

Senator Derrin R. Owens 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:

This bill provides a coordination clause.

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



- 26 [11-42a-102](#), as last amended by Laws of Utah 2023, Chapter 16
- 27 [11-42a-103](#), as enacted by Laws of Utah 2017, Chapter 470
- 28 [11-58-102](#), as last amended by Laws of Utah 2023, Chapters 16, 259
- 29 [11-58-203](#), as last amended by Laws of Utah 2022, Chapter 82
- 30 [11-59-102](#), as last amended by Laws of Utah 2023, Chapters 16, 263
- 31 [11-59-202](#), as last amended by Laws of Utah 2023, Chapter 139
- 32 [11-65-101](#), as last amended by Laws of Utah 2023, Chapter 16
- 33 [11-65-203](#), as enacted by Laws of Utah 2022, Chapter 59
- 34 [11-68-201](#), as renumbered and amended by Laws of Utah 2023, Chapter 502
- 35 [17-27a-401](#), as last amended by Laws of Utah 2023, Chapters 34, 88
- 36 [17-50-335](#), as last amended by Laws of Utah 2020, Chapter 354
- 37 [17B-1-202](#), as last amended by Laws of Utah 2023, Chapter 15
- 38 [17D-1-201](#), as last amended by Laws of Utah 2021, Chapter 339
- 39 [54-17-502](#), as enacted by Laws of Utah 2008, Chapter 374
- 40 [54-17-601](#), as last amended by Laws of Utah 2010, Chapters 119, 125 and 268
- 41 [54-17-602](#), as enacted by Laws of Utah 2008, Chapter 374
- 42 [54-17-604](#), as enacted by Laws of Utah 2008, Chapter 374
- 43 [54-17-605](#), as enacted by Laws of Utah 2008, Chapter 374
- 44 [54-17-801](#), as last amended by Laws of Utah 2017, Chapter 409
- 45 [54-17-802](#), as enacted by Laws of Utah 2012, Chapter 182
- 46 [54-17-803](#), as enacted by Laws of Utah 2012, Chapter 182
- 47 [54-17-804](#), as enacted by Laws of Utah 2012, Chapter 182
- 48 [54-17-805](#), as enacted by Laws of Utah 2012, Chapter 182
- 49 [54-17-806](#), as last amended by Laws of Utah 2020, Chapter 126
- 50 [54-17-807](#), as last amended by Laws of Utah 2019, Chapter 136
- 51 [54-17-901](#), as enacted by Laws of Utah 2019, Chapter 471
- 52 [54-17-902](#), as enacted by Laws of Utah 2019, Chapter 471
- 53 [54-17-903](#), as enacted by Laws of Utah 2019, Chapter 471
- 54 [54-17-904](#), as enacted by Laws of Utah 2019, Chapter 471
- 55 [54-17-905](#), as enacted by Laws of Utah 2019, Chapter 471
- 56 [54-17-906](#), as enacted by Laws of Utah 2019, Chapter 471

- 57 [54-17-908](#), as enacted by Laws of Utah 2019, Chapter 471
- 58 [59-2-102](#), as last amended by Laws of Utah 2023, Chapter 16
- 59 [59-7-614](#), as last amended by Laws of Utah 2023, Chapter 482
- 60 [59-10-1014](#), as last amended by Laws of Utah 2021, Chapter 280
- 61 [59-10-1106](#), as last amended by Laws of Utah 2023, Chapter 482
- 62 [63A-5b-702](#), as last amended by Laws of Utah 2021, Chapter 382
- 63 [63H-1-201](#), as last amended by Laws of Utah 2022, Chapter 274
- 64 [63L-11-304](#), as renumbered and amended by Laws of Utah 2021, Chapter 382
- 65 [79-3-202](#), as last amended by Laws of Utah 2022, Chapter 216

Utah Code Sections Affected By Coordination Clause:

- 66 [11-42a-102](#), as last amended by Laws of Utah 2023, Chapter 16

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;

88 (g) the protection and promotion of air quality;
89 (h) historic preservation;
90 (i) identifying future uses of land that are likely to require an expansion or significant
91 modification of services or facilities provided by an affected entity; and

92 (j) an official map.

93 (3) (a) The general plan of a specified municipality, as defined in Section 10-9a-408,
94 shall include a moderate income housing element that meets the requirements of Subsection
95 10-9a-403(2)(a)(iii).

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

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

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

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

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

110 **10-19-102. Definitions.**

111 As used in this chapter:

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

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

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

119 Electricity Coordinating Council that derives its energy from one or more of the following but
120 that does not satisfy the definition of a [renewable] clean energy source or that otherwise has
121 not been used to satisfy Subsection 10-19-201(1):

- 122 (i) wind energy;
- 123 (ii) solar photovoltaic and solar thermal energy;
- 124 (iii) wave, tidal, and ocean thermal energy;
- 125 (iv) except for combustion of wood that has been treated with chemical preservatives
126 such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass
127 byproducts, including:
- 128 (A) organic waste;
- 129 (B) forest or rangeland woody debris from harvesting or thinning conducted to improve
130 forest or rangeland ecological health and to reduce wildfire risk;
- 131 (C) agricultural residues;
- 132 (D) dedicated energy crops; and
- 133 (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic
134 digesters, or municipal solid waste;
- 135 (v) geothermal energy;
- 136 (vi) hydro-electric energy; or
- 137 (vii) waste gas and waste heat capture or recovery; and
- 138 (c) the number of kilowatt-hours attributable to reductions in retail sales in that
139 calendar year from activities or programs promoting electric energy efficiency or conservation
140 or more efficient management of electric energy load.
- 141 (2) "Amount of kilowatt-hours attributable to electricity generated or purchased in that
142 calendar year from qualifying carbon sequestration generation," for qualifying carbon
143 sequestration generation, means the kilowatt-hours supplied by a facility during the calendar
144 year multiplied by the ratio of the amount of carbon dioxide captured from the facility and
145 sequestered to the sum of the amount of carbon dioxide captured from the facility and
146 sequestered plus the amount of carbon dioxide emitted from the facility during the same
147 calendar year.
- 148 (3) "Banked renewable energy certificate" means a bundled or unbundled renewable
149 energy certificate that is:

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

152 (b) carried forward into a subsequent year.

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

155 (a) by a municipal electric utility by a trade, purchase, or other transfer of electricity
156 that includes the renewable energy attributes of, or certificate that is issued for, the electricity;
157 or

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

160 (5) "Clean energy source" means:

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

163 (i) wind energy;

164 (ii) solar photovoltaic and solar thermal energy;

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

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

169 (A) organic waste;

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

172 (C) agricultural residues;

173 (D) dedicated energy crops; and

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

176 (v) geothermal energy located outside the state;

177 (vi) waste gas and waste heat capture or recovery, including methane gas from:

178 (A) an abandoned coal mine; or

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

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

181 which the facility became operational, if the upgrades become operational on or after January
182 1, 1995;

183 (viii) a compressed air energy storage process, if:

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

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

189 (ix) municipal solid waste;

190 (x) nuclear fuel; or

191 (xi) carbon capture utilization and sequestration;

192 (b) any of the following:

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

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

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

201 (c) hydrogen gas derived from any source of energy described in Subsection (5)(a) or
202 (b);

203 (d) if an electric generation facility employs multiple energy sources, that portion of the
204 electricity generated that is attributable to energy sources described in Subsections (5)(a)
205 through (c); and

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

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

210 (ii) a solar thermal system that reduces the consumption of fossil fuels, with the
211 quantity of renewable energy certificates to which the user is entitled determined by the

212 equivalent kilowatt-hours saved, except to the extent the commission determines otherwise
213 with respect to net-metered energy;

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

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

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

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

228 [~~(5)~~] (6) "Commission" means the Public Service Commission.

229 [~~(6)~~] (7) "Municipal electric utility" means any municipality that owns, operates,
230 controls, or manages a facility that provides electric power for a retail customer, whether
231 domestic, commercial, industrial, or otherwise.

232 [~~(7)~~] (8) "Qualifying carbon sequestration generation" means a fossil-fueled generating
233 facility located within the geographic boundary of the Western Electricity Coordinating
234 Council that:

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

236 (b) reduces carbon dioxide emissions into the atmosphere through permanent
237 geological sequestration or through other verifiably permanent reductions in carbon dioxide
238 emissions through the use of technology.

239 [~~(8)~~] (9) "Qualifying electricity" means electricity generated on or after January 1, 1995
240 from a renewable energy source if:

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

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

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

248 ~~[(9)]~~ (10) "Qualifying zero carbon emissions generation":

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

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

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

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

254 (c) does not include ~~[renewable]~~ clean energy sources used to satisfy a target
255 established under Section 10-19-201.

256 ~~[(10)]~~ (11) "Renewable energy certificate" means a certificate issued in accordance
257 with the requirements of Sections 10-19-202 and 54-17-603.

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

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

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

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

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

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

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

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

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

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

273 ~~[(E) landfill gas or biogas produced from organic matter, wastewater, anaerobic~~

274 ~~digesters, or municipal solid waste;]~~
275 ~~[(v) geothermal energy located outside the state;]~~
276 ~~[(vi) waste gas and waste heat capture or recovery whether or not it is renewable,~~
277 ~~including methane gas from:]~~
278 ~~[(A) an abandoned coal mine; or]~~
279 ~~[(B) a coal degassing operation associated with a state-approved mine permit;]~~
280 ~~[(vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon~~
281 ~~which the facility became operational, if the upgrades become operational on or after January~~
282 ~~1, 1995;]~~
283 ~~[(viii) a compressed air energy storage process, if:]~~
284 ~~[(A) the process used to compress the air is a renewable energy source and the~~
285 ~~associated renewable energy certificates are retired for the purpose of the compressed air~~
286 ~~energy storage process; or]~~
287 ~~[(B) equivalent renewable energy certificates are obtained and retired for the purpose~~
288 ~~of the compressed air energy storage process; or]~~
289 ~~[(ix) municipal solid waste;]~~
290 ~~[(b) any of the following:]~~
291 ~~[(i) up to 50 average megawatts of electricity per year per municipal electric utility~~
292 ~~from a certified low-impact hydroelectric facility, without regard to the date upon which the~~
293 ~~facility becomes operational, if the facility is certified as a low-impact hydroelectric facility on~~
294 ~~or after January 1, 1995, by a national certification organization;]~~
295 ~~[(ii) geothermal energy if located within the state, without regard to the date upon~~
296 ~~which the facility becomes operational; and]~~
297 ~~[(iii) hydroelectric energy if located within the state, without regard to the date upon~~
298 ~~which the facility becomes operational;]~~
299 ~~[(c) hydrogen gas derived from any source of energy described in Subsection (11)(a) or~~
300 ~~(b);]~~
301 ~~[(d) if an electric generation facility employs multiple energy sources, that portion of~~
302 ~~the electricity generated that is attributable to energy sources described in Subsections (11)(a)~~
303 ~~through (c); and]~~
304 ~~[(e) any of the following located in the state and owned by a user of energy:]~~

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

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

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

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

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

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

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

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

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

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

333 **10-19-201. Target amount of qualifying electricity -- Renewable energy certificate**
 334 **-- Cost-effectiveness.**

335 (1) (a) To the extent that it is cost-effective to do so, beginning in 2025 the annual

336 retail electric sales in this state of each municipal electric utility shall consist of qualifying
337 electricity or renewable energy certificates in an amount equal to at least 20% of adjusted retail
338 electric sales.

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

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

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

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

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

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

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

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

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

356 (4) A municipal electrical corporation may combine the following to meet Subsection
357 (1):

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

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

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

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

365 (a) qualifying electricity generated or acquired or renewable energy certificates
366 acquired for a program permitting the municipal electric utility's customers to voluntarily

367 contribute to a renewable energy source; and

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

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

373 **10-19-202. Renewable energy certificate -- Use to satisfy other requirements.**

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

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

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

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

385 (3) A renewable energy certificate:

386 (a) may be used only once to satisfy Subsection [10-19-201\(1\)](#);

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

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

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

393 **10-19-301. Plans and reports.**

394 (1) A municipal electric utility shall develop and maintain a plan for implementing
395 Subsection [10-19-201\(1\)](#).

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

- 398 (3) The progress report under Subsection (2) shall contain:
- 399 (a) the actual and projected amount of qualifying electricity through 2025;
- 400 (b) the source of qualifying electricity;
- 401 (c) an estimate of the cost of achieving the target;
- 402 (d) a discussion of conditions impacting the [renewable] clean energy source and
- 403 qualifying electricity markets; and
- 404 (e) any recommendation for a suggested legislative or program change.
- 405 (4) The plan and progress report required by Subsections (1) and (2) may include
- 406 procedures that will be used by the municipal electric utility to identify and select any
- 407 cost-effective [renewable] clean energy resource and qualifying electricity.
- 408 (5) By July 1, 2026, the municipal electric utility shall file a final progress report
- 409 demonstrating:
- 410 (a) how Subsection 10-19-201(1) is satisfied for the year 2025; or
- 411 (b) the reason why Subsection 10-19-201(1) is not satisfied for the year 2025, if it is
- 412 not satisfied.
- 413 (6) The plan and any progress report filed under this section shall be publicly available
- 414 at the municipal legislative body's office.
- 415 Section 6. Section 11-13-218 is amended to read:
- 416 **11-13-218. Authority of public agencies or interlocal entities to issue bonds --**
- 417 **Applicable provisions.**
- 418 (1) A public agency may, in the same manner as it may issue bonds for its individual
- 419 acquisition of a facility or improvement or for constructing, improving, or extending a facility
- 420 or improvement, issue bonds to:
- 421 (a) acquire an interest in a jointly owned facility or improvement, a combination of a
- 422 jointly owned facility or improvement, or any other facility or improvement; or
- 423 (b) pay all or part of the cost of constructing, improving, or extending a jointly owned
- 424 facility or improvement, a combination of a jointly owned facility or improvement, or any other
- 425 facility or improvement.
- 426 (2) (a) An interlocal entity may issue bonds or notes under a resolution, trust indenture,
- 427 or other security instrument for the purpose of:
- 428 (i) financing its facilities or improvements; or

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

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

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

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

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

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

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

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

446 (i) Chapter 14, Local Government Bonding Act;

447 (ii) Chapter 27, Utah Refunding Bond Act;

448 (iii) this chapter; or

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

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

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

452 **11-17-2. Definitions.**

453 As used in this chapter:

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

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

456 devices that is permanently affixed to real property and that produces energy from clean

457 resources, including:

458 (a) a photovoltaic system;

459 (b) a solar thermal system;

- 460 (c) a wind system;
- 461 (d) a geothermal system, including:
- 462 (i) a direct-use system; or
- 463 (ii) a ground source heat pump system;
- 464 (e) a micro-hydro system;
- 465 (f) nuclear fuel;
- 466 (g) carbon capture utilization and sequestration; or
- 467 (h) another clean energy system approved by the governing body.
- 468 [~~2~~] (3) "Energy efficiency upgrade" means an improvement that is permanently
- 469 affixed to real property and that is designed to reduce energy consumption, including:
- 470 (a) insulation in:
- 471 (i) a wall, ceiling, roof, floor, or foundation; or
- 472 (ii) a heating or cooling distribution system;
- 473 (b) an insulated window or door, including:
- 474 (i) a storm window or door;
- 475 (ii) a multiglazed window or door;
- 476 (iii) a heat-absorbing window or door;
- 477 (iv) a heat-reflective glazed and coated window or door;
- 478 (v) additional window or door glazing;
- 479 (vi) a window or door with reduced glass area; or
- 480 (vii) other window or door modifications that reduce energy loss;
- 481 (c) an automatic energy control system;
- 482 (d) in a building or a central plant, a heating, ventilation, or air conditioning and
- 483 distribution system;
- 484 (e) caulking or weatherstripping;
- 485 (f) a light fixture that does not increase the overall illumination of a building unless an
- 486 increase is necessary to conform with the applicable building code;
- 487 (g) an energy recovery system;
- 488 (h) a daylighting system;
- 489 (i) measures to reduce the consumption of water, through conservation or more
- 490 efficient use of water, including:

- 491 (i) installation of a low-flow toilet or showerhead;
492 (ii) installation of a timer or timing system for a hot water heater; or
493 (iii) installation of a rain catchment system; or
494 (j) any other modified, installed, or remodeled fixture that is approved as a utility
495 cost-savings measure by the governing body.

496 ~~[(3)]~~ (4) "Finance" or "financing" includes the issuing of bonds by a municipality,
497 county, or state university for the purpose of using a portion, or all or substantially all of the
498 proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for the
499 costs of the acquisition of facilities of a project, or to create funds for the project itself where
500 appropriate, whether these costs are incurred by the municipality, the county, the state
501 university, the user, or a designee of the user. If title to or in these facilities at all times remains
502 in the user, the bonds of the municipality or county shall be secured by a pledge of one or more
503 notes, debentures, bonds, other secured or unsecured debt obligations of the user or lender, or
504 the sinking fund or other arrangement as in the judgment of the governing body is appropriate
505 for the purpose of assuring repayment of the bond obligations to investors in accordance with
506 their terms.

507 ~~[(4)]~~ (5) "Governing body" means:

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

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

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

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

517 ~~[(5)]~~ (6) (a) "Industrial park" means land, including all necessary rights, appurtenances,
518 easements, and franchises relating to it, acquired and developed by a municipality, county, or
519 state university for the establishment and location of a series of sites for plants and other
520 buildings for industrial, distribution, and wholesale use.

