean energy facility by customers other than contract customers is cost effective; and

(iii) approves the inclusion of the rate determined under Subsection (2)(b)(ii) in general rates or through a commission approved cost recovery mechanism.

(3) To the extent that any electricity from a [~~renewable~~] clean energy facility to be delivered to a contract customer is owned by a person other than the contract customer:

(a) the qualified utility shall, by contract with the owner of the electricity to be sold from the [~~renewable~~] clean energy facility, purchase electricity for resale to one or more contract customers;

(b) the qualified utility shall sell that electricity to the contract customer or customers under [~~renewable~~] clean energy contracts with the same duration and pricing as the contract between the qualified utility and the owner of the electricity to be sold from the [~~renewable~~] clean energy facility; and

(c) the qualified utility's contract with the owner of the electricity to be sold from the [~~renewable~~] clean energy facility shall provide that the qualified utility's obligation to purchase electricity under that contract ceases if the contract customer defaults in its obligation to purchase and pay for the electricity under the contract with the qualified utility.

(4) The right to any environmental attribute associated with a [~~renewable~~] clean energy facility shall remain the property of the [~~renewable~~] clean energy facility's owner, except to the extent that a contract to which the owner is a party provides otherwise.

Section 29. Section **54-17-804** is amended to read:

54-17-804. Exemption from certificate of convenience and necessity requirements.

(1) A qualified utility is not required to comply with Section 54-4-25 with respect to a [~~renewable~~] clean energy facility that is the subject of a [~~renewable~~] clean energy contract if:

(a) each contract necessary for the commission to determine compliance with this part is filed with the commission; and

(b) the commission determines that each contract relating to the [~~renewable~~] clean energy facility complies with this part.

(2) In making its determination under Subsection (1)(b), the commission may process and consider together multiple [~~renewable~~] clean energy contracts between the same contract customer and the qualified utility providing for the delivery of electricity from a [~~renewable~~] clean energy facility to the contract customer's multiple metered delivery locations.

Section 30. Section **54-17-805** is amended to read:

54-17-805. Costs associated with delivering electricity from a clean energy facility to a contract customer.

(1) To the extent that a [~~renewable~~] clean energy contract provides for the delivery of electricity from a [~~renewable~~] clean energy facility owned by the contract customer, the [~~renewable~~] clean energy contract shall require the contract customer to pay for the use of the qualified utility's transmission or distribution facilities at the qualified utility's applicable rates, which may include transmission costs at the qualified utility's applicable rate approved by the Federal Energy Regulatory Commission.

(2) To the extent that a [~~renewable~~] clean energy contract provides for the delivery of electricity from a [~~renewable~~] clean energy facility owned by a person other than the qualified utility or the contract customer, the [~~renewable~~] clean energy contract shall require the contract customer to bear all reasonably identifiable costs that the qualified utility incurs in delivering the electricity from the [~~renewable~~] clean energy facility to the contract customer, including all costs to procure and deliver electricity and for billing, administrative, and related activities, as determined by the commission.

(3) A qualified utility that enters a [~~renewable~~] clean energy contract shall charge a contract customer for all metered electric service delivered to the contract customer, including generation, transmission, and distribution service, at the qualified utility's applicable tariff rates, excluding:

(a) any kilowatt hours of electricity delivered from the [~~renewable~~] clean energy facility, based on the time of delivery, adjusted for transmission losses;

(b) any kilowatts of electricity delivered from the [~~renewable~~] clean energy facility that coincide with the contract customer's monthly metered kilowatt demand measurement, adjusted for transmission losses;

(c) any transmission and distribution service that the contract customer pays for under Subsection (1) or (2); and

(d) any transmission service that the contract customer provides under Subsection (2) to deliver generation from the [~~renewable~~] clean energy facility.

Section 31. Section **54-17-806** is amended to read:

54-17-806. Qualified utility clean energy tariff.

(1) The commission may authorize a qualified utility to implement a [~~renewable~~] clean energy tariff in accordance with this section if the commission determines the tariff that the qualified utility proposes is reasonable and in the public interest.

(2) The commission may authorize a tariff under Subsection (1) to apply to:

(a) a qualified utility customer with an aggregated electrical load of at least five megawatts; or

(b) a combination of qualified utility customers who are separately metered if:

(i) the aggregated electrical load of the qualified utility customers is at least five megawatts; and

(ii) each of the qualified utility customers is located within a project area, as defined in Section 11-58-102.

(3) A customer who agrees to take service that is subject to the [~~renewable~~] clean energy tariff under this section shall pay:

(a) the customer's normal tariff rate;

(b) an incremental charge in an amount equal to the difference between the cost to the qualified utility to supply [~~renewable~~] clean generation to the [~~renewable~~] clean energy tariff customer and the qualified utility's avoided costs as defined in Subsection 54-2-1(1), or a different methodology recommended by the qualified utility; and

(c) an administrative fee in an amount approved by the commission.