521 (b) "Industrial park" includes the development of the land for an industrial park under

522 this chapter or the acquisition and provision of water, sewerage, drainage, street, road,
523 sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or
524 any combination of them, but only to the extent that these facilities are incidental to the use of
525 the land as an industrial park.

526 ~~[(6)]~~ (7) "Lender" means a trust company, savings bank, savings and loan association,
527 bank, credit union, or any other lending institution that lends, loans, or leases proceeds of a
528 financing to the user or a user's designee.

529 ~~[(7)]~~ (8) "Mortgage" means a mortgage, trust deed, or other security device.

530 ~~[(8)]~~ (9) "Municipality" means any incorporated city, town, or metro township in the
531 state, including cities or towns operating under home rule charters.

532 ~~[(9)]~~ (10) "Pollution" means any form of environmental pollution including water
533 pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation
534 contamination, or noise pollution.

535 ~~[(10)]~~ (11) (a) "Project" means:

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

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

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

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

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

549 (ii) any land, interest in land, building, structure, facility, system, fixture, improvement,
550 appurtenance, machinery, equipment, or any combination of them, used by any individual,
551 partnership, firm, company, corporation, public utility, association, trust, estate, political
552 subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns,

553 for the reduction, abatement, or prevention of pollution, including the removal or treatment of
 554 any substance in process material, if that material would cause pollution if used without the
 555 removal or treatment;

556 (iii) an energy efficiency upgrade;

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

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

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

562 (A) municipal or county general fund money;

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

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

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

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

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

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

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

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

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

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

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

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

579 (12) "State university" means an institution of higher education as described in Section
 580 [53B-2-101](#) and includes any nonprofit corporation or foundation created by and operating
 581 under their authority.

582 (13) "User" means the person, whether natural or corporate, who will occupy, operate,
 583 maintain, and employ the facilities of, or manage and administer a project after the financing,

584 acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

585 *The following section is affected by a coordination clause at the end of this bill.*

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

587 **11-42a-102. Definitions.**

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

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

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

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

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

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

600 (6) (a) "Clean energy system" means a product, system, device, or interacting group of
601 devices that is permanently affixed to commercial or industrial real property not located in the
602 certified service area of a distribution electrical cooperative, as that term is defined in Section
603 [54-2-1](#), and:

604 (i) produces energy from clean resources, including:

605 (A) a photovoltaic system;

606 (B) a solar thermal system;

607 (C) a wind system;

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

610 (E) a micro-hydro system;

611 (F) a biofuel system;

612 (G) energy derived from nuclear fuel; or

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

614 (ii) stores energy, including:

- 615 (A) a battery storage system; or
616 (B) any other energy storing system that the governing body or chief executive officer
617 of a local entity approves; or
618 (iii) any improvement that relates physically or functionally to any of the products,
619 systems, or devices listed in Subsection (6)(a)(i) or (ii).
620 (b) "Clean energy system" does not include a system described in Subsection (6)(a)(i)
621 if the system provides energy to property outside the energy assessment area, unless the system:
622 (i) (A) existed before the creation of the energy assessment area; and
623 (B) beginning before January 1, 2017, provides energy to property outside of the area
624 that became the energy assessment area; or
625 (ii) provides energy to property outside the energy assessment area under an agreement
626 with a public electrical utility that is substantially similar to agreements for other renewable
627 energy systems that are not funded under this chapter.
628 ~~[(6)]~~ (7) (a) "Commercial or industrial real property" means private real property used
629 directly or indirectly or held for one of the following purposes or activities, regardless of
630 whether the purpose or activity is for profit:
631 (i) commercial;
632 (ii) mining;
633 (iii) agricultural;
634 (iv) industrial;
635 (v) manufacturing;
636 (vi) trade;
637 (vii) professional;
638 (viii) a private or public club;
639 (ix) a lodge;
640 (x) a business; or
641 (xi) a similar purpose.
642 (b) "Commercial or industrial real property" includes:
643 (i) private real property that is used as or held for dwelling purposes and contains:
644 (A) more than four rental units; or
645 (B) one or more owner-occupied or rental condominium units affiliated with a hotel;

646 and

647 (ii) real property owned by:

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

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

650 [~~7~~] (8) "Contract price" means:

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

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

655 [~~8~~] (9) "C-PACE" means commercial property assessed clean energy.

656 [~~9~~] (10) "C-PACE district" means the statewide authority established in Section
657 [11-42a-106](#) to implement the C-PACE Act in collaboration with governing bodies, under the
658 direction of OED.

659 [~~10~~] (11) "Electric vehicle charging infrastructure" means equipment that is:

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

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

663 [~~11~~] (12) "Energy assessment area" means an area:

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

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

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

671 (i) contiguous; or

672 (ii) located on one or more contiguous or adjacent tracts of land that would be
673 contiguous or adjacent property but for an intervening right-of-way, including a sidewalk,
674 street, road, fixed guideway, or waterway.

675 [~~12~~] (13) "Energy assessment bond" means a bond:

676 (a) issued under Section [11-42a-401](#); and

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

678 [~~(13)~~] (14) "Energy assessment lien" means a lien on property within an energy
679 assessment area that arises from the levy of an assessment in accordance with Section
680 11-42a-301.

681 [~~(14)~~] (15) "Energy assessment ordinance" means an ordinance that a local entity
682 adopts under Section 11-42a-201 that:

- 683 (a) designates an energy assessment area;
- 684 (b) levies an assessment on benefitted property within the energy assessment area; and
- 685 (c) if applicable, authorizes the issuance of energy assessment bonds.

686 [~~(15)~~] (16) "Energy assessment resolution" means one or more resolutions adopted by a
687 local entity under Section 11-42a-201 that:

- 688 (a) designates an energy assessment area;
- 689 (b) levies an assessment on benefitted property within the energy assessment area; and
- 690 (c) if applicable, authorizes the issuance of energy assessment bonds.

691 [~~(16)~~] (17) "Energy efficiency upgrade" means an improvement that is:

- 692 (a) permanently affixed to commercial or industrial real property; and
- 693 (b) designed to reduce energy or water consumption, including:
 - 694 (i) insulation in:
 - 695 (A) a wall, roof, floor, or foundation; or
 - 696 (B) a heating and cooling distribution system;
 - 697 (ii) a window or door, including:
 - 698 (A) a storm window or door;
 - 699 (B) a multiglazed window or door;
 - 700 (C) a heat-absorbing window or door;
 - 701 (D) a heat-reflective glazed and coated window or door;
 - 702 (E) additional window or door glazing;
 - 703 (F) a window or door with reduced glass area; or
 - 704 (G) other window or door modifications;
 - 705 (iii) an automatic energy control system;
 - 706 (iv) in a building or a central plant, a heating, ventilation, or air conditioning and
707 distribution system;

- 708 (v) caulk or weatherstripping;
- 709 (vi) a light fixture that does not increase the overall illumination of a building, unless
- 710 an increase is necessary to conform with the applicable building code;
- 711 (vii) an energy recovery system;
- 712 (viii) a daylighting system;
- 713 (ix) measures to reduce the consumption of water, through conservation or more
- 714 efficient use of water, including installation of:
 - 715 (A) low-flow toilets and showerheads;
 - 716 (B) timer or timing systems for a hot water heater; or
 - 717 (C) rain catchment systems;
- 718 (x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving
- 719 measure by the governing body or executive of a local entity;
- 720 (xi) measures or other improvements to effect seismic upgrades;
- 721 (xii) structures, measures, or other improvements to provide automated parking or
- 722 parking that reduces land use;
- 723 (xiii) the extension of an existing natural gas distribution company line;
- 724 (xiv) an energy efficient elevator, escalator, or other vertical transport device;
- 725 (xv) any other improvement that the governing body or executive of a local entity
- 726 approves as an energy efficiency upgrade; or
- 727 (xvi) any improvement that relates physically or functionally to any of the
- 728 improvements listed in Subsections [~~(16)(b)(i)~~] (17)(b)(i) through (xv).
- 729 [~~(17)~~] (18) "Governing body" means:
 - 730 (a) for a county, city, town, or metro township, the legislative body of the county, city,
 - 731 town, or metro township;
 - 732 (b) for a special district, the board of trustees of the special district;
 - 733 (c) for a special service district:
 - 734 (i) if no administrative control board has been appointed under Section [17D-1-301](#), the
 - 735 legislative body of the county, city, town, or metro township that established the special service
 - 736 district; or
 - 737 (ii) if an administrative control board has been appointed under Section [17D-1-301](#), the
 - 738 administrative control board of the special service district;

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

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

743 ~~[(18)]~~ (19) "Improvement" means a publicly or privately owned energy efficiency
744 upgrade, ~~[renewable]~~ clean energy system, or electric vehicle charging infrastructure that:

745 (a) a property owner has requested; or

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

747 ~~[(19)]~~ (20) "Incidental refunding costs" means any costs of issuing a refunding
748 assessment bond and calling, retiring, or paying prior bonds, including:

749 (a) legal and accounting fees;

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

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

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

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

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

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

760 ~~[(20)]~~ (21) "Installment payment date" means the date on which an installment
761 payment of an assessment is payable.

762 ~~[(21)]~~ (22) "Jurisdictional boundaries" means:

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

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

766 ~~[(22)]~~ (23) (a) "Local entity" means:

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

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

- 770 (iii) a state interlocal entity;
 - 771 (iv) the military installation development authority, created in Section [63H-1-201](#);
 - 772 (v) the Utah Inland Port Authority, created in Section [11-58-201](#); or
 - 773 (vi) any political subdivision of the state.
- 774 (b) "Local entity" includes the C-PACE district solely in connection with:
- 775 (i) the designation of an energy assessment area;
 - 776 (ii) the levying of an assessment; and
 - 777 (iii) the assignment of an energy assessment lien to a third-party lender under Section
 - 778 [11-42a-302](#).

779 [~~23~~] (24) "Local entity obligations" means energy assessment bonds and refunding
780 assessment bonds that a local entity issues.

781 [~~24~~] (25) "OED" means the Office of Energy Development created in Section
782 [79-6-401](#).

783 [~~25~~] (26) "OEM vehicle" means the same as that term is defined in Section [19-1-402](#).

784 [~~26~~] (27) "Overhead costs" means the actual costs incurred or the estimated costs to
785 be incurred in connection with an energy assessment area, including:

- 786 (a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;
- 787 (b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;
- 788 (c) publishing and mailing costs;
- 789 (d) costs of levying an assessment;
- 790 (e) recording costs; and
- 791 (f) all other incidental costs.

792 [~~27~~] (28) "Parameters resolution" means a resolution or ordinance that a local entity
793 adopts in accordance with Section [11-42a-201](#).

794 [~~28~~] (29) "Prior bonds" means the energy assessment bonds refunded in part or in
795 whole by a refunding assessment bond.

796 [~~29~~] (30) "Prior energy assessment ordinance" means the ordinance levying the
797 assessments from which the prior bonds are payable.

798 [~~30~~] (31) "Prior energy assessment resolution" means the resolution levying the
799 assessments from which the prior bonds are payable.

800 [~~31~~] (32) "Property" includes real property and any interest in real property, including

801 water rights and leasehold rights.

802 ~~[(32)]~~ (33) "Public electrical utility" means a large-scale electric utility as that term is
803 defined in Section [54-2-1](#).

804 ~~[(33)]~~ (34) "Qualifying electric vehicle" means a vehicle that:

805 (a) meets air quality standards;

806 (b) is not fueled by natural gas;

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

808 and

809 (d) is an OEM vehicle except that the vehicle is fueled by a fuel described in

810 Subsection ~~[(33)(c)]~~ (34)(c).

811 ~~[(34)]~~ (35) "Qualifying plug-in hybrid vehicle" means a vehicle that:

812 (a) meets air quality standards;

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

814 (c) has a battery capacity that meets or exceeds the battery capacity described in

815 Subsection 30D(b)(3), Internal Revenue Code; and

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

817 (i) diesel fuel;

818 (ii) gasoline; or

819 (iii) a mixture of gasoline and ethanol.

820 ~~[(35)]~~ (36) "Reduced payment obligation" means the full obligation of an owner of
821 property within an energy assessment area to pay an assessment levied on the property after the
822 local entity has reduced the assessment because of the issuance of a refunding assessment
823 bond, in accordance with Section [11-42a-403](#).

824 ~~[(36)]~~ (37) "Refunding assessment bond" means an assessment bond that a local entity
825 issues under Section [11-42a-403](#) to refund, in part or in whole, energy assessment bonds.

826 ~~[(37)(a)]~~ "Renewable energy system" means a product, system, device, or interacting
827 group of devices that is permanently affixed to commercial or industrial real property not
828 located in the certified service area of a distribution electrical cooperative, as that term is
829 defined in Section [54-2-1](#), and:]

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

831 [(A) a photovoltaic system;]

832 ~~[(B) a solar thermal system;]~~
833 ~~[(C) a wind system;]~~
834 ~~[(D) a geothermal system, including a generation system, a direct-use system, or a~~
835 ~~ground source heat pump system;]~~
836 ~~[(E) a microhydro system;]~~
837 ~~[(F) a biofuel system; or]~~
838 ~~[(G) any other renewable source system that the governing body of the local entity~~
839 ~~approves;]~~
840 ~~[(ii) stores energy, including:]~~
841 ~~[(A) a battery storage system; or]~~
842 ~~[(B) any other energy storing system that the governing body or chief executive officer~~
843 ~~of a local entity approves; or]~~
844 ~~[(iii) any improvement that relates physically or functionally to any of the products,~~
845 ~~systems, or devices listed in Subsection (37)(a)(i) or (ii).]~~
846 ~~[(b) "Renewable energy system" does not include a system described in Subsection~~
847 ~~(37)(a)(i) if the system provides energy to property outside the energy assessment area, unless~~
848 ~~the system:]~~
849 ~~[(i) (A) existed before the creation of the energy assessment area; and]~~
850 ~~[(B) beginning before January 1, 2017, provides energy to property outside of the area~~
851 ~~that became the energy assessment area; or]~~
852 ~~[(ii) provides energy to property outside the energy assessment area under an~~
853 ~~agreement with a public electrical utility that is substantially similar to agreements for other~~
854 ~~renewable energy systems that are not funded under this chapter.]~~
855 (38) "Special district" means a special district under Title 17B, Limited Purpose Local
856 Government Entities - Special Districts.
857 (39) "Special service district" means the same as that term is defined in Section
858 [17D-1-102](#).
859 (40) "State interlocal entity" means:
860 (a) an interlocal entity created under Chapter 13, Interlocal Cooperation Act, by two or
861 more counties, cities, towns, or metro townships that collectively represent at least a majority
862 of the state's population; or

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

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

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

869 **11-42a-103. No limitation on other local entity powers -- Conflict with other**
870 **statutory provisions.**

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

- 873 (a) make an improvement or provide a service;
- 874 (b) create a district;
- 875 (c) levy an assessment or tax; or
- 876 (d) issue a bond or a refunding bond.

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

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

- 882 (a) no more than 2.0 megawatts; or
- 883 (b) more than 2.0 megawatts to serve load that the public electrical utility does not
884 already serve.

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

886 **11-58-102. Definitions.**

887 As used in this chapter:

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

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

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

893 (b) beginning April 1, 2020, as provided in Subsection [11-58-202\(3\)](#).

894 (3) "Base taxable value" means:

895 (a) (i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the
896 authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year
897 2018; and

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

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

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

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

909 (6) "Contaminated land" means land:

910 (a) within a project area; and

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

913 (7) "Development" means:

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

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

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

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

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

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

924 (ii) together are intended to:

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

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

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

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

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

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

937 (a) for an inland port;

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

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

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

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

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

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

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

952 (15) "Project area" means:

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

954 (b) land outside the authority jurisdictional land, whether consisting of a single
955 contiguous area or multiple noncontiguous areas, described in a project area plan or draft

956 project area plan, where the development project set forth in the project area plan or draft
957 project area plan takes place or is proposed to take place.

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

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

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

964 (19) "Property tax differential":

965 (a) means the difference between:

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

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

970 (b) does not include property tax revenue from:

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

973 (ii) a judgment levy imposed by a taxing entity under Section [59-2-1328](#) or [59-2-1330](#);
974 or

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

977 (20) "Public entity" means:

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

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

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

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

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

986 (ii) (A) are privately owned;

987 (B) benefit the public;
988 (C) as determined by the board, provide a substantial benefit to the development and
989 operation of a project area; and
990 (D) are built according to applicable county or municipal design and safety standards.

991 (b) "Public infrastructure and improvements" includes:

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

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

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

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

999 (iii) an inland port; and

1000 (iv) infrastructure, improvements, facilities, or buildings that are developed as part of a
1001 remediation project.

1002 (22) "Remediation" includes:

1003 (a) activities for the cleanup, rehabilitation, and development of contaminated land;
1004 and

1005 (b) acquiring an interest in land within a remediation project area.

1006 (23) "Remediation differential" means property tax differential generated from a
1007 remediation project area.

1008 (24) "Remediation project" means a project for the remediation of contaminated land
1009 that:

1010 (a) is owned by:

1011 (i) the state or a department, division, or other instrumentality of the state;

1012 (ii) an independent entity, as defined in Section [63E-1-102](#); or

1013 (iii) a political subdivision of the state; and

1014 (b) became contaminated land before the owner described in Subsection (24)(a)
1015 obtained ownership of the land.

1016 (25) "Remediation project area" means a project area consisting of contaminated land
1017 that is or is expected to become the subject of a remediation project.