(4) The commission shall allow a qualified utility to recover the qualified utility's prudently incurred cost of [~~renewable~~] clean generation procured pursuant to the tariff established in this section that is not otherwise recovered from the proceeds of the tariff paid by customers agreeing to service that is subject to the [~~renewable~~] clean energy tariff.

Section 32. Section **54-17-807** is amended to read:

54-17-807. Solar photovoltaic or thermal solar energy facilities.

(1) As used in this section, "acquire" means to purchase, construct, or purchase the output from a photovoltaic or thermal solar energy resource.

(2) (a) In accordance with this section, a qualified utility may file an application with the commission for approval to acquire a photovoltaic or thermal solar energy resource using rate recovery based on a competitive market price, except as provided in Subsection (2)(b).

(b) A qualified utility may not, under this section, acquire a photovoltaic or thermal solar energy resource with a generating capacity that is two megawatts or less per meter if that resource is located on the customer's side of the meter.

(3) The energy resource acquired pursuant to this section may be owned solely or jointly by a qualified utility or another entity:

(a) to provide [~~renewable~~] clean energy to a contract customer as provided in Section 54-17-803;

(b) to serve energy to a qualified utility customer as provided in Section 54-17-806;

(c) to serve energy to any customers of the qualified utility if the proposed energy resource's nameplate capacity does not exceed 300 megawatts or, if applicable, the quantity of capacity that is the subject of a contract for the purchase of electricity does not exceed 300 megawatts, so long as the qualified utility proceeds under and complies with Part 4, Voluntary Request for Resource Decision Review; or

(d) to serve energy to any customers of the qualified utility if the proposed energy resource's nameplate capacity exceeds 300 megawatts or, if applicable, the quantity of capacity that is the subject of a contract for the purchase of electricity exceeds 300 megawatts, so long as the qualified utility complies with this chapter.

(4) Except as provided in Subsections (3)(c) and (d), the following do not apply to an application submitted under Subsection (2):

(a) Part 1, General Provisions;

(b) Part 2, Solicitation Process;

(c) Part 3, Resource Plans and Significant Energy Resource Approval;

(d) Part 4, Voluntary Request for Resource Decision Review; and

(e) Section 54-17-502.

(5) The application described in Subsection (2) shall include:

(a) a proposed solicitation process for the energy resource;

(b) the criteria proposed to be used to evaluate the responses to the solicitation:

(i) as determined by the customer, if the energy resource is sought to serve a customer pursuant to Subsection (3)(a) or (b); or

(ii) as proposed by the qualified utility, if the energy resource is sought to serve the customers of the qualified utility pursuant to Subsection (3)(c) or (d); and

(c) any other information the commission may require.

(6) (a) Before approving a solicitation process under this section for an energy resource to serve customers of the qualified utility pursuant to Subsection (3)(c) or (d), the commission shall:

(i) hold a public hearing; and

(ii) provide an opportunity for public comment.

(b) The commission may approve a solicitation process under this section only if the commission determines that the solicitation and evaluation processes to be used will create a level playing field in which the qualified utility and other bidders can compete fairly, including with respect to interconnection and transmission requirements imposed on bidders by the solicitation within the control of the commission and the qualified utility, excluding its federally regulated transmission function, and will otherwise serve the public interest.

(7) (a) Upon completion of the solicitation process approved under Subsection (6), the qualified utility may seek approval from the commission to acquire the energy resource identified through the solicitation process as the winning bid.

(b) Before approving acquisition of an energy resource acquired pursuant to this section, the commission shall:

(i) hold a public hearing;

(ii) provide an opportunity for public comment;

(iii) determine whether the solicitation and evaluation processes complied with this section, commission rules, and the commission's order approving the solicitation process; and

(iv) determine whether the acquisition of the energy resource is just and reasonable, and in the public interest.

(c) The commission may approve a qualified utility's ownership of an energy resource or a power purchase agreement containing a purchase option under Subsection (3)(c) or (d) with rate recovery based on a competitive market price only if the commission determines that

the qualified utility's bid is the lowest cost ownership option for the qualified utility.

(d) If the commission approves a qualified utility's acquisition of an energy resource under Subsection (3), including entering into a power purchase agreement containing a purchase option, using rate recovery based on a competitive market price:

(i) the prices approved by the commission shall constitute competitive market prices for purposes of this section; and

(ii) assets owned by the qualified utility and used to provide service as approved under this section are not public utility property.

(8) If upon completion of a solicitation process approved under Subsection (6) the qualified utility proposes not to acquire an energy resource, the qualified utility shall file with the commission a report explaining its reasons for not acquiring the lowest cost resource bid into the solicitation, along with any other information the commission requires.

(9) Within six months after a competitive market price for a solar energy resource acquired under Subsection (3)(c) or (d) has been identified pursuant to this section, or for such longer period as the commission may determine to be in the public interest, a qualified utility may file an application with the commission seeking approval to acquire another energy resource similar to the energy resource for which a competitive market price was established without going through a new solicitation process. The commission may approve the application if the qualified utility demonstrates a need to acquire the energy resource, that the competitive market price remains reasonable, and that the acquisition is in the public interest.

(10) No later than 180 days before the end of the term approved by the commission for an energy resource acquired under this section and owned by the qualified utility, the qualified utility shall file with the commission a request for determination of an appropriate disposition of the energy resource asset, except that the qualified utility is permitted to retain the benefits or proceeds and shall be required to assume the costs and risks of ownership of the energy resource.

(11) The commission shall adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) addressing the content and filing of an application under this section;

(b) to establish the solicitation process and criteria to be used to identify the competitive market price and select an energy resource; and

(c) addressing other factors determined by the commission to be relevant to protect the public interest and to implement this section.

Section 33. Section **54-17-901** is amended to read:

54-17-901. Community Clean Energy Act.

This part is known as the "Community [~~Renewable~~] Clean Energy Act."

Section 34. Section **54-17-902** is amended to read:

54-17-902. Definitions.

As used in this part:

(1) (a) "Auxiliary services" means those services necessary to safely and reliably:

(i) interconnect and transmit electric power from any [~~renewable~~] clean energy resource constructed or acquired for a community [~~renewable~~] clean energy program; and

(ii) integrate and supplement electric power from any [~~renewable~~] clean energy resource.

(b) "Auxiliary services" shall include applicable Federal Energy Regulatory Commission requirements governing transmission and interconnection services.

(2) "Clean electric energy supply" means incremental clean energy resources that are developed to meet the equivalent of the annual electric energy consumption of participating customers within a participating community.

(3) "Clean energy resource" means:

(a) electric energy generated by a source that is naturally replenished and includes one or more of the following:

(i) wind;

(ii) solar photovoltaic or thermal solar technology;

(iii) a geothermal resource; or

(iv) a hydroelectric plant including a pumped storage hydropower facility;

(b) use of an energy efficient and sustainable technology the commission has approved for implementation that:

(i) increases efficient energy usage;

(ii) is capable of being used for demand response;

(iii) facilitates the use and development of clean generation resources through electrical grid management or energy storage; or

(iv) uses carbon capture utilization and sequestration; or

(c) energy derived from nuclear fuel.

[~~(2)~~] (4) "Commission" means the Public Service Commission created in Section 54-1-1.

[~~(3)~~] (5) "Community [~~renewable~~] clean energy program" means the program approved by the commission under Section 54-17-904 that allows a qualified utility to provide electric service from one or more [~~renewable~~] clean energy resources to a participating customer within a participating community.

[~~(4)~~] (6) "County" means the unincorporated area of a county.

[~~(5)~~] (7) "Division" means the Division of Public Utilities created in Section 54-4a-1.

[~~(6)~~] (8) (a) "Initial opt-out period" means the period of time immediately after the community [~~renewable~~] clean energy program's commencement, as established by the commission by rule made pursuant to Section 54-17-909, during which a participating customer may elect to leave the program without penalty.

(b) "Initial opt-out period" may not be shorter than three typical billing cycles of the qualified utility.

[~~(7)~~] (9) "Municipality" means a city or a town as defined in Section 10-1-104.

[~~(8)~~] (10) "Office" means the Office of Consumer Services created in Section 54-10a-101.

[~~(9)~~] (11) "Ongoing costs" means the costs allocated to the state for transmission and distribution facilities, retail services, and generation assets that are not replaced assets.

[~~(10)~~] (12) "Participating community" means a municipality or a county:

(a) whose residents are served by a qualified utility; and

(b) the municipality or county meets the requirements in Section 54-17-903.

[~~(11)~~] (13) "Participating customer" means:

(a) a customer of a qualified utility located within the boundary of a municipality or county where a community [~~renewable~~] clean energy program has been approved by the commission; and

(b) the customer has not exercised the right to not participate in the community [~~renewable~~] clean energy program as provided in Section 54-17-905.

[~~(12)~~] (14) "Qualified utility" means the same as that term is defined in Section

54-17-801.

[~~(13) "Renewable electric energy supply" means incremental renewable energy resources that are developed to meet the equivalent of the annual electric energy consumption of participating customers within a participating community.~~]

[~~(14) "Renewable energy resource" means:~~]

[~~(a) electric energy generated by a source that is naturally replenished and includes one or more of the following:~~]

[~~(i) wind;~~]

[~~(ii) solar photovoltaic or thermal solar technology;~~]

[~~(iii) a geothermal resource; or~~]

[~~(iv) a hydroelectric plant; or~~]

[~~(b) use of an energy efficient and sustainable technology the commission has approved for implementation that:~~]

[~~(i) increases efficient energy usage;~~]

[~~(ii) is capable of being used for demand response; or~~]

[~~(iii) facilitates the use and development of renewable generation resources through electrical grid management or energy storage.~~]

(15) "Replaced asset" means an existing thermal energy resource:

(a) that was built or acquired, in whole or in part, by a qualified utility to serve the qualified utility's customers, including customers within a participating community;

(b) that was built or acquired prior to commission approval and the effective date of the community [~~renewable~~] clean energy program; and

(c) to the extent the asset is no longer used to serve participating customers.