1018 (26) "Shapefile" means the digital vector storage format for storing geometric location
1019 and associated attribute information.

1020 (27) "Taxable value" means the value of property as shown on the last equalized
1021 assessment roll.

1022 (28) "Taxing entity":

1023 (a) means a public entity that levies a tax on property within a project area; and

1024 (b) does not include a public infrastructure district that the authority creates under Title
1025 17D, Chapter 4, Public Infrastructure District Act.

1026 (29) "Voting member" means an individual appointed or designated as a member of the
1027 board under Subsection 11-58-302(2).

1028 Section 11. Section 11-58-203 is amended to read:

1029 **11-58-203. Policies and objectives of the authority -- Additional duties of the**
1030 **authority.**

1031 (1) The policies and objectives of the authority are to:

1032 (a) maximize long-term economic benefits to the area, the region, and the state;

1033 (b) maximize the creation of high-quality jobs;

1034 (c) respect and maintain sensitivity to the unique natural environment of areas in
1035 proximity to the authority jurisdictional land and land in other authority project areas;

1036 (d) improve air quality and minimize resource use;

1037 (e) respect existing land use and other agreements and arrangements between property
1038 owners within the authority jurisdictional land and within other authority project areas and
1039 applicable governmental authorities;

1040 (f) promote and encourage development and uses that are compatible with or
1041 complement uses in areas in proximity to the authority jurisdictional land or land in other
1042 authority project areas;

1043 (g) take advantage of the authority jurisdictional land's strategic location and other
1044 features, including the proximity to transportation and other infrastructure and facilities, that
1045 make the authority jurisdictional land attractive to:

1046 (i) businesses that engage in regional, national, or international trade; and

1047 (ii) businesses that complement businesses engaged in regional, national, or
1048 international trade;

- 1049 (h) facilitate the transportation of goods;
- 1050 (i) coordinate trade-related opportunities to export Utah products nationally and
- 1051 internationally;
- 1052 (j) support and promote land uses on the authority jurisdictional land and land in other
- 1053 authority project areas that generate economic development, including rural economic
- 1054 development;
- 1055 (k) establish a project of regional significance;
- 1056 (l) facilitate an intermodal facility;
- 1057 (m) support uses of the authority jurisdictional land for inland port uses, including
- 1058 warehousing, light manufacturing, and distribution facilities;
- 1059 (n) facilitate an increase in trade in the region and in global commerce;
- 1060 (o) promote the development of facilities that help connect local businesses to potential
- 1061 foreign markets for exporting or that increase foreign direct investment;
- 1062 (p) encourage all class 5 through 8 designated truck traffic entering the authority
- 1063 jurisdictional land to meet the heavy-duty highway compression-ignition diesel engine and
- 1064 urban bus exhaust emission standards for year 2007 and later;
- 1065 (q) encourage the development and use of cost-efficient [~~renewable~~] clean energy in
- 1066 project areas;
- 1067 (r) aggressively pursue world-class businesses that employ cutting-edge technologies to
- 1068 locate within a project area; and
- 1069 (s) pursue land remediation and development opportunities for publicly owned land to
- 1070 add value to a project area.
- 1071 (2) In fulfilling its duties and responsibilities relating to the development of the
- 1072 authority jurisdictional land and land in other authority project areas and to achieve and
- 1073 implement the development policies and objectives under Subsection (1), the authority shall:
- 1074 (a) work to identify funding sources, including federal, state, and local government
- 1075 funding and private funding, for capital improvement projects in and around the authority
- 1076 jurisdictional land and land in other authority project areas and for an inland port;
- 1077 (b) review and identify land use and zoning policies and practices to recommend to
- 1078 municipal land use policymakers and administrators that are consistent with and will help to
- 1079 achieve:

1080 (i) the policies and objectives stated in Subsection (1); and
1081 (ii) the mutual goals of the state and local governments that have authority
1082 jurisdictional land with their boundaries with respect to the authority jurisdictional land;
1083 (c) consult and coordinate with other applicable governmental entities to improve and
1084 enhance transportation and other infrastructure and facilities in order to maximize the potential
1085 of the authority jurisdictional land to attract, retain, and service users who will help maximize
1086 the long-term economic benefit to the state; and

1087 (d) pursue policies that the board determines are designed to avoid or minimize
1088 negative environmental impacts of development.

1089 (3) The board may consider the emissions profile of road, yard, or rail vehicles:

1090 (a) in determining access by those vehicles to facilities that the authority owns or
1091 finances; or

1092 (b) in setting fees applicable to those vehicles for the use of facilities that the authority
1093 owns or finances.

1094 Section 12. Section **11-59-102** is amended to read:

1095 **11-59-102. Definitions.**

1096 As used in this chapter:

1097 (1) "Authority" means the Point of the Mountain State Land Authority, created in
1098 Section [11-59-201](#).

1099 (2) "Board" means the authority's board, created in Section [11-59-301](#).

1100 (3) "Development":

1101 (a) means the construction, reconstruction, modification, expansion, or improvement of
1102 a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or
1103 other facility, including:

1104 (i) the demolition or preservation or repurposing of a building, infrastructure, or other
1105 facility;

1106 (ii) surveying, testing, locating existing utilities and other infrastructure, and other
1107 preliminary site work; and

1108 (iii) any associated planning, design, engineering, and related activities; and

1109 (b) includes all activities associated with:

1110 (i) marketing and business recruiting activities and efforts;

1111 (ii) leasing, or selling or otherwise disposing of, all or any part of the point of the
1112 mountain state land; and

1113 (iii) planning and funding for mass transit infrastructure to service the point of the
1114 mountain state land.

1115 (4) "Facilities division" means the Division of Facilities Construction and
1116 Management, created in Section [63A-5b-301](#).

1117 (5) "New correctional facility" means the state correctional facility being developed in
1118 Salt Lake City to replace the state correctional facility in Draper.

1119 (6) "Point of the mountain state land" means the approximately 700 acres of
1120 state-owned land in Draper, including land used for the operation of a state correctional facility
1121 until completion of the new correctional facility and state-owned land in the vicinity of the
1122 current state correctional facility.

1123 (7) "Public entity" means:

1124 (a) the state, including each department, division, or other agency of the state; or

1125 (b) a county, city, town, metro township, school district, special district, special service
1126 district, interlocal cooperation entity, community reinvestment agency, or other political
1127 subdivision of the state, including the authority.

1128 (8) "Publicly owned infrastructure and improvements":

1129 (a) means infrastructure, improvements, facilities, or buildings that:

1130 (i) benefit the public; and

1131 (ii) (A) are owned by a public entity or a utility; or

1132 (B) are publicly maintained or operated by a public entity; and

1133 (b) includes:

1134 (i) facilities, lines, or systems that provide:

1135 (A) water, chilled water, or steam; or

1136 (B) sewer, storm drainage, natural gas, electricity, energy storage, ~~renewable~~ clean
1137 energy, microgrids, or telecommunications service;

1138 (ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking
1139 facilities, and public transportation facilities; and

1140 (iii) greenspace, parks, trails, recreational amenities, or other similar facilities.

1141 (9) "Taxing entity" means the same as that term is defined in Section [59-2-102](#).

1142 Section 13. Section 11-59-202 is amended to read:

1143 **11-59-202. Authority powers.**

1144 (1) The authority may:

1145 (a) as provided in this chapter, plan, manage, and implement the development of the
1146 point of the mountain state land, including the ongoing operation of facilities on the point of
1147 the mountain state land;

1148 (b) undertake, or engage a consultant to undertake, any study, effort, or activity the
1149 board considers appropriate to assist or inform the board about any aspect of the proposed
1150 development of the point of the mountain state land, including the best development model and
1151 financial projections relevant to the authority's efforts to fulfill its duties and responsibilities
1152 under this section and Section 11-59-203;

1153 (c) sue and be sued;

1154 (d) enter into contracts generally, including a contract for the sharing of records under
1155 Section 63G-2-206;

1156 (e) buy, obtain an option upon, or otherwise acquire any interest in real or personal
1157 property, as necessary to accomplish the duties and responsibilities of the authority, including
1158 an interest in real property, apart from point of the mountain state land, or personal property,
1159 outside point of the mountain state land, for publicly owned infrastructure and improvements,
1160 if the board considers the purchase, option, or other interest acquisition to be necessary for
1161 fulfilling the authority's development objectives;

1162 (f) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or
1163 personal property;

1164 (g) enter into a lease agreement on real or personal property, either as lessee or lessor;

1165 (h) provide for the development of the point of the mountain state land under one or
1166 more contracts, including the development of publicly owned infrastructure and improvements
1167 and other infrastructure and improvements on or related to the point of the mountain state land;

1168 (i) exercise powers and perform functions under a contract, as authorized in the
1169 contract;

1170 (j) accept financial or other assistance from any public or private source for the
1171 authority's activities, powers, and duties, and expend any funds so received for any of the
1172 purposes of this chapter;

1173 (k) borrow money, contract with, or accept financial or other assistance from the
1174 federal government, a public entity, or any other source for any of the purposes of this chapter
1175 and comply with any conditions of the loan, contract, or assistance;

1176 (l) subject to Subsection (2), issue bonds to finance the undertaking of any
1177 development objectives of the authority, including bonds under Title 11, Chapter 17, Utah
1178 Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment
1179 Area Act;

1180 (m) hire employees, including contract employees, in addition to or in place of staff
1181 provided under Section [11-59-304](#);

1182 (n) transact other business and exercise all other powers provided for in this chapter;

1183 (o) enter into a development agreement with a developer of some or all of the point of
1184 the mountain state land;

1185 (p) provide for or finance an energy efficiency upgrade, a [\[renewable\]](#) clean energy
1186 system, or electric vehicle charging infrastructure as defined in Section [11-42a-102](#), in
1187 accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

1188 (q) exercise powers and perform functions that the authority is authorized by statute to
1189 exercise or perform;

1190 (r) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal
1191 Cooperation Act, with one or more local government entities for the delivery of services to the
1192 point of the mountain state land;

1193 (s) enter into an agreement with the federal government or an agency of the federal
1194 government, as the board considers necessary or advisable, to enable or assist the authority to
1195 exercise its powers or fulfill its duties and responsibilities under this chapter;

1196 (t) provide funding for the development of publicly owned infrastructure and
1197 improvements or other infrastructure and improvements on or related to the point of the
1198 mountain state land; and

1199 (u) impose impact fees under Title 11, Chapter 36a, Impact Fees Act, and other fees
1200 related to development activities.

1201 (2) The authority may not issue bonds under this part unless the board first:

1202 (a) adopts a parameters resolution for the bonds that sets forth:

1203 (i) the maximum:

- 1204 (A) amount of bonds;
- 1205 (B) term; and
- 1206 (C) interest rate; and
- 1207 (ii) the expected security for the bonds; and
- 1208 (b) submits the parameters resolution for review and recommendation to the State
- 1209 Finance Review Commission created in Section [63C-25-201](#).
- 1210 (3) No later than 60 days after the closing day of any bonds, the authority shall report
- 1211 the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:
- 1212 (a) the Executive Appropriations Committee; and
- 1213 (b) the State Finance Review Commission created in Section [63C-25-201](#).
- 1214 Section 14. Section **11-65-101** is amended to read:
- 1215 **11-65-101. Definitions.**
- 1216 As used in this chapter:
- 1217 (1) "Adjacent political subdivision" means a political subdivision of the state with a
- 1218 boundary that abuts the lake authority boundary or includes lake authority land.
- 1219 (2) "Board" means the lake authority's governing body, created in Section [11-65-301](#).
- 1220 (3) "Lake authority" means the Utah Lake Authority, created in Section [11-65-201](#).
- 1221 (4) "Lake authority boundary" means the boundary:
- 1222 (a) defined by recorded boundary settlement agreements between private landowners
- 1223 and the Division of Forestry, Fire, and State Lands; and
- 1224 (b) that separates privately owned land from Utah Lake sovereign land.
- 1225 (5) "Lake authority land" means land on the lake side of the lake authority boundary.
- 1226 (6) "Management" means work to coordinate and facilitate the improvement of Utah
- 1227 Lake, including work to enhance the long-term viability and health of Utah Lake and to
- 1228 produce economic, aesthetic, recreational, environmental, and other benefits for the state,
- 1229 consistent with the strategies, policies, and objectives described in this chapter.
- 1230 (7) "Management plan" means a plan to conceptualize, design, facilitate, coordinate,
- 1231 encourage, and bring about the management of the lake authority land to achieve the policies
- 1232 and objectives described in Section [11-65-203](#).
- 1233 (8) "Nonvoting member" means an individual appointed as a member of the board
- 1234 under Subsection [11-65-302](#)(6) who does not have the power to vote on matters of lake

1235 authority business.

1236 (9) "Project area" means an area that is identified in a project area plan as the area
1237 where the management described in the project area plan will occur.

1238 (10) "Project area budget" means a multiyear projection of annual or cumulative
1239 revenues and expenses and other fiscal matters pertaining to a project area.

1240 (11) "Project area plan" means a written plan that, after the plan's effective date,
1241 manages activity within a project area within the scope of a management plan.

1242 (12) "Public entity" means:

1243 (a) the state, including each department, division, or other agency of the state; or

1244 (b) a county, city, town, metro township, school district, special district, special service
1245 district, interlocal cooperation entity, community reinvestment agency, or other political
1246 subdivision of the state.

1247 (13) "Publicly owned infrastructure and improvements":

1248 (a) means infrastructure, improvements, facilities, or buildings that:

1249 (i) benefit the public; and

1250 (ii) (A) are owned by a public entity or a utility; or

1251 (B) are publicly maintained or operated by a public entity; and

1252 (b) includes:

1253 (i) facilities, lines, or systems that provide:

1254 (A) water, chilled water, or steam; or

1255 (B) sewer, storm drainage, natural gas, electricity, energy storage, [~~renewable~~] clean
1256 energy, microgrids, or telecommunications service; and

1257 (ii) streets, roads, curbs, gutters, sidewalks, walkways, solid waste facilities, parking
1258 facilities, and public transportation facilities.

1259 (14) "Sovereign land" means land:

1260 (a) lying below the ordinary high water mark of a navigable body of water at the date
1261 of statehood; and

1262 (b) owned by the state by virtue of the state's sovereignty.

1263 (15) "Utah Lake" includes all waters of Utah Lake and all land, whether or not
1264 submerged under water, within the lake authority boundary.

1265 (16) "Voting member" means an individual appointed as a member of the board under

1266 Subsection 11-65-302(2).

1267 Section 15. Section 11-65-203 is amended to read:

1268 **11-65-203. Policies and objectives of the lake authority -- Additional duties of the**
1269 **lake authority.**

1270 (1) The policies and objectives of the lake authority are to:

1271 (a) protect and improve:

1272 (i) the quality of Utah Lake's water, consistent with the Clean Water Act, 33 U.S.C.

1273 Sec. 1251 et seq., and Title 19, Chapter 5, Water Quality Act;

1274 (ii) the beneficial and public trust uses of Utah Lake;

1275 (iii) Utah Lake's environmental quality; and

1276 (iv) the quality of Utah Lake's lakebed and sediments;

1277 (b) enhance the recreational opportunities afforded by Utah Lake;

1278 (c) enhance long-term economic benefits to the area, the region, and the state;

1279 (d) respect and maintain sensitivity to the unique natural environment of areas in and
1280 around the lake authority boundary;

1281 (e) improve air quality and minimize resource use;

1282 (f) comply with existing land use and other agreements and arrangements between
1283 property owners and applicable governmental authorities;

1284 (g) promote and encourage management and uses that are compatible with or
1285 complement the public trust and uses in areas in proximity to Utah Lake;

1286 (h) take advantage of Utah Lake's strategic location and other features that make Utah
1287 Lake attractive:

1288 (i) to residents for recreational purposes;

1289 (ii) for tourism and leisure; and

1290 (iii) for business opportunities;

1291 (i) encourage the development and use of cost-efficient [renewable] clean energy in
1292 project areas;

1293 (j) as consistent with applicable public trust, support and promote land uses on land
1294 within the lake authority boundary and land in adjacent political subdivisions that generate
1295 economic development, including rural economic development;

1296 (k) respect and not interfere with water rights or the operation of water facilities or

1297 water projects associated with Utah Lake;

1298 (l) respect and maintain sensitivity to the unique Native American history, historical
1299 sites, and artifacts within and around the lake authority boundary; and

1300 (m) protect the ability of the Provo airport to operate and grow, consistent with
1301 applicable environmental regulations, recognizing the significant state investment in the airport
1302 and the benefits that a thriving airport provides to the quality of life and the economy.

1303 (2) In fulfilling the lake authority's duties and responsibilities relating to the
1304 management of Utah Lake and to achieve and implement the management policies and
1305 objectives under Subsection (1), the lake authority shall:

1306 (a) work to identify funding sources, including federal, state, and local government
1307 funding and private funding, for capital improvement projects in and around Utah Lake;

1308 (b) review and identify land use and zoning policies and practices to recommend to
1309 land use policymakers and administrators of adjoining municipalities that are consistent with
1310 and will help to achieve the policies and objectives stated in Subsection (1);

1311 (c) consult and coordinate with other applicable governmental entities to improve and
1312 enhance transportation and other infrastructure and facilities in order to maximize the potential
1313 of Utah Lake to attract, retain, and service users who will help enhance the long-term economic
1314 benefit to the state; and

1315 (d) pursue policies that the board determines are designed to avoid or minimize
1316 negative environmental impacts of management.