Section 35. 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~~] clean 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~~] clean 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~~] clean 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;

(c) adopt a local ordinance that:

(i) establishes participation in the [~~renewable~~] clean 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~~] clean energy program.

Section 36. Section **54-17-904** is amended to read:

54-17-904. Authority of commission to approve a community clean 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~~] clean energy program.

(2) The application shall include:

(a) the names of each municipality and county to be served by the community [~~renewable~~] clean 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~~] clean energy resources used to serve the community [~~renewable~~] clean 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~~] clean 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~~] clean 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 implement this part; and

(b) the community [~~renewable~~] clean energy program is in the public interest.

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

Section 37. Section **54-17-905** is amended to read:

54-17-905. Customer participation -- Election not to participate.

(1) (a) After commission approval of a community [~~renewable~~] clean energy program and adoption of the ordinance by the participating community as required in Section 54-17-903, a qualified utility shall provide notice to each of its customers within the participating community that includes:

(i) the projected rates and terms of participation in the community [~~renewable~~] clean energy program approved by the commission;

(ii) an estimated comparison to otherwise applicable existing rates;

(iii) an explanation that the customer may elect to not participate in the community [~~renewable~~] clean energy program by notifying the qualified utility; and

(iv) any other information required by the commission.

(b) The qualified utility shall provide the notice required under Subsection (1)(a) to each customer:

(i) no less than twice within the period of 60 days immediately preceding the date required to opt out of the community [~~renewable~~] clean energy program; and

(ii) separately from the customer's monthly billing.

(c) The qualified utility shall provide the information required under Subsection (1)(a) in person to each customer with an electric load of one megawatt or greater measured at a single meter.

(2) (a) An existing customer of the qualified utility may elect to not participate in the community [~~renewable~~] clean energy program and continue to pay applicable existing rates by giving notice to the qualified utility in the manner and within the time period determined by the

commission.

(b) After implementation of the community [~~renewable~~] clean energy program:

(i) a customer that previously elected not to participate in the program may become a participating customer as allowed by commission rules and by giving notice to the qualified utility in the manner required by the commission; and

(ii) a customer of the qualified utility that begins taking electric service within a participating community after the date of implementation of the community [~~renewable~~] clean energy program shall:

(A) be given notice as determined by the commission; and

(B) shall become a participating customer unless the person elects not to participate by giving notice to the qualified utility in the manner and within the time period determined by the commission.

(3) (a) A customer that does not opt out of the community [~~renewable~~] clean energy program under Subsection (2) may later discontinue participation in the community [~~renewable~~] clean energy program as allowed by the commission as described in Subsection (3)(b) or (c).

(b) (i) During the initial opt-out period, a participating customer may elect to leave the program by giving notice to the qualified utility in the manner determined by the commission.

(ii) A participating customer that opts out as described in Subsection (3)(b)(i) is not subject to a termination charge.

(c) After the community [~~renewable~~] clean energy program's initial opt-out period, a participating customer may elect to leave the program by:

(i) giving notice to the qualified utility in the manner determined by the commission; and

(ii) paying a termination charge as determined by the commission that may include the cost of [~~renewable~~] clean energy resources acquired or constructed for the community [~~renewable~~] clean energy program that are not being utilized by participating customers as necessary to prevent shifting costs to other customers of the qualified utility.

(4) (a) A customer of a qualified utility that is annexed into the boundaries of a participating community after the effective date of the community [~~renewable~~] clean energy program shall be given notice as provided in Subsection (1) advising the customer of the option

to opt out of the program.

(b) A participating customer located in a portion of a county that is annexed into a municipality that is not a participating community shall continue to be included in the [~~renewable~~] clean energy program if the customer remains a customer of the qualified utility.

(c) If a participating customer is annexed into a municipality that provides electric service to the municipality's residents:

(i) the customer may continue to be served by the qualified utility under the community [~~renewable~~] clean energy program if the qualified utility enters into an agreement with the municipality under Section 54-3-30; or

(ii) the municipality shall pay the termination charge for each participating customer that is no longer served by the qualified utility.

(5) A residential customer that is participating in the net metering program under Title 54, Chapter 15, Net Metering of Electricity, may not be a participating customer under this part.

(6) (a) The cost of providing notice under Subsection (1) shall be paid by the participating communities.

(b) All other notices required under this section shall be paid for as program costs and recovered through participating customers' rates.

Section 38. Section **54-17-906** is amended to read:

54-17-906. Customer billing.

The qualified utility shall:

(1) include information on its monthly bills to participating customers identifying the community [~~renewable~~] clean energy program cost; and

(2) provide notice to participating customers of any change in rate for participation in the community [~~renewable~~] clean energy program.

Section 39. Section **54-17-908** is amended to read:

54-17-908. Acquisition of clean energy resources.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules outlining a competitive solicitation process for the acquisition of [~~renewable~~] clean assets acquired by the qualified utility for purposes of this act.

(2) The solicitation rules shall include the following provisions:

(a) solar photovoltaic or thermal solar energy facilities may be acquired under the provisions of Section 54-17-807;

(b) [~~renewable~~] clean energy resources developed under this part shall be constructed or acquired subject to an option by the qualified utility to own the [~~renewable~~] clean energy resource so long as including the option in a solicitation is in the interest of participating customers and other customers of the qualified utility; and

(c) any other requirement determined by the commission to be in the public interest.

(3) Upon completion of a solicitation under this section and the rules adopted by the commission to implement this section, the commission may approve cost recovery for a [~~renewable~~] clean energy resource for the community [~~renewable~~] clean energy program if approval of the [~~renewable~~] clean energy resource:

(a) complies with the provisions of this part;

(b) does not result in shifting of costs or benefits to other customers of the qualified utility; and

(c) is in the public interest.

Section 40. Section **59-2-102** is amended to read:

59-2-102. Definitions.

As used in this chapter:

(1) (a) "Acquisition cost" means any cost required to put an item of tangible personal property into service.

(b) "Acquisition cost" includes:

(i) the purchase price of a new or used item;

(ii) the cost of freight, shipping, loading at origin, unloading at destination, crating, skidding, or any other applicable cost of shipping;

(iii) the cost of installation, engineering, rigging, erection, or assembly, including foundations, pilings, utility connections, or similar costs; and

(iv) sales and use taxes.

(2) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(3) "Air charter service" means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(4) "Air contract service" means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(5) "Aircraft" means the same as that term is defined in Section 72-10-102.

(6) (a) Except as provided in Subsection (6)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(7) "Assessment roll" or "assessment book" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(8) "Base parcel" means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

(9) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (9), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (9), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(10) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months

before the day on which the notice described in Section 59-2-919.1 is required to be provided; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) $5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(12) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) "Escaped property" does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.

(13) (a) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

(b) For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created

by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (19)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, the special district's board of trustees;

(c) for a school district, the local board of education;

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301; or

(e) for a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, the public infrastructure district's board of trustees.

(18) (a) Except as provided in Subsection (18)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (18)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (18)(a); and

(B) installed solely to serve the operation of the item described in Subsection (18)(a);

and

(ii) an item described in Subsection (18)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(19) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a clean or renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

(20) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

(21) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

(22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(24) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(25) (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:

(i) is capable of flight or is attached to an aircraft that is capable of flight; or

(ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(A) during multiple flights;

(B) during a takeoff, flight, or landing; and

(C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare

engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(27) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(28) "Personal property" includes:

(a) every class of property as defined in Subsection (29) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(29) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(30) (a) "Public utility" means:

(i) the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(ii) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(b) "Public utility" does not include the operating property of a telecommunications service provider.

(31) (a) Subject to Subsection (31)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (31) and Subsection (34).

(32) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(33) (a) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

(34) (a) "Residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) "Residential property" includes:

(i) except as provided in Subsection (34)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) if the county assessor determines that the property will be used for residential purposes as a primary residence:

(A) property under construction; or

(B) unoccupied property.

(c) "Residential property" does not include property used for transient residential use.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (31) and this Subsection (34).

(35) "Split estate mineral rights owner" means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(36) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in Subsection (10)(c) as county-assessed commercial vehicles.

(37) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of a base parcel.

(38) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(39) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(40) "Taxing entity" means any county, city, town, school district, special taxing district, special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41) (a) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) "Tax roll" includes tax books, tax lists, and other similar materials.

(42) "Telecommunications service provider" means the same as that term is defined in Section 59-12-102.

Section 41. Section **59-7-614** is amended to read:

59-7-614. ~~{Renewable}~~Clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Clean energy source" means the same as that term is defined in Section 54-17-601.

[~~(c)~~] (d) "Commercial energy system" means a system that is:

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

[~~(d)~~] (e) "Commercial enterprise" means an entity, the purpose of which is to produce:

(i) electrical, mechanical, or thermal energy for sale from a commercial energy system; or

(ii) hydrogen for sale from a hydrogen production system.

[~~(e)~~] (f) (i) "Commercial unit" means a building or structure that an entity uses to transact business.

(ii) Notwithstanding Subsection [~~(1)(e)(i)~~] (1)(f)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

[~~(f)~~] (g) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

[~~(g)~~] (h) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

[~~(h)~~] (i) "Geothermal energy" means energy generated by heat that is contained in the earth.

[~~(i)~~] (j) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

[~~(j)~~] (k) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

[~~(k)~~] (l) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that uses:

(i) electricity from a [~~renewable~~] clean energy source to create hydrogen gas from water, regardless of whether the [~~renewable~~] clean energy source is at a separate facility or the same facility as the system of apparatus and equipment; or

(ii) uses renewable natural gas to produce hydrogen gas.