1317 (3) The lake authority shall respect:

1318 (a) a permit issued by a governmental entity applicable to Utah Lake;

1319 (b) a governmental entity's easement or other interest affecting Utah Lake;

1320 (c) an agreement between governmental entities, including between a state agency and
1321 the federal government, relating to Utah Lake; and

1322 (d) the public trust doctrine as applicable to land within the lake authority boundary.

1323 (4) (a) The lake authority may use lake authority money to encourage, incentivize,
1324 fund, or require development that:

1325 (i) mitigates noise, air pollution, light pollution, surface and groundwater pollution,
1326 and other negative environmental impacts;

1327 (ii) includes building or project designs that minimize negative impacts to the June

1328 Sucker, avian species, and other wildlife;
1329 (iii) mitigates traffic congestion; or
1330 (iv) uses high efficiency building construction and operation.
1331 (b) In consultation with the municipality in which management is expected to occur
1332 and applicable state agencies, the lake authority shall establish minimum mitigation and
1333 environmental standards for management occurring on land within the lake authority boundary.

1334 Section 16. Section **11-68-201** is amended to read:

1335 **11-68-201. State Fair Park Authority -- Legal status -- Powers.**

1336 (1) There is created the State Fair Park Authority.

1337 (2) The authority is:

1338 (a) an independent, nonprofit, separate body corporate and politic, with perpetual
1339 succession;

1340 (b) a political subdivision of the state; and

1341 (c) a public corporation, as defined in Section [63E-1-102](#).

1342 (3) (a) The fair corporation is dissolved and ceases to exist, subject to any winding
1343 down and other actions necessary for a transition to the authority.

1344 (b) The authority:

1345 (i) replaces and is the successor to the fair corporation;

1346 (ii) succeeds to all rights, obligations, privileges, immunities, and assets of the fair
1347 corporation; and

1348 (iii) shall fulfill and perform all contractual and other obligations of the fair
1349 corporation.

1350 (c) The board shall take all actions necessary and appropriate to wind down the affairs
1351 of the fair corporation as quickly as practicable and to make a transition from the fair
1352 corporation to the authority.

1353 (4) The authority shall:

1354 (a) manage, supervise, and control:

1355 (i) all activities relating to the annual exhibition described in Subsection (4)(j); and

1356 (ii) except as otherwise provided by statute, all state expositions, including setting the
1357 time, place, and purpose of any state exposition;

1358 (b) for public entertainment, displays, and exhibits or similar events held at the state

- 1359 fair park:
- 1360 (i) provide, sponsor, or arrange the events;
- 1361 (ii) publicize and promote the events; and
- 1362 (iii) secure funds to cover the cost of the exhibits from:
- 1363 (A) private contributions;
- 1364 (B) public appropriations;
- 1365 (C) admission charges; and
- 1366 (D) other lawful means;
- 1367 (c) acquire and designate exposition sites;
- 1368 (d) use generally accepted accounting principles in accounting for the authority's assets,
- 1369 liabilities, and operations;
- 1370 (e) seek corporate sponsorships for the state fair park or for individual buildings or
- 1371 facilities on fair park land;
- 1372 (f) work with county and municipal governments, the Salt Lake Convention and
- 1373 Visitor's Bureau, the Utah Office of Tourism, and other entities to develop and promote
- 1374 expositions and the use of fair park land;
- 1375 (g) develop and maintain a marketing program to promote expositions and the use of
- 1376 fair park land;
- 1377 (h) in accordance with provisions of this chapter, operate and maintain state-owned
- 1378 buildings and facilities on fair park land, including the physical appearance and structural
- 1379 integrity of those buildings and facilities;
- 1380 (i) prepare an economic development plan for the fair park land;
- 1381 (j) hold an annual exhibition on fair park land that:
- 1382 (i) is called the state fair or a similar name;
- 1383 (ii) promotes and highlights agriculture throughout the state;
- 1384 (iii) includes expositions of livestock, poultry, agricultural, domestic science,
- 1385 horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic
- 1386 animals that, in the board's opinion, will best stimulate agricultural, industrial, artistic, and
- 1387 educational pursuits and the sharing of talents among the people of the state;
- 1388 (iv) includes the award of premiums for the best specimens of the exhibited articles
- 1389 and animals;

1390 (v) permits competition by livestock exhibited by citizens of other states and territories
1391 of the United States; and

1392 (vi) is arranged according to plans approved by the board;

1393 (k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j);

1394 and

1395 (l) publish a list of premiums that will be awarded at the annual exhibition described in
1396 Subsection (4)(j) for the best specimens of exhibited articles and animals.

1397 (5) In addition to the annual exhibition described in Subsection (4)(j), the authority
1398 may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural,
1399 floricultural, mineral and industrial products, manufactured articles, and domestic animals that,
1400 in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational
1401 pursuits and the sharing of talents among the people of the state.

1402 (6) The authority may:

1403 (a) employ advisers, consultants, and agents, including financial experts and
1404 independent legal counsel, and fix their compensation;

1405 (b) (i) participate in the state's Risk Management Fund created under Section
1406 [63A-4-201](#) or any captive insurance company created by the risk manager; or

1407 (ii) procure insurance against any loss in connection with the authority's property and
1408 other assets;

1409 (c) receive and accept aid or contributions of money, property, labor, or other things of
1410 value from any source, including any grants or appropriations from any department, agency, or
1411 instrumentality of the United States or the state;

1412 (d) hold, use, loan, grant, and apply that aid and those contributions to carry out the
1413 purposes of the authority, subject to the conditions, if any, upon which the aid and
1414 contributions are made;

1415 (e) enter into management agreements with any person or entity for the performance of
1416 the authority's functions or powers;

1417 (f) establish accounts and procedures that are necessary to budget, receive, disburse,
1418 account for, and audit all funds received, appropriated, or generated;

1419 (g) subject to Subsection (8), lease any of the state-owned buildings or facilities located
1420 on fair park land;

- 1421 (h) sponsor events as approved by the board;
- 1422 (i) subject to Subsection (11), acquire any interest in real property that the board
1423 considers necessary or advisable to further a purpose of the authority or facilitate the authority's
1424 fulfillment of a duty under this chapter;
- 1425 (j) in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean
1426 Energy Act, provide for or finance an energy efficiency upgrade, a [renewable] clean energy
1427 system, or electric vehicle charging infrastructure, as those terms are defined in Section
1428 [11-42a-102](#); and
- 1429 (k) enter into one or more agreements to develop the fair park land.
- 1430 (7) The authority shall comply with:
- 1431 (a) Title 51, Chapter 5, Funds Consolidation Act;
- 1432 (b) Title 51, Chapter 7, State Money Management Act;
- 1433 (c) Title 52, Chapter 4, Open and Public Meetings Act;
- 1434 (d) Title 63G, Chapter 2, Government Records Access and Management Act;
- 1435 (e) the provisions of Section [67-3-12](#);
- 1436 (f) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:
- 1437 (i) entertainment provided at the state fair park;
- 1438 (ii) judges for competitive exhibits; or
- 1439 (iii) sponsorship of an event on fair park land; and
- 1440 (g) the legislative approval requirements for capital development projects established
1441 in Section [63A-5b-404](#).
- 1442 (8) (a) Before the authority executes a lease described in Subsection (6)(g) with a term
1443 of 10 or more years, the authority shall:
- 1444 (i) submit the proposed lease to the division for the division's approval or rejection; and
- 1445 (ii) if the division approves the proposed lease, submit the proposed lease to the
1446 Executive Appropriations Committee for the Executive Appropriation Committee's review and
1447 recommendation in accordance with Subsection (8)(b).
- 1448 (b) The Executive Appropriations Committee shall review a proposed lease submitted
1449 in accordance with Subsection (8)(a) and recommend to the authority that the authority:
- 1450 (i) execute the proposed lease, either as proposed or with changes recommended by the
1451 Executive Appropriations Committee; or

1452 (ii) reject the proposed lease.

1453 (9) (a) Subject to Subsection (9)(b), a department, division, or other instrumentality of
1454 the state and a political subdivision of the state shall cooperate with the authority to the fullest
1455 extent possible to provide whatever support, information, or other assistance the authority
1456 requests that is reasonably necessary to help the authority fulfill the authority's duties and
1457 responsibilities under this chapter.

1458 (b) The division shall provide assistance and resources to the authority as the division
1459 director determines is appropriate.

1460 (10) The authority may share authority revenue with a municipality in which the fair
1461 park land is located, as provided in an agreement between the authority and the municipality, to
1462 pay for municipal services provided by the municipality.

1463 (11) (a) As used in this Subsection (11), "new land" means land that, if acquired by the
1464 authority, would result in the authority having acquired over three acres of land more than the
1465 land described in Subsection 11-68-101(9)(a).

1466 (b) In conjunction with the authority's acquisition of new land, the authority shall enter
1467 an agreement with the municipality in which the new land is located.

1468 (c) To provide funds for the cost of increased municipal services that the municipality
1469 will provide to the new land, an agreement under Subsection (11)(b) shall:

1470 (i) provide for:

1471 (A) the payment of impact fees to the municipality for development activity on the new
1472 land; and

1473 (B) the authority's sharing with the municipality tax revenue generated from the new
1474 land; and

1475 (ii) be structured in a way that recognizes the needs of the authority and furthers mutual
1476 goals of the authority and the municipality.

1477 Section 17. Section 17-27a-401 is amended to read:

1478 **17-27a-401. General plan required -- Content -- Resource management plan --**
1479 **Provisions related to radioactive waste facility.**

1480 (1) To accomplish the purposes of this chapter, a county shall prepare and adopt a
1481 comprehensive, long-range general plan:

1482 (a) for present and future needs of the county;

- 1483 (b) (i) for growth and development of all or any part of the land within the
1484 unincorporated portions of the county; or
- 1485 (ii) if a county has designated a mountainous planning district, for growth and
1486 development of all or any part of the land within the mountainous planning district; and
- 1487 (c) as a basis for communicating and coordinating with the federal government on land
1488 and resource management issues.
- 1489 (2) To promote health, safety, and welfare, the general plan may provide for:
- 1490 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
1491 activities, aesthetics, and recreational, educational, and cultural opportunities;
- 1492 (b) the reduction of the waste of physical, financial, or human resources that result
1493 from either excessive congestion or excessive scattering of population;
- 1494 (c) the efficient and economical use, conservation, and production of the supply of:
- 1495 (i) food and water; and
- 1496 (ii) drainage, sanitary, and other facilities and resources;
- 1497 (d) the use of energy conservation and solar and [renewable] clean energy resources;
- 1498 (e) the protection of urban development;
- 1499 (f) the protection and promotion of air quality;
- 1500 (g) historic preservation;
- 1501 (h) identifying future uses of land that are likely to require an expansion or significant
1502 modification of services or facilities provided by an affected entity; and
- 1503 (i) an official map.
- 1504 (3) (a) (i) The general plan of a specified county, as defined in Section 17-27a-408,
1505 shall include a moderate income housing element that meets the requirements of Subsection
1506 17-27a-403(2)(a)(iii).
- 1507 (ii) (A) This Subsection (3)(a)(ii) applies to a county that does not qualify as a
1508 specified county as of January 1, 2023.
- 1509 (B) As of January 1, if a county described in Subsection (3)(a)(ii)(A) changes from one
1510 class to another or grows in population to qualify as a specified county as defined in Section
1511 17-27a-408, the county shall amend the county's general plan to comply with Subsection
1512 (3)(a)(i) on or before August 1 of the first calendar year beginning on January 1 in which the
1513 county qualifies as a specified county.

1514 (iii) A county described in Subsection (3)(a)(ii)(B) shall send a copy of the county's
1515 amended general plan to the association of governments, established pursuant to an interlocal
1516 agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a
1517 member.

1518 (b) The general plan shall contain a resource management plan for the public lands, as
1519 defined in Section [63L-6-102](#), within the county.

1520 (c) The resource management plan described in Subsection (3)(b) shall address:

1521 (i) mining;

1522 (ii) land use;

1523 (iii) livestock and grazing;

1524 (iv) irrigation;

1525 (v) agriculture;

1526 (vi) fire management;

1527 (vii) noxious weeds;

1528 (viii) forest management;

1529 (ix) water rights;

1530 (x) ditches and canals;

1531 (xi) water quality and hydrology;

1532 (xii) flood plains and river terraces;

1533 (xiii) wetlands;

1534 (xiv) riparian areas;

1535 (xv) predator control;

1536 (xvi) wildlife;

1537 (xvii) fisheries;

1538 (xviii) recreation and tourism;

1539 (xix) energy resources;

1540 (xx) mineral resources;

1541 (xxi) cultural, historical, geological, and paleontological resources;

1542 (xxii) wilderness;

1543 (xxiii) wild and scenic rivers;

1544 (xxiv) threatened, endangered, and sensitive species;

- 1545 (xxv) land access;
- 1546 (xxvi) law enforcement;
- 1547 (xxvii) economic considerations; and
- 1548 (xxviii) air.
- 1549 (d) For each item listed under Subsection (3)(c), a county's resource management plan
- 1550 shall:
- 1551 (i) establish findings pertaining to the item;
- 1552 (ii) establish defined objectives; and
- 1553 (iii) outline general policies and guidelines on how the objectives described in
- 1554 Subsection (3)(d)(ii) are to be accomplished.
- 1555 (4) (a) (i) The general plan shall include specific provisions related to an area within, or
- 1556 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a
- 1557 county, which are proposed for the siting of a storage facility or transfer facility for the
- 1558 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as
- 1559 these wastes are defined in Section [19-3-303](#).
- 1560 (ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the
- 1561 proposed site upon the health and general welfare of citizens of the state, and shall provide:
- 1562 (A) the information identified in Section [19-3-305](#);
- 1563 (B) information supported by credible studies that demonstrates that Subsection
- 1564 [19-3-307](#)(2) has been satisfied; and
- 1565 (C) specific measures to mitigate the effects of high-level nuclear waste and greater
- 1566 than class C radioactive waste and guarantee the health and safety of the citizens of the state.
- 1567 (b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance
- 1568 indicating that all proposals for the siting of a storage facility or transfer facility for the
- 1569 placement of high-level nuclear waste or greater than class C radioactive waste wholly or
- 1570 partially within the county are rejected.
- 1571 (c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.
- 1572 (d) The county shall send a certified copy of the ordinance described in Subsection
- 1573 (4)(b) to the executive director of the Department of Environmental Quality by certified mail
- 1574 within 30 days of enactment.
- 1575 (e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

1576 (i) comply with Subsection (4)(a) as soon as reasonably possible; and
1577 (ii) send a certified copy of the repeal to the executive director of the Department of
1578 Environmental Quality by certified mail within 30 days after the repeal.

1579 (5) The general plan may define the county's local customs, local culture, and the
1580 components necessary for the county's economic stability.

1581 (6) Subject to Subsection 17-27a-403(2), the county may determine the
1582 comprehensiveness, extent, and format of the general plan.

1583 (7) If a county has designated a mountainous planning district, the general plan for the
1584 mountainous planning district is the controlling plan.

1585 (8) Nothing in this part may be construed to limit the authority of the state to manage
1586 and protect wildlife under Title 23A, Wildlife Resources Act.

1587 (9) On or before December 31, 2025, a county that has a general plan that does not
1588 include a water use and preservation element that complies with Section 17-27a-403 shall
1589 amend the county's general plan to comply with Section 17-27a-403.

1590 Section 18. Section 17-50-335 is amended to read:

1591 **17-50-335. Energy efficiency upgrade, clean energy system, or electric vehicle**
1592 **charging infrastructure.**

1593 A county may provide or finance an energy efficiency upgrade, a [renewable] clean
1594 energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in a
1595 designated voluntary assessment area in accordance with Title 11, Chapter 42a, Commercial
1596 Property Assessed Clean Energy Act.

1597 Section 19. Section 17B-1-202 is amended to read:

1598 **17B-1-202. Special district may be created -- Services that may be provided --**
1599 **Limitations.**

1600 (1) (a) A special district may be created as provided in this part to provide within its
1601 boundaries service consisting of:

1602 (i) the operation of an airport;

1603 (ii) the operation of a cemetery;

1604 (iii) fire protection, paramedic, and emergency services, including consolidated 911
1605 and emergency dispatch services;

1606 (iv) garbage collection and disposal;

- 1607 (v) health care, including health department or hospital service;
- 1608 (vi) the operation of a library;
- 1609 (vii) abatement or control of mosquitos and other insects;
- 1610 (viii) the operation of parks or recreation facilities or services;
- 1611 (ix) the operation of a sewage system;
- 1612 (x) the construction and maintenance of a right-of-way, including:
- 1613 (A) a curb;
- 1614 (B) a gutter;
- 1615 (C) a sidewalk;
- 1616 (D) a street;
- 1617 (E) a road;
- 1618 (F) a water line;
- 1619 (G) a sewage line;
- 1620 (H) a storm drain;
- 1621 (I) an electricity line;
- 1622 (J) a communications line;
- 1623 (K) a natural gas line; or
- 1624 (L) street lighting;
- 1625 (xi) transportation, including public transit and providing streets and roads;
- 1626 (xii) the operation of a system, or one or more components of a system, for the
- 1627 collection, storage, retention, control, conservation, treatment, supplying, distribution, or
- 1628 reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether
- 1629 the system is operated on a wholesale or retail level or both;
- 1630 (xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a
- 1631 groundwater right for the development and execution of a groundwater management plan in
- 1632 cooperation with and approved by the state engineer in accordance with Section [73-5-15](#);
- 1633 (xiv) law enforcement service;
- 1634 (xv) subject to Subsection (1)(b), the underground installation of an electric utility line
- 1635 or the conversion to underground of an existing electric utility line;
- 1636 (xvi) the control or abatement of earth movement or a landslide;
- 1637 (xvii) the operation of animal control services and facilities; or

1638 (xviii) an energy efficiency upgrade, a [renewable] clean energy system, or electric
1639 vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11,
1640 Chapter 42a, Commercial Property Assessed Clean Energy Act.