[~~(l)~~] (m) "Office" means the Office of Energy Development created in Section 79-6-401.

[~~(m)~~] (n) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and the structure's operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

[~~(n)~~] (o) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

[~~(o)~~] (p) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

[~~(p) "Renewable energy source" means the same as that term is defined in Section 54-17-601.~~]

(q) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(r) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

(s) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit; and

(ii) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed $2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(v) for a system installed on or after January 1, 2024, $0.

(e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (4); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (4)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (5); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of

producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4) and has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (6); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsection (6)(b)(ii), a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7) (a) A taxpayer may claim a refundable tax credit as provided in this Subsection (7) if:

(i) the taxpayer owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4), (5), or (6) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this Subsection (7); and

(v) the taxpayer obtains a written certification from the office in accordance with

Subsection (8).

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (7) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(8) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system, the commercial energy system, or the hydrogen production system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from [~~renewable~~] clean resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system, the commercial energy system, or the hydrogen production system uses the state's [~~renewable~~] clean and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system, a commercial energy system, or a hydrogen production system meets the requirements of Subsection (8)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the

certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the [~~renewable~~] clean energy system was installed.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(10) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(11) A taxpayer may not claim or carry forward a tax credit described in this section in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 59-7-614.7.

Section 42. Section **59-10-1014** is amended to read:

59-10-1014. Nonrefundable clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building,

an industrial process, and aquaculture.

(d) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(e) "Geothermal energy" means energy generated by heat that is contained in the earth.

(f) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(g) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(h) "Office" means the Office of Energy Development created in Section 79-6-401.

(i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(j) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(k) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(l) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(m) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

(n) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) For a taxable year beginning on or after January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit under this section with respect to a residential unit the claimant, estate, or trust owns or uses if:

(a) the claimant, estate, or trust:

(i) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(ii) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(b) the residential energy system is installed on or after January 1, 2007; and

(c) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

(4) (a) For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses; and

(ii) $2,000.

(b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each system installed with respect to each residential unit the claimant, estate, or trust owns or uses; or

(ii) (A) for a system installed on or after January 1, 2007, but on or before December 31, 2017, $2,000;

(B) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(C) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(D) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(E) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(F) for a system installed on or after January 1, 2024, $0.

(c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or trust may claim and list that amount on the written certification that the office issues under Subsection (5).

(ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the written certification that the office issues under Subsection (5).

(d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the taxable year in which the residential energy system is installed.

(e) If the amount of a tax credit listed on the written certification exceeds a claimant's,

estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(f) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed $2,000 per residential unit.

(g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim as a tax credit under Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim a tax credit under Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(h) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under Subsection (3):

(i) the claimant, estate, or trust may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or

(B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

(5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax

credit; and

(ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from [~~renewable~~] clean resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system meets the requirements of Subsection (5)(b)(ii); and

(ii) for purposes of determining the amount of a tax credit that a claimant, estate, or trust may receive under Subsection (4), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the [~~renewable~~] clean energy system was installed.

(6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Section 43. Section **59-10-1106** is amended to read:

59-10-1106. Refundable ~~{renewable}~~clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) "Active solar system" means the same as that term is defined in Section 59-10-1014.

(b) "Biomass system" means the same as that term is defined in Section 59-10-1014.

(c) "Commercial energy system" means the same as that term is defined in Section 59-7-614.

(d) "Commercial enterprise" means the same as that term is defined in Section 59-7-614.

(e) "Commercial unit" means the same as that term is defined in Section 59-7-614.

(f) "Direct use geothermal system" means the same as that term is defined in Section 59-10-1014.

(g) "Geothermal electricity" means the same as that term is defined in Section 59-10-1014.

(h) "Geothermal energy" means the same as that term is defined in Section 59-10-1014.

(i) "Geothermal heat pump system" means the same as that term is defined in Section 59-10-1014.

(j) "Hydroenergy system" means the same as that term is defined in Section 59-10-1014.

(k) "Hydrogen production system" means the same as that term is defined in Section 59-7-614.

(l) "Office" means the Office of Energy Development created in Section 79-6-401.

(m) "Passive solar system" means the same as that term is defined in Section 59-10-1014.

(n) "Principal recovery portion" means the same as that term is defined in Section 59-10-1014.

(o) "Wind system" means the same as that term is defined in Section 59-10-1014.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust

may claim a refundable tax credit under this Subsection (3) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the claimant, estate, or trust purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (3); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (3) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit

under this Subsection (3) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (4); and

(iv) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsection (4)(b)(ii), a tax credit under this Subsection (4) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (5) if:

(i) the claimant, estate, or trust owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by

commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (5); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the claimant, estate, or trust owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (3), (4), or (5) for electricity used to meet the requirements of this Subsection (6); and

(v) the claimant, estate, or trust obtains a written certification from the office in

accordance with Subsection (7).

(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (6) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(7) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the commercial energy system or the hydrogen production system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from [~~renewable~~] clean resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the commercial energy system or the hydrogen production system uses the state's [~~renewable~~] clean and nonrenewable resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a commercial energy system or a hydrogen production system meets the requirements of Subsection (7)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a commercial energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall

retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the commercial energy system or the hydrogen production system was installed.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(10) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

(11) A claimant, estate, or trust may not claim or carry forward a tax credit described in this section in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 59-10-1029.

Section ~~{43}~~44. Section **63A-5b-702** is amended to read:

63A-5b-702. Standards and requirements for state facilities -- Life-cycle cost effectiveness.

(1) As used in this section:

(a) "Clean energy system" means a system designed to use solar, wind, geothermal power, wood, hydropower, nuclear, or other clean energy source to heat, cool, or provide electricity to a building.

(b) "Life cycle cost-effective" means the most prudent cost of owning, operating, and maintaining a facility, including the initial cost, energy costs, operation and maintenance costs, repair costs, and the costs of energy conservation and [~~renewable~~] clean energy systems.

[~~(b) "Renewable energy system" means a system designed to use solar, wind, geothermal power, wood, or other replenishable energy source to heat, cool, or provide~~

~~electricity to a building.~~]

(2) The director shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) that establish standards and requirements for determining whether a state facility project is life cycle cost-effective;

(b) for the monitoring of an agency's operation and maintenance expenditures for a state-owned facility;

(c) to establish standards and requirements for utility metering;

(d) that create an operation and maintenance program for an agency's facilities;

(e) that establish a methodology for determining reasonably anticipated inflationary costs for each operation and maintenance program described in Subsection (2)(d);

(f) that require an agency to report the amount the agency receives and expends on operation and maintenance; and

(g) that provide for determining the actual cost for operation and maintenance requests for a new facility.

(3) The director shall:

(a) ensure that state-owned facilities, except for facilities under the control of the State Capitol Preservation Board, are life cycle cost-effective;

(b) conduct ongoing facilities audits of state-owned facilities; and

(c) monitor an agency's operation and maintenance expenditures for state-owned facilities as provided in rules made under Subsection (2)(b).

(4) (a) An agency shall comply with the rules made under Subsection (2) for new facility requests submitted to the Legislature for a session of the Legislature after the 2017 General Session.

(b) The Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget shall, for each agency with operation and maintenance expenses, ensure that each required budget for the agency is adjusted in accordance with the rules described in Subsection (2)(e).

Section ~~{44}~~45. Section **63H-1-201** is amended to read:

63H-1-201. Creation of military installation development authority -- Status and powers of authority -- Limitation.

(1) There is created a military installation development authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of land within a project area or on military land associated with a project area;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) The authority may:

(a) facilitate the development of land within one or more project areas, including the ongoing operation of facilities within a project area, or development of military land associated with a project area;

(b) sue and be sued;

(c) enter into contracts generally;

(d) by itself or through a subsidiary, buy, obtain an option upon, or otherwise acquire any interest in real or personal property:

(i) in a project area; or

(ii) outside a project area for public infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(f) enter into a lease agreement on real or personal property, either as lessee or lessor:

(i) in a project area; or

(ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;

(g) provide for the development of land within a project area or military land associated with the project area under one or more contracts;

(h) exercise powers and perform functions under a contract, as authorized in the contract;

(i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;

(j) receive the property tax allocation and other taxes and fees as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) enter into a development agreement with a developer of land within a project area;

(q) enter into an agreement with a political subdivision of the state under which the political subdivision provides one or more municipal services within a project area;

(r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;

(s) provide for or finance an energy efficiency upgrade, a [~~renewable~~] clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

(t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(u) enter into an agreement with the federal government or an agency of the federal government under which the federal government or agency:

(i) provides law enforcement services only to military land within a project area; and

(ii) may enter into a mutual aid or other cooperative agreement with a law enforcement agency of the state or a political subdivision of the state;

(v) by itself or through a subsidiary, act as a facilitator under Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, to provide expertise and knowledge to another governmental entity interested in public-private partnerships;

(w) enter into an intergovernmental support agreement under Title 10, U.S.C. Sec. 2679 with the military to provide support services to the military in accordance with the agreement;

(x) act as a developer, or assist a developer chosen by the military, to develop military land as part of an enhanced use lease under Title 10, U.S.C. Sec. 2667; and

(y) develop public infrastructure and improvements.

(4) The authority may not itself provide law enforcement service or fire protection service within a project area but may enter into an agreement for one or both of those services, as provided in Subsection (3)(q).

(5) The authority shall provide support to a subsidiary that enters into an agreement under Subsection (3)(v) that the authority determines necessary for the subsidiary to fulfill the requirements of the agreement.

(6) Because providing procurement, utility, construction, and other services for use by a military installation, including providing public infrastructure and improvements for use or occupancy by the military, are core functions of the authority and are typically provided by a local government for the local government's own needs or use, these services provided by the authority for the military under this chapter are considered to be for the authority's own needs and use.