1641 (b) Each special district that provides the service of the underground installation of an
1642 electric utility line or the conversion to underground of an existing electric utility line shall, in
1643 installing or converting the line, provide advance notice to and coordinate with the utility that
1644 owns the line.

1645 (c) A groundwater management plan described in Subsection (1)(a)(xiii) may include
1646 the banking of groundwater rights by a special district in a critical management area as defined
1647 in Section 73-5-15 following the adoption of a groundwater management plan by the state
1648 engineer under Section 73-5-15.

1649 (i) A special district may manage the groundwater rights it acquires under Subsection
1650 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan
1651 described in this Subsection (1)(c).

1652 (ii) A groundwater right held by a special district to satisfy the provisions of a
1653 groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.

1654 (iii) (A) A special district may divest itself of a groundwater right subject to a
1655 determination that the groundwater right is not required to facilitate the groundwater
1656 management plan described in this Subsection (1)(c).

1657 (B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section
1658 73-1-4 beginning on the date of divestiture.

1659 (iv) Upon a determination by the state engineer that an area is no longer a critical
1660 management area as defined in Section 73-5-15, a groundwater right held by the special district
1661 is subject to Section 73-1-4.

1662 (v) A special district created in accordance with Subsection (1)(a)(xiii) to develop and
1663 execute a groundwater management plan may hold or acquire a right to surface waters that are
1664 naturally tributary to the groundwater basin subject to the groundwater management plan if the
1665 surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in
1666 accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

1667 (2) As used in this section:

1668 (a) "Operation" means all activities involved in providing the indicated service

1669 including acquisition and ownership of property reasonably necessary to provide the indicated
1670 service and acquisition, construction, and maintenance of facilities and equipment reasonably
1671 necessary to provide the indicated service.

1672 (b) "System" means the aggregate of interrelated components that combine together to
1673 provide the indicated service including, for a sewage system, collection and treatment.

1674 (3) (a) A special district may not be created to provide and may not after its creation
1675 provide more than four of the services listed in Subsection (1).

1676 (b) Subsection (3)(a) may not be construed to prohibit a special district from providing
1677 more than four services if, before April 30, 2007, the special district was authorized to provide
1678 those services.

1679 (4) (a) Except as provided in Subsection (4)(b), a special district may not be created to
1680 provide and may not after its creation provide to an area the same service that may already be
1681 provided to that area by another political subdivision, unless the other political subdivision
1682 gives its written consent.

1683 (b) For purposes of Subsection (4)(a), a special district does not provide the same
1684 service as another political subdivision if it operates a component of a system that is different
1685 from a component operated by another political subdivision but within the same:

1686 (i) sewage system; or

1687 (ii) water system.

1688 (5) (a) Except for a special district in the creation of which an election is not required
1689 under Subsection [17B-1-214\(3\)\(d\)](#), the area of a special district may include all or part of the
1690 unincorporated area of one or more counties and all or part of one or more municipalities.

1691 (b) The area of a special district need not be contiguous.

1692 (6) For a special district created before May 5, 2008, the authority to provide fire
1693 protection service also includes the authority to provide:

1694 (a) paramedic service; and

1695 (b) emergency service, including hazardous materials response service.

1696 (7) A special district created before May 11, 2010, authorized to provide the
1697 construction and maintenance of curb, gutter, or sidewalk may provide a service described in
1698 Subsection (1)(a)(x) on or after May 11, 2010.

1699 (8) A special district created before May 10, 2011, authorized to provide culinary,

1700 irrigation, sewage, or storm water services may provide a service described in Subsection
1701 (1)(a)(xii) on or after May 10, 2011.

1702 (9) A special district may not be created under this chapter for two years after the date
1703 on which a special district is dissolved as provided in Section 17B-1-217 if the special district
1704 proposed for creation:

1705 (a) provides the same or a substantially similar service as the dissolved special district;

1706 and

1707 (b) is located in substantially the same area as the dissolved special district.

1708 Section 20. Section 17D-1-201 is amended to read:

1709 **17D-1-201. Services that a special service district may be created to provide.**

1710 As provided in this part, a county or municipality may create a special service district to
1711 provide any combination of the following services:

1712 (1) water;

1713 (2) sewerage;

1714 (3) drainage;

1715 (4) flood control;

1716 (5) garbage collection and disposal;

1717 (6) health care;

1718 (7) transportation, including the receipt of federal secure rural school funds under

1719 Section 51-9-603 for the purposes of constructing, improving, repairing, or maintaining public
1720 roads;

1721 (8) recreation;

1722 (9) fire protection, including:

1723 (a) emergency medical services, ambulance services, and search and rescue services, if
1724 fire protection service is also provided;

1725 (b) Firewise Communities programs and the development of community wildfire
1726 protection plans; and

1727 (c) the receipt of federal secure rural school funds as provided under Section 51-9-603
1728 for the purposes of carrying out Firewise Communities programs, developing community
1729 wildfire protection plans, and performing emergency services, including firefighting on federal
1730 land and other services authorized under this Subsection (9);

1731 (10) providing, operating, and maintaining correctional and rehabilitative facilities and
1732 programs for municipal, state, and other detainees and prisoners;

1733 (11) street lighting;

1734 (12) consolidated 911 and emergency dispatch;

1735 (13) animal shelter and control;

1736 (14) receiving federal mineral lease funds under Title 59, Chapter 21, Mineral Lease
1737 Funds, and expending those funds to be used in accordance with state and federal law;

1738 (15) in a county of the first class, extended police protection;

1739 (16) control or abatement of earth movement or a landslide;

1740 (17) an energy efficiency upgrade, a [renewable] clean energy system, or electric
1741 vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11,
1742 Chapter 42a, Commercial Property Assessed Clean Energy Act; or

1743 (18) cemetery.

1744 Section 21. Section 54-17-502 is amended to read:

1745 **54-17-502. Clean energy source -- Solicitation -- Consultant.**

1746 (1) Sections 54-17-102 through 54-17-404 do not apply to a significant energy resource
1747 that is a [renewable] clean energy source as defined in Section 54-17-601 if the nameplate
1748 capacity of the [renewable] clean energy source does not exceed 300 megawatts or, if
1749 applicable, the quantity of capacity that is the subject of a contract for the purchase of
1750 electricity from a [renewable] clean energy source does not exceed 300 megawatts.

1751 (2) (a) (i) An affected electrical utility shall issue a public solicitation of bids for a
1752 [renewable] clean energy source up to 300 megawatts in size by January 31 of each year in
1753 which it reasonably anticipates that it will need to acquire or commence construction of a
1754 [renewable] clean energy resource.

1755 (ii) A solicitation for a [renewable] clean energy source issued by January 31, 2008 for
1756 up to 99 megawatts satisfies the requirement of this Subsection (2) for the year 2008 if:

1757 (A) not later than 30 days after the day on which this section takes effect, the affected
1758 electrical utility amends the solicitation or initiates a new solicitation to seek bids for
1759 [renewable] clean energy source projects up to 300 megawatts in size; and

1760 (B) within 60 days after the day on which this section takes effect and as soon as
1761 practicable, the commission retains a consultant in accordance with Subsection (3).

1762 (b) A consultant hired under Subsection (2)(a)(ii)(B) shall perform the consultant's
1763 duties under Subsection (3) in relation to the status of the solicitation process at the time the
1764 consultant is retained and may not unreasonably delay the solicitation process.

1765 (c) For a solicitation issued after January 31, 2008:

1766 (i) the affected electrical utility shall develop a reasonable process for pre-approval of
1767 bidders; and

1768 (ii) in addition to publicly issuing the solicitation in Subsection (2)(a)(i), the affected
1769 electrical utility shall send copies of the solicitation to each potential bidder who is
1770 pre-approved.

1771 (d) The affected electrical utility shall evaluate in good faith each bid that is received
1772 and negotiate in good faith with each bidder whose bid appears to be cost effective, as defined
1773 in Section [54-17-602](#).

1774 (e) Beginning on August 1, 2008, and on each August 1 thereafter, the affected
1775 electrical utility shall file a notice with the commission indicating whether it reasonably
1776 anticipates that it will need to acquire or commence construction of a [renewable] clean energy
1777 resource during the following year.

1778 (3) (a) If the commission receives a notice under Subsection (2)(e) that the affected
1779 electrical utility reasonably anticipates that it will need to acquire or commence construction of
1780 a [renewable] clean energy source during the following year, the commission shall promptly
1781 retain a consultant to:

1782 (i) validate that the affected electrical utility is following the bidder pre-approval
1783 process developed pursuant to Subsection (2)(c) and make recommendations for changes to the
1784 pre-approval process for future solicitations;

1785 (ii) monitor and document all material aspects of the bids, bid evaluations, and bid
1786 negotiations between the affected electrical utility and any bidders in the solicitation process;

1787 (iii) maintain adequate documentation of each bid, including the solicitation,
1788 evaluation, and negotiation processes and the reason for the conclusion of negotiations, which
1789 documentation shall be transmitted to the commission at the conclusion of all negotiations in
1790 the solicitation; and

1791 (iv) be available to testify under oath before the commission in any relevant proceeding
1792 concerning all aspects of the public solicitation process.

1793 (b) The commission and the consultant shall use all reasonable efforts to not delay the
1794 solicitation process.

1795 (4) Documentation provided to the commission by the consultant shall be available to
1796 the affected electrical utility, any bidder, or other interested person under terms and conditions
1797 and at times determined appropriate by the commission.

1798 (5) (a) The commission and the consultant shall execute a contract approved by the
1799 commission with terms and conditions approved by the commission.

1800 (b) Unless otherwise provided by contract, an invoice for the consultant's services shall
1801 be sent to the Division of Public Utilities for review and approval.

1802 (c) After approval under Subsection (5)(b), the invoice shall be forwarded to the
1803 affected electrical utility for payment to the consultant.

1804 (d) The affected electrical utility may, in a general rate case or other appropriate
1805 commission proceeding, include, and the commission shall allow, recovery by the affected
1806 electrical utility of any amount paid by the affected electrical utility for the consultant.

1807 (6) (a) Nothing in this section precludes an affected electrical utility from constructing
1808 or acquiring any [~~renewable~~] clean energy source project outside the solicitation process
1809 provided for in this section, including purchasing electricity from any [~~renewable~~] clean energy
1810 source project that chooses to self-certify as a qualifying facility under the federal Public Utility
1811 Regulatory Policies Act of 1978.

1812 (b) An affected electrical utility that constructs a [~~renewable~~] clean energy source
1813 outside the solicitation process of this section or Section 54-17-201 shall file a notice with the
1814 commission at least 60 days before the date of commencement of construction, indicating the
1815 size and location of the [~~renewable~~] clean energy source.

1816 (c) The date of commencement of construction under Subsection (6)(b) is the date of
1817 any directive from an affected electrical utility to the person responsible for the construction of
1818 the [~~renewable~~] clean energy source authorizing or directing the person to proceed with
1819 construction.

1820 (d) For an affected electrical utility whose rates are regulated by the commission, the
1821 utility has the burden of proving in a rate case or other appropriate commission proceeding the
1822 prudence, reasonableness, and cost-effectiveness of construction under this Subsection (6),
1823 including the method used to evaluate the risks and value of any bid submitted in the

1824 solicitation under this section.

1825 (7) Nothing in this section requires an affected electrical utility to enter into any
1826 transaction that it reasonably believes is not cost effective or otherwise is not in the public
1827 interest.

1828 Section 22. Section **54-17-601** is amended to read:

1829 **54-17-601. Definitions.**

1830 As used in this part:

1831 (1) "Adjusted retail electric sales" means the total kilowatt-hours of retail electric sales
1832 of an electrical corporation to customers in this state in a calendar year, reduced by:

1833 (a) the amount of those kilowatt-hours attributable to electricity generated or purchased
1834 in that calendar year from qualifying zero carbon emissions generation and qualifying carbon
1835 sequestration generation;

1836 (b) the amount of those kilowatt-hours attributable to electricity generated or purchased
1837 in that calendar year from generation located within the geographic boundary of the Western
1838 Electricity Coordinating Council that derives its energy from one or more of the following but
1839 that does not satisfy the definition of a [~~renewable~~] clean energy source or that otherwise has
1840 not been used to satisfy Subsection [54-17-602\(1\)](#):

1841 (i) wind energy;

1842 (ii) solar photovoltaic and solar thermal energy;

1843 (iii) wave, tidal, and ocean thermal energy;

1844 (iv) except for combustion of wood that has been treated with chemical preservatives
1845 such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass
1846 byproducts, including:

1847 (A) organic waste;

1848 (B) forest or rangeland woody debris from harvesting or thinning conducted to improve
1849 forest or rangeland ecological health and to reduce wildfire risk;

1850 (C) agricultural residues;

1851 (D) dedicated energy crops; and

1852 (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic
1853 digesters, or municipal solid waste;

1854 (v) geothermal energy;

1855 (vi) hydroelectric energy; or
1856 (vii) waste gas and waste heat capture or recovery; and
1857 (c) the number of kilowatt-hours attributable to reductions in retail sales in that
1858 calendar year from demand side management as defined in Section 54-7-12.8, with the
1859 kilowatt-hours for an electrical corporation whose rates are regulated by the commission and
1860 adjusted by the commission to exclude kilowatt-hours for which a renewable energy certificate
1861 is issued under Subsection 54-17-603(4)(b).

1862 (2) "Amount of kilowatt-hours attributable to electricity generated or purchased in that
1863 calendar year from qualifying carbon sequestration generation," for qualifying carbon
1864 sequestration generation, means the kilowatt-hours supplied by a facility during the calendar
1865 year multiplied by the ratio of the amount of carbon dioxide captured from the facility and
1866 sequestered to the sum of the amount of carbon dioxide captured from the facility and
1867 sequestered plus the amount of carbon dioxide emitted from the facility during the same
1868 calendar year.

1869 (3) "Banked renewable energy certificate" means a bundled or unbundled renewable
1870 energy certificate that is:

1871 (a) not used in a calendar year to comply with this part or with a renewable energy
1872 program in another state; and

1873 (b) carried forward into a subsequent year.

1874 (4) "Bundled renewable energy certificate" means a renewable energy certificate for
1875 qualifying electricity that is acquired:

1876 (a) by an electrical corporation by a trade, purchase, or other transfer of electricity that
1877 includes the renewable energy attributes of, or certificate that is issued for, the electricity; or

1878 (b) by an electrical corporation by generating the electricity for which the renewable
1879 energy certificate is issued.

1880 (5) "Clean energy source" means:

1881 (a) an electric generation facility or generation capability or upgrade that becomes
1882 operational on or after January 1, 1995, that derives its energy from one or more of the
1883 following:

1884 (i) wind energy;

1885 (ii) solar photovoltaic and solar thermal energy;

- 1886 (iii) wave, tidal, and ocean thermal energy;
- 1887 (iv) except for combustion of wood that has been treated with chemical preservatives
- 1888 such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass
- 1889 byproducts, including:
- 1890 (A) organic waste;
- 1891 (B) forest or rangeland woody debris from harvesting or thinning conducted to improve
- 1892 forest or rangeland ecological health and to reduce wildfire risk;
- 1893 (C) agricultural residues;
- 1894 (D) dedicated energy crops; and
- 1895 (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic
- 1896 digesters, or municipal solid waste;
- 1897 (v) geothermal energy located outside the state;
- 1898 (vi) waste gas and waste heat capture or recovery, including methane gas from:
- 1899 (A) an abandoned coal mine; or
- 1900 (B) a coal degassing operation associated with a state-approved mine permit;
- 1901 (vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon
- 1902 which the facility became operational, if the upgrades become operational on or after January
- 1903 1, 1995;
- 1904 (viii) compressed air, if:
- 1905 (A) the compressed air is taken from compressed air energy storage; and
- 1906 (B) the energy used to compress the air is a clean energy source;
- 1907 (ix) municipal solid waste; or
- 1908 (x) energy derived from nuclear fuel;
- 1909 (b) any of the following:
- 1910 (i) up to 50 average megawatts of electricity per year per electrical corporation from a
- 1911 certified low-impact hydroelectric facility, without regard to the date upon which the facility
- 1912 becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after
- 1913 January 1, 1995, by a national certification organization;
- 1914 (ii) geothermal energy if located within the state, without regard to the date upon which
- 1915 the facility becomes operational; or
- 1916 (iii) hydroelectric energy if located within the state, without regard to the date upon

1917 which the facility becomes operational;

1918 (c) hydrogen gas derived from any source of energy described in Subsection (5)(a) or

1919 (b);

1920 (d) if an electric generation facility employs multiple energy sources, that portion of the

1921 electricity generated that is attributable to energy sources described in Subsections (5)(a)

1922 through (c); and

1923 (e) any of the following located in the state and owned by a user of energy:

1924 (i) a demand side management measure, as defined by Subsection 54-7-12.8(1), with

1925 the quantity of renewable energy certificates to which the user is entitled determined by the

1926 equivalent energy saved by the measure;

1927 (ii) a solar thermal system that reduces the consumption of fossil fuels, with the

1928 quantity of renewable energy certificates to which the user is entitled determined by the

1929 equivalent kilowatt-hours saved, except to the extent the commission determines otherwise

1930 with respect to net-metered energy;

1931 (iii) a solar photovoltaic system that reduces the consumption of fossil fuels with the

1932 quantity of renewable energy certificates to which the user is entitled determined by the total

1933 production of the system, except to the extent the commission determines otherwise with

1934 respect to net-metered energy;

1935 (iv) a hydroelectric or geothermal facility with the quantity of renewable energy

1936 certificates to which the user is entitled determined by the total production of the facility,

1937 except to the extent the commission determines otherwise with respect to net-metered energy;

1938 (v) a waste gas or waste heat capture or recovery system, other than from a combined

1939 cycle combustion turbine that does not use waste gas or waste heat, with the quantity of

1940 renewable energy certificates to which the user is entitled determined by the total production of

1941 the system, except to the extent the commission determines otherwise with respect to

1942 net-metered energy; and

1943 (vi) the station use of solar thermal energy, solar photovoltaic energy, hydroelectric

1944 energy, geothermal energy, waste gas, or waste heat capture and recovery.

1945 [~~(5)~~] (6) "Electrical corporation":

1946 (a) is as defined in Section 54-2-1; and

1947 (b) does not include a person generating electricity that is not for sale to the public.

1948 [(6)] (7) "Qualifying carbon sequestration generation" means a fossil-fueled generating
1949 facility located within the geographic boundary of the Western Electricity Coordinating
1950 Council that:

- 1951 (a) becomes operational or is retrofitted on or after January 1, 2008; and
- 1952 (b) reduces carbon dioxide emissions into the atmosphere through permanent
1953 geological sequestration or through another verifiably permanent reduction in carbon dioxide
1954 emissions through the use of technology.

1955 [(7)] (8) "Qualifying electricity" means electricity generated on or after January 1,
1956 1995, from a [renewable] clean energy source if:

- 1957 (a) (i) the renewable energy source is located within the geographic boundary of the
1958 Western Electricity Coordinating Council; or
- 1959 (ii) the qualifying electricity is delivered to the transmission system of an electrical
1960 corporation or a delivery point designated by the electrical corporation for the purpose of
1961 subsequent delivery to the electrical corporation; and
- 1962 (b) the renewable energy attributes of the electricity are not traded, sold, transferred, or
1963 otherwise used to satisfy another state's renewable energy program.

1964 [(8)] (9) "Qualifying zero carbon emissions generation":

- 1965 (a) means a generation facility located within the geographic boundary of the Western
1966 Electricity Coordinating Council that:
 - 1967 (i) becomes operational on or after January 1, 2008; and
 - 1968 (ii) does not produce carbon as a byproduct of the generation process;
- 1969 (b) includes generation powered by nuclear fuel; and
- 1970 (c) does not include renewable energy sources used to satisfy the requirement
1971 established under Subsection [54-17-602\(1\)](#).

1972 [(9)] (10) "Renewable energy certificate" means a certificate issued under Section
1973 [54-17-603](#).

1974 [(10) "Renewable energy source" means:]

1975 [(a) an electric generation facility or generation capability or upgrade that becomes
1976 operational on or after January 1, 1995 that derives its energy from one or more of the
1977 following:]

1978 [(i) wind energy;]

- 1979 [~~(ii) solar photovoltaic and solar thermal energy;~~]
- 1980 [~~(iii) wave, tidal, and ocean thermal energy;~~]
- 1981 [~~(iv) except for combustion of wood that has been treated with chemical preservatives~~
- 1982 ~~such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass~~
- 1983 ~~byproducts, including;~~]
- 1984 [~~(A) organic waste;~~]
- 1985 [~~(B) forest or rangeland woody debris from harvesting or thinning conducted to~~
- 1986 ~~improve forest or rangeland ecological health and to reduce wildfire risk;~~]
- 1987 [~~(C) agricultural residues;~~]
- 1988 [~~(D) dedicated energy crops; and]~~
- 1989 [~~(E) landfill gas or biogas produced from organic matter, wastewater, anaerobic~~
- 1990 ~~digesters, or municipal solid waste;~~]
- 1991 [~~(v) geothermal energy located outside the state;~~]
- 1992 [~~(vi) waste gas and waste heat capture or recovery whether or not it is renewable,~~
- 1993 ~~including methane gas from:~~]
- 1994 [~~(A) an abandoned coal mine; or]~~
- 1995 [~~(B) a coal degassing operation associated with a state-approved mine permit;~~]
- 1996 [~~(vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon~~
- 1997 ~~which the facility became operational, if the upgrades become operational on or after January~~
- 1998 ~~1, 1995;~~]
- 1999 [~~(viii) compressed air, if:~~]
- 2000 [~~(A) the compressed air is taken from compressed air energy storage; and]~~
- 2001 [~~(B) the energy used to compress the air is a renewable energy source; or]~~
- 2002 [~~(ix) municipal solid waste;~~]
- 2003 [~~(b) any of the following:~~]
- 2004 [~~(i) up to 50 average megawatts of electricity per year per electrical corporation from a~~
- 2005 ~~certified low-impact hydroelectric facility, without regard to the date upon which the facility~~
- 2006 ~~becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after~~
- 2007 ~~January 1, 1995, by a national certification organization;~~]
- 2008 [~~(ii) geothermal energy if located within the state, without regard to the date upon~~
- 2009 ~~which the facility becomes operational; or]~~

2010 ~~[(iii) hydroelectric energy if located within the state, without regard to the date upon~~
2011 ~~which the facility becomes operational;]~~

2012 ~~[(c) hydrogen gas derived from any source of energy described in Subsection (10)(a) or~~
2013 ~~(b);]~~

2014 ~~[(d) if an electric generation facility employs multiple energy sources, that portion of~~
2015 ~~the electricity generated that is attributable to energy sources described in Subsections (10)(a)~~
2016 ~~through (c); and]~~

2017 ~~[(e) any of the following located in the state and owned by a user of energy:]~~

2018 ~~[(i) a demand side management measure, as defined by Subsection 54-7-12.8(1), with~~
2019 ~~the quantity of renewable energy certificates to which the user is entitled determined by the~~
2020 ~~equivalent energy saved by the measure;]~~

2021 ~~[(ii) a solar thermal system that reduces the consumption of fossil fuels, with the~~
2022 ~~quantity of renewable energy certificates to which the user is entitled determined by the~~
2023 ~~equivalent kilowatt-hours saved, except to the extent the commission determines otherwise~~
2024 ~~with respect to net-metered energy;]~~

2025 ~~[(iii) a solar photovoltaic system that reduces the consumption of fossil fuels with the~~
2026 ~~quantity of renewable energy certificates to which the user is entitled determined by the total~~
2027 ~~production of the system, except to the extent the commission determines otherwise with~~
2028 ~~respect to net-metered energy;]~~

2029 ~~[(iv) a hydroelectric or geothermal facility with the quantity of renewable energy~~
2030 ~~certificates to which the user is entitled determined by the total production of the facility,~~
2031 ~~except to the extent the commission determines otherwise with respect to net-metered energy;]~~

2032 ~~[(v) a waste gas or waste heat capture or recovery system, other than from a combined~~
2033 ~~cycle combustion turbine that does not use waste gas or waste heat, with the quantity of~~
2034 ~~renewable energy certificates to which the user is entitled determined by the total production of~~
2035 ~~the system, except to the extent the commission determines otherwise with respect to~~
2036 ~~net-metered energy; and]~~

2037 ~~[(vi) the station use of solar thermal energy, solar photovoltaic energy, hydroelectric~~
2038 ~~energy, geothermal energy, waste gas, or waste heat capture and recovery.]~~

2039 (11) "Unbundled renewable energy certificate" means a renewable energy certificate
2040 associated with:

2041 (a) qualifying electricity that is acquired by an electrical corporation or other person by
2042 trade, purchase, or other transfer without acquiring the electricity for which the certificate was
2043 issued; or

2044 (b) activities listed in Subsection [~~(10)(e)~~] (5)(e).

2045 Section 23. Section **54-17-602** is amended to read:

2046 **54-17-602. Target amount of qualifying electricity -- Renewable energy certificate**
2047 **-- Cost-effectiveness -- Cooperatives.**

2048 (1) (a) To the extent that it is cost effective to do so, beginning in 2025 the annual retail
2049 electric sales in this state of each electrical corporation shall consist of qualifying electricity or
2050 renewable energy certificates in an amount equal to at least 20% of adjusted retail electric
2051 sales.

2052 (b) The amount under Subsection (1)(a) is computed based upon adjusted retail electric
2053 sales for the calendar year commencing 36 months before the first day of the year for which the
2054 target calculated under Subsection (1)(a) applies.

2055 (c) Notwithstanding Subsections (1)(a) and (b), an increase in the annual target from
2056 one year to the next may not exceed the greater of:

2057 (i) 17,500 megawatt-hours; or

2058 (ii) 20% of the prior year's amount under Subsections (1)(a) and (b).

2059 (2) (a) Cost-effectiveness under Subsection (1) for other than a cooperative association
2060 is determined in comparison to other viable resource options using the criteria provided by
2061 Subsection [54-17-201\(2\)\(c\)\(ii\)](#).

2062 (b) For an electrical corporation that is a cooperative association, cost-effectiveness is
2063 determined using criteria applicable to the cooperative association's acquisition of a significant
2064 energy resource established by the cooperative association's board of directors.

2065 (3) This section does not require an electrical corporation to:

2066 (a) substitute qualifying electricity for electricity from a generation source owned or
2067 contractually committed, or from a contractual commitment for a power purchase;

2068 (b) enter into any additional electric sales commitment or any other arrangement for the
2069 sale or other disposition of electricity that is not already, or would not be, entered into by the
2070 electrical corporation; or

2071 (c) acquire qualifying electricity in excess of its adjusted retail electric sales.

2072 (4) For the purpose of Subsection (1), an electrical corporation may combine the
2073 following:

2074 (a) qualifying electricity from a renewable energy source owned by the electrical
2075 corporation;

2076 (b) qualifying electricity acquired by the electrical corporation through trade, power
2077 purchase, or other transfer; and

2078 (c) a bundled or unbundled renewable energy certificate, including a banked renewable
2079 energy certificate.

2080 (5) For an electrical corporation whose rates the commission regulates, the following
2081 rules concerning renewable energy certificates apply:

2082 (a) a banked renewable energy certificate with an older issuance date shall be used
2083 before any other banked renewable energy certificate issued at a later date is used; and

2084 (b) the total of all unbundled renewable energy certificates, including unbundled
2085 banked renewable energy certificates, may not exceed 20% of the amount of the annual target
2086 provided for in Subsection (1).

2087 (6) An electrical corporation that is a cooperative association may count towards
2088 Subsection (1) any of the following:

2089 (a) electric production allocated to this state from hydroelectric facilities becoming
2090 operational after December 31, 2007, if the facilities are located in any state in which the
2091 cooperative association, or a generation and transmission cooperative with which the
2092 cooperative association has a contract, provides electric service;

2093 (b) qualifying electricity generated or acquired or renewable energy certificates
2094 acquired for a program that permits a retail customer to voluntarily contribute to a [renewable]
2095 clean energy source; and

2096 (c) notwithstanding Subsection 54-17-601(7), an unbundled renewable energy
2097 certificate purchased from a renewable energy source located outside the geographic boundary
2098 of the Western Electricity Coordinating Council if the electricity on which the unbundled
2099 renewable energy certificate is based would be considered qualifying electricity if the
2100 renewable energy source was located within the geographic boundary of the Western
2101 Electricity Coordinating Council.

2102 (7) The use of the renewable attributes associated with qualifying electricity to satisfy

2103 any federal renewable energy requirement does not preclude the electricity from being
2104 qualifying electricity for the purpose of this chapter.

2105 Section 24. Section **54-17-604** is amended to read:

2106 **54-17-604. Plans and reports.**

2107 (1) An electrical corporation shall develop and maintain a plan for implementing
2108 Subsection **54-17-602**(1), consistent with the cost-effectiveness criteria of Subsection
2109 **54-17-201**(2)(c)(ii).

2110 (2) (a) A progress report concerning a plan under Subsection (1) for other than a
2111 cooperative association shall be filed with the commission by January 1 of each of the years
2112 2010, 2015, 2020, and 2024.

2113 (b) For an electrical corporation that is a cooperative association, a progress report
2114 shall be filed with the cooperative association's board of directors by January 1 of each of the
2115 years 2010, 2015, 2020, and 2024.

2116 (3) The progress report under Subsection (2) shall contain:

2117 (a) the actual and projected amount of qualifying electricity through 2025;

2118 (b) the source of qualifying electricity;

2119 (c) (i) an analysis of the cost-effectiveness of [**renewable**] clean energy sources for
2120 other than a cooperative association; or

2121 (ii) an estimate of the cost of achieving the target for an electrical corporation that is a
2122 cooperative association;

2123 (d) a discussion of conditions impacting the [**renewable**] clean energy source and
2124 qualifying electricity markets;

2125 (e) any recommendation for a suggested legislative or program change; and

2126 (f) for other than a cooperative association, any other information requested by the
2127 commission or considered relevant by the electrical corporation.

2128 (4) The plan and progress report required by Subsections (1) and (2) may include
2129 procedures that will be used by the electrical corporation to identify and select any [**renewable**]
2130 clean energy resource and qualifying electricity that satisfy the criteria of Subsection
2131 **54-17-201**(2)(c)(ii).

2132 (5) By July 1, 2026, each electrical corporation shall file a final progress report
2133 demonstrating:

2134 (a) how Subsection 54-17-602(1) is satisfied for the year 2025; or

2135 (b) the reason why Subsection 54-17-602(1) is not satisfied for the year 2025, if it is
2136 not satisfied.

2137 (6) By January 1 of each of the years 2011, 2016, 2021, and 2025, the Division of
2138 Public Utilities shall submit to the Legislature a report containing a summary of any progress
2139 report filed under Subsections (2) through (5).

2140 (7) The summary required by Subsection (6) shall include any recommendation for
2141 legislative changes.

2142 (8) (a) By July 1, 2027, the commission shall submit to the Legislature a report
2143 summarizing the final progress reports and recommending any legislative changes.

2144 (b) The 2027 summary may contain a recommendation to the Legislature concerning
2145 any action to be taken with respect to an electrical corporation that does not satisfy Subsection
2146 54-17-602(1) for 2025.

2147 (c) The commission shall provide an opportunity for public comment and take
2148 evidence before recommending any action to be taken with respect to an electrical corporation
2149 that does not satisfy Subsection 54-17-602(1) for 2025.

2150 (9) If a recommendation containing a penalty for failure to satisfy Subsection
2151 54-17-602(1) is made under Subsection (8), the proposal shall require that any amount paid by
2152 an electrical corporation as a penalty be utilized to fund demand-side management for the retail
2153 customers of the electrical corporation paying the penalty.

2154 (10) A penalty may not be proposed under this section if an electrical corporation's
2155 failure to satisfy Subsection 54-17-602(1) is due to:

2156 (a) a lack of cost-effective means to satisfy the requirement; or

2157 (b) force majeure.

2158 (11) By July 1, 2026, an electrical corporation that is a cooperative association shall
2159 file a final progress report demonstrating:

2160 (a) how Subsection 54-17-602(1) is satisfied for the year 2025; or

2161 (b) the reason why Subsection 54-17-602(1) is not satisfied for the year 2025 if it is not
2162 satisfied.

2163 (12) The plan and any progress report file under this section by an electrical
2164 corporation that is cooperative association shall be publicly available at the cooperative

2165 association's office or posted on the cooperative association's website.

2166 Section 25. Section **54-17-605** is amended to read:

2167 **54-17-605. Recovery of costs for clean energy activities.**

2168 (1) In accordance with other law, the commission shall include in the retail electric
2169 rates of an electrical corporation whose rates the commission regulates the state's share of any
2170 of the costs listed in Subsection (2) that are relevant to the proceeding in which the commission
2171 is considering the electrical corporation's rates:

2172 (a) if the costs are prudently incurred by the electrical corporation in connection with:

2173 (i) the acquisition of a renewable energy certificate;

2174 (ii) the acquisition of qualifying electricity for which a renewable energy certificate
2175 will be issued after the acquisition; and

2176 (iii) the acquisition, construction, and use of a [~~renewable~~] clean energy source; and

2177 (b) to the extent any qualifying electricity or [~~renewable~~] clean energy source under
2178 Subsection (1)(a) satisfies the cost-effectiveness criteria of Subsection [54-17-201\(2\)\(c\)\(ii\)](#).

2179 (2) The following are costs that may be recoverable under Subsection (1):

2180 (a) a cost of siting, acquisition of property rights, equipment, design, licensing,
2181 permitting, construction, owning, operating, or otherwise acquiring a [~~renewable~~] clean energy
2182 source and any associated asset, including transmission;

2183 (b) a cost to acquire qualifying electricity through trade, power purchase, or other
2184 transfer;

2185 (c) a cost to acquire a bundled or unbundled renewable energy certificate, if any net
2186 revenue from the sale of a renewable energy certificate allocable to this state is also included in
2187 rates;

2188 (d) a cost to interconnect a [~~renewable~~] clean energy source to the electrical
2189 corporation's transmission and distribution system;

2190 (e) a cost associated with using a physical or financial asset to integrate, firm, or shape
2191 a [~~renewable~~] clean energy source on a firm annual basis to meet a retail electricity need; and

2192 (f) any cost associated with transmission and delivery of qualifying electricity to a
2193 retail electricity consumer.