(7) A public infrastructure district created by the authority under Title 17D, Chapter 4, Public Infrastructure District Act, is a subsidiary of the authority.

Section ~~{45}~~46. Section **63L-11-304** is amended to read:

63L-11-304. Public lands transfer study and economic analysis -- Report.

(1) As used in this section:

(a) "Public lands" means the same as that term is defined in Section 63L-6-102.

(b) "Transfer of public lands" means the transfer of public lands from federal ownership to state ownership.

(2) The office shall, on an ongoing basis, report to the Federalism Commission regarding the ramifications and economic impacts of the transfer of public lands.

(3) The office shall:

(a) on an ongoing basis, discuss issues related to the transfer of public lands with:

(i) the School and Institutional Trust Lands Administration;

(ii) local governments;

(iii) water managers;

(iv) environmental advocates;

(v) outdoor recreation advocates;

(vi) nonconventional~~(,)~~ [~~and~~], renewable, and clean energy producers;

(vii) tourism representatives;

(viii) wilderness advocates;

(ix) ranchers and agriculture advocates;

(x) oil, gas, and mining producers;

(xi) fishing, hunting, and other wildlife interests;

(xii) timber producers;

(xiii) other interested parties; and

(xiv) the Federalism Commission; and

(b) develop ways to obtain input from citizens of the state regarding the transfer of public lands and the future care and use of public lands.

Section ~~(46)~~47. Section **79-3-202** is amended to read:

79-3-202. Powers and duties of survey.

(1) The survey shall:

(a) assist and advise state and local agencies and state educational institutions on geologic, paleontologic, and mineralogic subjects;

(b) collect and distribute reliable information regarding the mineral industry and mineral resources, topography, paleontology, and geology of the state;

(c) survey the geology of the state, including mineral occurrences and the ores of metals, energy resources, industrial minerals and rocks, mineral-bearing waters, and surface and ground water resources, with special reference to their economic contents, values, uses, kind, and availability in order to facilitate their economic use;

(d) investigate the kind, amount, and availability of mineral substances contained in lands owned and controlled by the state, to contribute to the most effective and beneficial administration of these lands for the state;

(e) determine and investigate areas of geologic and topographic hazards that could affect the safety of, or cause economic loss to, the citizens of the state;

(f) assist local and state agencies in their planning, zoning, and building regulation functions by publishing maps, delineating appropriately wide special earthquake risk areas, and, at the request of state agencies or other governmental agencies, review the siting of critical facilities;

(g) cooperate with state agencies, political subdivisions of the state, quasi-governmental agencies, federal agencies, schools of higher education, and others in fields of mutual concern, which may include field investigations and preparation, publication, and distribution of reports and maps;

(h) collect and preserve data pertaining to mineral resource exploration and development programs and construction activities, such as claim maps, location of drill holes, location of surface and underground workings, geologic plans and sections, drill logs, and assay and sample maps, including the maintenance of a sample library of cores and cuttings;

(i) study and analyze other scientific, economic, or aesthetic problems as, in the judgment of the board, should be undertaken by the survey to serve the needs of the state and to support the development of natural resources and utilization of lands within the state;

(j) prepare, publish, distribute, and sell maps, reports, and bulletins, embodying the work accomplished by the survey, directly or in collaboration with others, and collect and prepare exhibits of the geological and mineral resources of this state and interpret their significance;

(k) collect, maintain, and preserve data and information in order to accomplish the purposes of this section and act as a repository for information concerning the geology of this state;

(l) stimulate research, study, and activities in the field of paleontology;

(m) mark, protect, and preserve critical paleontological sites;

(n) collect, preserve, and administer critical paleontological specimens until the specimens are placed in a repository or curation facility;

(o) administer critical paleontological site excavation records;

(p) edit and publish critical paleontological records and reports;

(q) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs, and, in accordance with applicable federal program guidelines, administer federally funded state

programs regarding:

(i) renewable energy;

(ii) energy efficiency; [~~and~~]

(iii) energy conservation; and

(iv) clean energy; and

(r) collect the land use permits described in Sections 10-9a-521 and 17-27a-520.

(2) (a) The survey may maintain as confidential, and not as a public record, information provided to the survey by any source.

(b) The board shall adopt rules in order to determine whether to accept the information described in Subsection (2)(a) and to maintain the confidentiality of the accepted information.

(c) The survey shall maintain information received from any source at the level of confidentiality assigned to it by the source.

(3) Upon approval of the board, the survey shall undertake other activities consistent with Subsection (1).

(4) (a) Subject to the authority granted to the department, the survey may enter into cooperative agreements with the entities specified in Subsection (1)(g), if approved by the board, and may accept or commit allocated or budgeted funds in connection with those agreements.

(b) The survey may undertake joint projects with private entities if:

(i) the action is approved by the board;

(ii) the projects are not inconsistent with the state's objectives; and

(iii) the results of the projects are available to the public.

Section ~~{47}~~48. **Effective date.**

This bill takes effect on May 1, 2024.