2194 (3) (a) The commission may allow an electrical corporation to use an adjustment
2195 mechanism or reasonable method other than a rate case under Sections [54-4-4](#) and [54-7-12](#) to

2196 allow recovery of costs identified in Subsection (2).

2197 (b) If the commission allows the use of an adjustment mechanism, both the costs and
2198 any associated benefit shall be reflected in the mechanism, to the extent practicable.

2199 (c) This Subsection (3) creates no presumption for or against the use of an adjustment
2200 mechanism.

2201 (4) (a) The commission may permit an electrical corporation to include in its retail
2202 electric rates the state's share of costs prudently incurred by the electrical corporation in
2203 connection with a [renewable] clean energy source, whether or not the [renewable] clean
2204 energy source ultimately becomes operational, including costs of:

2205 (i) siting;

2206 (ii) property acquisition;

2207 (iii) equipment;

2208 (iv) design;

2209 (v) licensing;

2210 (vi) permitting; and

2211 (vii) other reasonable items related to the [renewable] clean energy source.

2212 (b) Subsection (4)(a) creates no presumption concerning the prudence or recoverability
2213 of the costs identified.

2214 (c) To the extent deferral is consistent with other applicable law, the commission may
2215 allow an electrical corporation to defer costs recoverable under Subsection (4)(a) until the
2216 recovery of the deferred costs can be considered in a rate proceeding or an adjustment
2217 mechanism created under Subsection (3).

2218 (d) An application to defer costs shall be filed within 60 days after the day on which
2219 the electrical corporation determines that the [renewable] clean energy source project is
2220 impaired under generally accepted accounting principles and will not become operational.

2221 (e) Notwithstanding the opportunity to defer costs under Subsection (4)(c), a cost
2222 incurred by an electrical corporation for siting, property acquisition, equipment, design,
2223 licensing, and permitting of a [renewable] clean energy source that the electrical corporation
2224 proposes to construct shall be included in the electrical corporation's project costs for the
2225 purpose of evaluating the project's cost-effectiveness.

2226 (f) A deferred cost under Subsection (4)(a) may not be added to, or otherwise

2227 considered in the evaluation of, the cost of a project proposed by any person other than the
2228 electrical corporation for the purpose of evaluating that person's proposal.

2229 Section 26. Section **54-17-801** is amended to read:

2230 **54-17-801. Definitions.**

2231 As used in this part:

2232 (1) "Clean energy contract" means a contract under this part for the delivery of
2233 electricity from one or more clean energy facilities to a contract customer requiring the use of a
2234 qualified utility's transmission or distribution system to deliver the electricity from a clean
2235 energy facility to the contract customer.

2236 (2) (a) "Clean energy facility" means a clean energy source as defined in Section
2237 54-17-601 that:

2238 (i) is located in the state; or

2239 (ii) (A) is located outside the state; and

2240 (B) provides energy from baseload clean resources.

2241 (b) "Clean energy facility" does not include an electric generating facility for which the
2242 electric generating facility's costs are included in a qualified utility's rates as a facility that
2243 provides electric service to the qualified utility's system.

2244 (3) "Clean energy tariff" means a tariff offered by a qualified utility that allows the
2245 qualified utility to procure clean generation on behalf of and to serve its customers.

2246 (4) "Contract customer" means a person who executes or will execute a [renewable]
2247 clean energy contract with a qualified utility.

2248 [(2)] (5) "Qualified utility" means an electric corporation that serves more than 200,000
2249 retail customers in the state.

2250 [(3)] ~~"Renewable energy contract" means a contract under this part for the delivery of~~
2251 ~~electricity from one or more renewable energy facilities to a contract customer requiring the use~~
2252 ~~of a qualified utility's transmission or distribution system to deliver the electricity from a~~
2253 ~~renewable energy facility to the contract customer.]~~

2254 [(4)] (a) ~~"Renewable energy facility" means a renewable energy source as defined in~~
2255 ~~Section 54-17-601 that:]~~

2256 [(i)] ~~is located in the state; or]~~

2257 [(ii)] (A) ~~is located outside the state; and]~~

2258 ~~[(B) provides energy from baseload renewable resources.]~~

2259 ~~[(b) "Renewable energy facility" does not include an electric generating facility for~~
2260 ~~which the electric generating facility's costs are included in a qualified utility's rates as a facility~~
2261 ~~that provides electric service to the qualified utility's system.]~~

2262 ~~[(5) "Renewable energy tariff" means a tariff offered by a qualified utility that allows~~
2263 ~~the qualified utility to procure renewable generation on behalf of and to serve its customers.]~~

2264 Section 27. Section **54-17-802** is amended to read:

2265 **54-17-802. Contracts for the purchase of electricity from a clean energy facility.**

2266 (1) Within a reasonable time after receiving a request from a contract customer and
2267 subject to reasonable credit requirements, a qualified utility shall enter into a [renewable] clean
2268 energy contract with the requesting contract customer to supply some or all of the contract
2269 customer's electric service from one or more [renewable] clean energy facilities selected by the
2270 contract customer.

2271 (2) Subject to a contract customer agreeing to pay the qualified utility for all
2272 incremental costs associated with metering facilities, communication facilities, and
2273 administration, a [renewable] clean energy contract may provide for electricity to be delivered
2274 to a contract customer:

2275 (a) from one [renewable] clean energy facility to a contract customer's single metered
2276 delivery location;

2277 (b) from multiple [renewable] clean energy facilities to a contract customer's single
2278 metered delivery location; or

2279 (c) from one or more [renewable] clean energy facilities to a single contract customer's
2280 multiple metered delivery locations.

2281 (3) (a) A single contract customer may aggregate multiple metered delivery locations to
2282 satisfy the minimum megawatt limit under Subsection (4).

2283 (b) Multiple contract customers may not aggregate their separate metered delivery
2284 locations to satisfy the minimum megawatt limit under Subsection (4).

2285 (4) The amount of electricity provided to a contract customer under a [renewable] clean
2286 energy contract may not be less than 2.0 megawatts.

2287 (5) The amount of electricity provided in any hour to a contract customer under a
2288 [renewable] clean energy contract may not exceed the contract customer's metered

2289 kilowatt-hour load in that hour at the metered delivery locations under the contract.

2290 (6) A [renewable] clean energy contract that meets the requirements of Subsection (4)
2291 may provide for one or more increases in the amount of electricity to be provided under the
2292 contract even though the amount of electricity to be provided by the increase is less than the
2293 minimum amount required under Subsection (4).

2294 (7) The total amount of electricity to be generated by [renewable] clean energy
2295 facilities and delivered to contract customers at any one time under all [renewable] clean
2296 energy contracts may not exceed 300 megawatts, unless the commission approves in advance a
2297 higher amount.

2298 (8) Electricity generated by a [renewable] clean energy facility and delivered to a
2299 contract customer under a [renewable] clean energy contract may not be included in a net
2300 metering program under Chapter 15, Net Metering of Electricity.

2301 Section 28. Section **54-17-803** is amended to read:

2302 **54-17-803. Ownership of a clean energy facility -- Joint ownership -- Ownership**
2303 **of environmental attributes.**

2304 (1) A [renewable] clean energy facility may be owned:

2305 (a) by a person who will be a contract customer receiving electricity from the
2306 [renewable] clean energy facility;

2307 (b) by a qualified utility;

2308 (c) by a person other than a contract customer or qualified utility; or

2309 (d) jointly by any combination of Subsections (1)(a), (b), and (c), whether in equal
2310 shares or otherwise.

2311 (2) A qualified utility may be a joint owner of a [renewable] clean energy facility only
2312 if:

2313 (a) the qualified utility consents to being a joint owner; and

2314 (b) the joint ownership agreement requires the qualified utility to recover from contract
2315 customers receiving electricity from the [renewable] clean energy facility all of the qualified
2316 utility's costs associated with its ownership of the [renewable] clean energy facility, including
2317 administrative, acquisition, operation, and maintenance costs, unless the commission, in an
2318 order issued in a separate regulatory proceeding:

2319 (i) authorizes the qualified utility to recover some of those costs from customers other

2320 than contract customers;

2321 (ii) determines that the rate to be paid for electricity from the [renewable] clean energy
2322 facility by customers other than contract customers is cost effective; and

2323 (iii) approves the inclusion of the rate determined under Subsection (2)(b)(ii) in general
2324 rates or through a commission approved cost recovery mechanism.

2325 (3) To the extent that any electricity from a [renewable] clean energy facility to be
2326 delivered to a contract customer is owned by a person other than the contract customer:

2327 (a) the qualified utility shall, by contract with the owner of the electricity to be sold
2328 from the [renewable] clean energy facility, purchase electricity for resale to one or more
2329 contract customers;

2330 (b) the qualified utility shall sell that electricity to the contract customer or customers
2331 under [renewable] clean energy contracts with the same duration and pricing as the contract
2332 between the qualified utility and the owner of the electricity to be sold from the [renewable]
2333 clean energy facility; and

2334 (c) the qualified utility's contract with the owner of the electricity to be sold from the
2335 [renewable] clean energy facility shall provide that the qualified utility's obligation to purchase
2336 electricity under that contract ceases if the contract customer defaults in its obligation to
2337 purchase and pay for the electricity under the contract with the qualified utility.

2338 (4) The right to any environmental attribute associated with a [renewable] clean energy
2339 facility shall remain the property of the [renewable] clean energy facility's owner, except to the
2340 extent that a contract to which the owner is a party provides otherwise.

2341 Section 29. Section **54-17-804** is amended to read:

2342 **54-17-804. Exemption from certificate of convenience and necessity**
2343 **requirements.**

2344 (1) A qualified utility is not required to comply with Section **54-4-25** with respect to a
2345 [renewable] clean energy facility that is the subject of a [renewable] clean energy contract if:

2346 (a) each contract necessary for the commission to determine compliance with this part
2347 is filed with the commission; and

2348 (b) the commission determines that each contract relating to the [renewable] clean
2349 energy facility complies with this part.

2350 (2) In making its determination under Subsection (1)(b), the commission may process

2351 and consider together multiple [renewable] clean energy contracts between the same contract
2352 customer and the qualified utility providing for the delivery of electricity from a [renewable]
2353 clean energy facility to the contract customer's multiple metered delivery locations.

2354 Section 30. Section **54-17-805** is amended to read:

2355 **54-17-805. Costs associated with delivering electricity from a clean energy facility**
2356 **to a contract customer.**

2357 (1) To the extent that a [renewable] clean energy contract provides for the delivery of
2358 electricity from a [renewable] clean energy facility owned by the contract customer, the
2359 [renewable] clean energy contract shall require the contract customer to pay for the use of the
2360 qualified utility's transmission or distribution facilities at the qualified utility's applicable rates,
2361 which may include transmission costs at the qualified utility's applicable rate approved by the
2362 Federal Energy Regulatory Commission.

2363 (2) To the extent that a [renewable] clean energy contract provides for the delivery of
2364 electricity from a [renewable] clean energy facility owned by a person other than the qualified
2365 utility or the contract customer, the [renewable] clean energy contract shall require the contract
2366 customer to bear all reasonably identifiable costs that the qualified utility incurs in delivering
2367 the electricity from the [renewable] clean energy facility to the contract customer, including all
2368 costs to procure and deliver electricity and for billing, administrative, and related activities, as
2369 determined by the commission.

2370 (3) A qualified utility that enters a [renewable] clean energy contract shall charge a
2371 contract customer for all metered electric service delivered to the contract customer, including
2372 generation, transmission, and distribution service, at the qualified utility's applicable tariff
2373 rates, excluding:

2374 (a) any kilowatt hours of electricity delivered from the [renewable] clean energy
2375 facility, based on the time of delivery, adjusted for transmission losses;

2376 (b) any kilowatts of electricity delivered from the [renewable] clean energy facility that
2377 coincide with the contract customer's monthly metered kilowatt demand measurement, adjusted
2378 for transmission losses;

2379 (c) any transmission and distribution service that the contract customer pays for under
2380 Subsection (1) or (2); and

2381 (d) any transmission service that the contract customer provides under Subsection (2)

2382 to deliver generation from the [renewable] clean energy facility.

2383 Section 31. Section **54-17-806** is amended to read:

2384 **54-17-806. Qualified utility clean energy tariff.**

2385 (1) The commission may authorize a qualified utility to implement a [renewable] clean
2386 energy tariff in accordance with this section if the commission determines the tariff that the
2387 qualified utility proposes is reasonable and in the public interest.

2388 (2) The commission may authorize a tariff under Subsection (1) to apply to:

2389 (a) a qualified utility customer with an aggregated electrical load of at least five
2390 megawatts; or

2391 (b) a combination of qualified utility customers who are separately metered if:

2392 (i) the aggregated electrical load of the qualified utility customers is at least five
2393 megawatts; and

2394 (ii) each of the qualified utility customers is located within a project area, as defined in
2395 Section [11-58-102](#).

2396 (3) A customer who agrees to take service that is subject to the [renewable] clean
2397 energy tariff under this section shall pay:

2398 (a) the customer's normal tariff rate;

2399 (b) an incremental charge in an amount equal to the difference between the cost to the
2400 qualified utility to supply [renewable] clean generation to the [renewable] clean energy tariff
2401 customer and the qualified utility's avoided costs as defined in Subsection [54-2-1](#)(1), or a
2402 different methodology recommended by the qualified utility; and

2403 (c) an administrative fee in an amount approved by the commission.

2404 (4) The commission shall allow a qualified utility to recover the qualified utility's
2405 prudently incurred cost of [renewable] clean generation procured pursuant to the tariff
2406 established in this section that is not otherwise recovered from the proceeds of the tariff paid by
2407 customers agreeing to service that is subject to the [renewable] clean energy tariff.

2408 Section 32. Section **54-17-807** is amended to read:

2409 **54-17-807. Solar photovoltaic or thermal solar energy facilities.**

2410 (1) As used in this section, "acquire" means to purchase, construct, or purchase the
2411 output from a photovoltaic or thermal solar energy resource.

2412 (2) (a) In accordance with this section, a qualified utility may file an application with

2413 the commission for approval to acquire a photovoltaic or thermal solar energy resource using
2414 rate recovery based on a competitive market price, except as provided in Subsection (2)(b).

2415 (b) A qualified utility may not, under this section, acquire a photovoltaic or thermal
2416 solar energy resource with a generating capacity that is two megawatts or less per meter if that
2417 resource is located on the customer's side of the meter.

2418 (3) The energy resource acquired pursuant to this section may be owned solely or
2419 jointly by a qualified utility or another entity:

2420 (a) to provide [~~renewable~~] clean energy to a contract customer as provided in Section
2421 [54-17-803](#);

2422 (b) to serve energy to a qualified utility customer as provided in Section [54-17-806](#);

2423 (c) to serve energy to any customers of the qualified utility if the proposed energy
2424 resource's nameplate capacity does not exceed 300 megawatts or, if applicable, the quantity of
2425 capacity that is the subject of a contract for the purchase of electricity does not exceed 300
2426 megawatts, so long as the qualified utility proceeds under and complies with Part 4, Voluntary
2427 Request for Resource Decision Review; or

2428 (d) to serve energy to any customers of the qualified utility if the proposed energy
2429 resource's nameplate capacity exceeds 300 megawatts or, if applicable, the quantity of capacity
2430 that is the subject of a contract for the purchase of electricity exceeds 300 megawatts, so long
2431 as the qualified utility complies with this chapter.

2432 (4) Except as provided in Subsections (3)(c) and (d), the following do not apply to an
2433 application submitted under Subsection (2):

2434 (a) Part 1, General Provisions;

2435 (b) Part 2, Solicitation Process;

2436 (c) Part 3, Resource Plans and Significant Energy Resource Approval;

2437 (d) Part 4, Voluntary Request for Resource Decision Review; and

2438 (e) Section [54-17-502](#).

2439 (5) The application described in Subsection (2) shall include:

2440 (a) a proposed solicitation process for the energy resource;

2441 (b) the criteria proposed to be used to evaluate the responses to the solicitation:

2442 (i) as determined by the customer, if the energy resource is sought to serve a customer
2443 pursuant to Subsection (3)(a) or (b); or

2444 (ii) as proposed by the qualified utility, if the energy resource is sought to serve the
2445 customers of the qualified utility pursuant to Subsection (3)(c) or (d); and

2446 (c) any other information the commission may require.

2447 (6) (a) Before approving a solicitation process under this section for an energy resource
2448 to serve customers of the qualified utility pursuant to Subsection (3)(c) or (d), the commission
2449 shall:

2450 (i) hold a public hearing; and

2451 (ii) provide an opportunity for public comment.

2452 (b) The commission may approve a solicitation process under this section only if the
2453 commission determines that the solicitation and evaluation processes to be used will create a
2454 level playing field in which the qualified utility and other bidders can compete fairly, including
2455 with respect to interconnection and transmission requirements imposed on bidders by the
2456 solicitation within the control of the commission and the qualified utility, excluding its
2457 federally regulated transmission function, and will otherwise serve the public interest.

2458 (7) (a) Upon completion of the solicitation process approved under Subsection (6), the
2459 qualified utility may seek approval from the commission to acquire the energy resource
2460 identified through the solicitation process as the winning bid.

2461 (b) Before approving acquisition of an energy resource acquired pursuant to this
2462 section, the commission shall:

2463 (i) hold a public hearing;

2464 (ii) provide an opportunity for public comment;

2465 (iii) determine whether the solicitation and evaluation processes complied with this
2466 section, commission rules, and the commission's order approving the solicitation process; and

2467 (iv) determine whether the acquisition of the energy resource is just and reasonable,
2468 and in the public interest.

2469 (c) The commission may approve a qualified utility's ownership of an energy resource
2470 or a power purchase agreement containing a purchase option under Subsection (3)(c) or (d)
2471 with rate recovery based on a competitive market price only if the commission determines that
2472 the qualified utility's bid is the lowest cost ownership option for the qualified utility.

2473 (d) If the commission approves a qualified utility's acquisition of an energy resource
2474 under Subsection (3), including entering into a power purchase agreement containing a

2475 purchase option, using rate recovery based on a competitive market price:

2476 (i) the prices approved by the commission shall constitute competitive market prices
2477 for purposes of this section; and

2478 (ii) assets owned by the qualified utility and used to provide service as approved under
2479 this section are not public utility property.

2480 (8) If upon completion of a solicitation process approved under Subsection (6) the
2481 qualified utility proposes not to acquire an energy resource, the qualified utility shall file with
2482 the commission a report explaining its reasons for not acquiring the lowest cost resource bid
2483 into the solicitation, along with any other information the commission requires.

2484 (9) Within six months after a competitive market price for a solar energy resource
2485 acquired under Subsection (3)(c) or (d) has been identified pursuant to this section, or for such
2486 longer period as the commission may determine to be in the public interest, a qualified utility
2487 may file an application with the commission seeking approval to acquire another energy
2488 resource similar to the energy resource for which a competitive market price was established
2489 without going through a new solicitation process. The commission may approve the application
2490 if the qualified utility demonstrates a need to acquire the energy resource, that the competitive
2491 market price remains reasonable, and that the acquisition is in the public interest.

2492 (10) No later than 180 days before the end of the term approved by the commission for
2493 an energy resource acquired under this section and owned by the qualified utility, the qualified
2494 utility shall file with the commission a request for determination of an appropriate disposition
2495 of the energy resource asset, except that the qualified utility is permitted to retain the benefits
2496 or proceeds and shall be required to assume the costs and risks of ownership of the energy
2497 resource.

2498 (11) The commission shall adopt rules, in accordance with Title 63G, Chapter 3, Utah
2499 Administrative Rulemaking Act:

2500 (a) addressing the content and filing of an application under this section;

2501 (b) to establish the solicitation process and criteria to be used to identify the
2502 competitive market price and select an energy resource; and

2503 (c) addressing other factors determined by the commission to be relevant to protect the
2504 public interest and to implement this section.

2505 Section 33. Section **54-17-901** is amended to read:

2506 **54-17-901. Community Clean Energy Act.**2507 This part is known as the "Community [~~Renewable~~] Clean Energy Act."2508 Section 34. Section **54-17-902** is amended to read:2509 **54-17-902. Definitions.**

2510 As used in this part:

2511 (1) (a) "Auxiliary services" means those services necessary to safely and reliably:

2512 (i) interconnect and transmit electric power from any [~~renewable~~] clean energy
2513 resource constructed or acquired for a community [~~renewable~~] clean energy program; and2514 (ii) integrate and supplement electric power from any [~~renewable~~] clean energy
2515 resource.2516 (b) "Auxiliary services" shall include applicable Federal Energy Regulatory
2517 Commission requirements governing transmission and interconnection services.2518 (2) "Clean electric energy supply" means incremental clean energy resources that are
2519 developed to meet the equivalent of the annual electric energy consumption of participating
2520 customers within a participating community.2521 (3) "Clean energy resource" means:2522 (a) electric energy generated by a source that is naturally replenished and includes one
2523 or more of the following:2524 (i) wind;2525 (ii) solar photovoltaic or thermal solar technology;2526 (iii) a geothermal resource; or2527 (iv) a hydroelectric plant including a pumped storage hydropower facility;2528 (b) use of an energy efficient and sustainable technology the commission has approved
2529 for implementation that:2530 (i) increases efficient energy usage;2531 (ii) is capable of being used for demand response;2532 (iii) facilitates the use and development of clean generation resources through electrical
2533 grid management or energy storage; or2534 (iv) uses carbon capture utilization and sequestration; or2535 (c) energy derived from nuclear fuel.2536 [~~(2)~~] (4) "Commission" means the Public Service Commission created in Section

2537 54-1-1.

2538 ~~[(3)]~~ (5) "Community ~~[renewable]~~ clean energy program" means the program approved
 2539 by the commission under Section 54-17-904 that allows a qualified utility to provide electric
 2540 service from one or more ~~[renewable]~~ clean energy resources to a participating customer within
 2541 a participating community.

2542 ~~[(4)]~~ (6) "County" means the unincorporated area of a county.

2543 ~~[(5)]~~ (7) "Division" means the Division of Public Utilities created in Section 54-4a-1.

2544 ~~[(6)]~~ (8) (a) "Initial opt-out period" means the period of time immediately after the
 2545 community ~~[renewable]~~ clean energy program's commencement, as established by the
 2546 commission by rule made pursuant to Section 54-17-909, during which a participating
 2547 customer may elect to leave the program without penalty.

2548 (b) "Initial opt-out period" may not be shorter than three typical billing cycles of the
 2549 qualified utility.

2550 ~~[(7)]~~ (9) "Municipality" means a city or a town as defined in Section 10-1-104.

2551 ~~[(8)]~~ (10) "Office" means the Office of Consumer Services created in Section
 2552 54-10a-101.

2553 ~~[(9)]~~ (11) "Ongoing costs" means the costs allocated to the state for transmission and
 2554 distribution facilities, retail services, and generation assets that are not replaced assets.

2555 ~~[(10)]~~ (12) "Participating community" means a municipality or a county:

2556 (a) whose residents are served by a qualified utility; and

2557 (b) the municipality or county meets the requirements in Section 54-17-903.

2558 ~~[(11)]~~ (13) "Participating customer" means:

2559 (a) a customer of a qualified utility located within the boundary of a municipality or
 2560 county where a community ~~[renewable]~~ clean energy program has been approved by the
 2561 commission; and

2562 (b) the customer has not exercised the right to not participate in the community
 2563 ~~[renewable]~~ clean energy program as provided in Section 54-17-905.

2564 ~~[(12)]~~ (14) "Qualified utility" means the same as that term is defined in Section
 2565 54-17-801.

2566 ~~[(13)] "Renewable electric energy supply" means incremental renewable energy~~
 2567 ~~resources that are developed to meet the equivalent of the annual electric energy consumption~~

2568 of participating customers within a participating community.]
2569 ~~[(14) "Renewable energy resource" means:]~~
2570 ~~[(a) electric energy generated by a source that is naturally replenished and includes one~~
2571 ~~or more of the following:]~~
2572 ~~[(i) wind;]~~
2573 ~~[(ii) solar photovoltaic or thermal solar technology;]~~
2574 ~~[(iii) a geothermal resource; or]~~
2575 ~~[(iv) a hydroelectric plant; or]~~
2576 ~~[(b) use of an energy efficient and sustainable technology the commission has approved~~
2577 ~~for implementation that:]~~
2578 ~~[(i) increases efficient energy usage;]~~
2579 ~~[(ii) is capable of being used for demand response; or]~~
2580 ~~[(iii) facilitates the use and development of renewable generation resources through~~
2581 ~~electrical grid management or energy storage:]~~
2582 (15) "Replaced asset" means an existing thermal energy resource:
2583 (a) that was built or acquired, in whole or in part, by a qualified utility to serve the
2584 qualified utility's customers, including customers within a participating community;
2585 (b) that was built or acquired prior to commission approval and the effective date of the
2586 community [~~renewable~~] clean energy program; and
2587 (c) to the extent the asset is no longer used to serve participating customers.
2588 Section 35. Section **54-17-903** is amended to read:
2589 **54-17-903. Program requirement for a municipality or county.**
2590 (1) (a) As used in this section, "renewable energy resource" means the same as the term
2591 "clean energy resource" is defined in Section [54-17-902](#).
2592 (b) Customers of a qualified utility may be served by the community [~~renewable~~] clean
2593 energy program described in this part if the municipality or county satisfies the requirements of
2594 Subsection (2).
2595 (2) The municipality or county in which the customer resides shall:
2596 (a) adopt a resolution no later than December 31, 2019, that states a goal of achieving
2597 an amount equivalent to 100% of the annual electric energy supply for participating customers
2598 from a renewable energy resource by 2030;

- 2599 (b) enter into an agreement with a qualified utility:
- 2600 (i) with the stipulation of payment by the municipality or county to the qualified utility
- 2601 for the costs of:
- 2602 (A) third-party expertise contracted for by the division and the office, for assistance
- 2603 with activities associated with initial approval of the community [renewable] clean energy
- 2604 program; and
- 2605 (B) providing notice to the municipality's or county's customers as provided in Section
- 2606 54-17-905;
- 2607 (ii) determining the obligation for the payment of any termination charges under
- 2608 Subsection 54-17-905(3) that are not paid by a participating customer and not included in
- 2609 participating customer rates under Subsections 54-17-904(2) and (4); and
- 2610 (iii) identifying any initially proposed replaced asset;
- 2611 (c) adopt a local ordinance that:
- 2612 (i) establishes participation in the [renewable] clean energy program; and
- 2613 (ii) is consistent with the terms of the agreement entered into with the qualified utility
- 2614 under Subsection (2)(b); and
- 2615 (d) comply with any other terms or conditions required by the commission.
- 2616 (3) The local ordinance required in Subsection (2)(c) shall be adopted by the
- 2617 municipality or county within 90 days after the date of the commission order approving the
- 2618 community [renewable] clean energy program.
- 2619 Section 36. Section 54-17-904 is amended to read:
- 2620 **54-17-904. Authority of commission to approve a community clean energy**
- 2621 **program.**
- 2622 (1) After the commission has adopted administrative rules as required under Section
- 2623 54-17-909, a qualified utility may file an application with the commission for approval of a
- 2624 community [renewable] clean energy program.
- 2625 (2) The application shall include:
- 2626 (a) the names of each municipality and county to be served by the community
- 2627 [renewable] clean energy program;
- 2628 (b) a map of the geographic boundaries of each municipality and county;
- 2629 (c) the number of customers served by the qualified utility within those boundaries;

- 2630 (d) projected rates for participating customers that take into account:
- 2631 (i) the estimated number of customers expected to participate in the program;
- 2632 (ii) the quantifiable costs and benefits to the qualified utility and all of the qualified
- 2633 utility's customers in their capacity as ratepayers of the qualified utility, excluding costs or
- 2634 benefits that do not directly affect the qualified utility, including as applicable:
- 2635 (A) replaced assets;
- 2636 (B) auxiliary services; and
- 2637 (C) new [renewable] clean energy resources used to serve the community [renewable]
- 2638 clean energy program; and
- 2639 (iii) the ongoing costs at the time of the application;
- 2640 (e) the agreement entered into with the qualified utility under Section 54-17-903;
- 2641 (f) a proposed plan established by the participating community addressing low-income
- 2642 programs and assistance;
- 2643 (g) a proposed solicitation process for the acquisition of [renewable] clean energy
- 2644 resources as provided in Section 54-17-908; and
- 2645 (h) any other information the commission may require by rule.
- 2646 (3) The commission may approve an application for a community [renewable] clean
- 2647 energy program if the commission finds:
- 2648 (a) the application meets all of the requirements in this section and administrative rules
- 2649 adopted by the commission in accordance with Sections 54-17-908 and 54-17-909 to
- 2650 implement this part; and
- 2651 (b) the community [renewable] clean energy program is in the public interest.
- 2652 (4) The rates approved by the commission for participating customers:
- 2653 (a) shall be based on the factors included in Subsection (2)(d) and any other factor
- 2654 determined by the commission to be in the public interest;
- 2655 (b) may not result in any shift of costs or benefits to any nonparticipating customer, or
- 2656 any other customer of the qualified utility beyond the participating community boundaries; and
- 2657 (c) shall take into account any quantifiable benefits to the qualified utility, and the
- 2658 qualified utility's customers, including participating customers in their capacity as ratepayers of
- 2659 the qualified utility, excluding costs or benefits that do not directly affect the qualified utility's
- 2660 costs of service.

2661 (5) (a) Each municipality or county included in the application shall be a party to the
2662 regulatory proceeding.

2663 (b) A municipality or county identified in the application shall provide information to
2664 all relevant parties in accordance with the commission's rules for discovery, notwithstanding
2665 Title 63G, Chapter 2, Government Records Access and Management Act.

2666 (6) The community [renewable] clean energy program may not be implemented until
2667 after the municipality or county adopts the ordinance required in Section 54-17-903.

2668 Section 37. Section 54-17-905 is amended to read:

2669 **54-17-905. Customer participation -- Election not to participate.**

2670 (1) (a) After commission approval of a community [renewable] clean energy program
2671 and adoption of the ordinance by the participating community as required in Section
2672 54-17-903, a qualified utility shall provide notice to each of its customers within the
2673 participating community that includes:

2674 (i) the projected rates and terms of participation in the community [renewable] clean
2675 energy program approved by the commission;

2676 (ii) an estimated comparison to otherwise applicable existing rates;

2677 (iii) an explanation that the customer may elect to not participate in the community
2678 [renewable] clean energy program by notifying the qualified utility; and

2679 (iv) any other information required by the commission.

2680 (b) The qualified utility shall provide the notice required under Subsection (1)(a) to
2681 each customer:

2682 (i) no less than twice within the period of 60 days immediately preceding the date
2683 required to opt out of the community [renewable] clean energy program; and

2684 (ii) separately from the customer's monthly billing.

2685 (c) The qualified utility shall provide the information required under Subsection (1)(a)
2686 in person to each customer with an electric load of one megawatt or greater measured at a
2687 single meter.

2688 (2) (a) An existing customer of the qualified utility may elect to not participate in the
2689 community [renewable] clean energy program and continue to pay applicable existing rates by
2690 giving notice to the qualified utility in the manner and within the time period determined by the
2691 commission.

2692 (b) After implementation of the community [renewable] clean energy program:
2693 (i) a customer that previously elected not to participate in the program may become a
2694 participating customer as allowed by commission rules and by giving notice to the qualified
2695 utility in the manner required by the commission; and
2696 (ii) a customer of the qualified utility that begins taking electric service within a
2697 participating community after the date of implementation of the community [renewable] clean
2698 energy program shall:
2699 (A) be given notice as determined by the commission; and
2700 (B) shall become a participating customer unless the person elects not to participate by
2701 giving notice to the qualified utility in the manner and within the time period determined by the
2702 commission.
2703 (3) (a) A customer that does not opt out of the community [renewable] clean energy
2704 program under Subsection (2) may later discontinue participation in the community
2705 [renewable] clean energy program as allowed by the commission as described in Subsection
2706 (3)(b) or (c).
2707 (b) (i) During the initial opt-out period, a participating customer may elect to leave the
2708 program by giving notice to the qualified utility in the manner determined by the commission.
2709 (ii) A participating customer that opts out as described in Subsection (3)(b)(i) is not
2710 subject to a termination charge.
2711 (c) After the community [renewable] clean energy program's initial opt-out period, a
2712 participating customer may elect to leave the program by:
2713 (i) giving notice to the qualified utility in the manner determined by the commission;
2714 and
2715 (ii) paying a termination charge as determined by the commission that may include the
2716 cost of [renewable] clean energy resources acquired or constructed for the community
2717 [renewable] clean energy program that are not being utilized by participating customers as
2718 necessary to prevent shifting costs to other customers of the qualified utility.
2719 (4) (a) A customer of a qualified utility that is annexed into the boundaries of a
2720 participating community after the effective date of the community [renewable] clean energy
2721 program shall be given notice as provided in Subsection (1) advising the customer of the option
2722 to opt out of the program.

2723 (b) A participating customer located in a portion of a county that is annexed into a
2724 municipality that is not a participating community shall continue to be included in the
2725 [renewable] clean energy program if the customer remains a customer of the qualified utility.

2726 (c) If a participating customer is annexed into a municipality that provides electric
2727 service to the municipality's residents:

2728 (i) the customer may continue to be served by the qualified utility under the community
2729 [renewable] clean energy program if the qualified utility enters into an agreement with the
2730 municipality under Section 54-3-30; or

2731 (ii) the municipality shall pay the termination charge for each participating customer
2732 that is no longer served by the qualified utility.

2733 (5) A residential customer that is participating in the net metering program under Title
2734 54, Chapter 15, Net Metering of Electricity, may not be a participating customer under this
2735 part.

2736 (6) (a) The cost of providing notice under Subsection (1) shall be paid by the
2737 participating communities.

2738 (b) All other notices required under this section shall be paid for as program costs and
2739 recovered through participating customers' rates.

2740 Section 38. Section 54-17-906 is amended to read:

2741 **54-17-906. Customer billing.**

2742 The qualified utility shall:

2743 (1) include information on its monthly bills to participating customers identifying the
2744 community [renewable] clean energy program cost; and

2745 (2) provide notice to participating customers of any change in rate for participation in
2746 the community [renewable] clean energy program.

2747 Section 39. Section 54-17-908 is amended to read:

2748 **54-17-908. Acquisition of clean energy resources.**

2749 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2750 commission shall make rules outlining a competitive solicitation process for the acquisition of
2751 [renewable] clean assets acquired by the qualified utility for purposes of this act.

2752 (2) The solicitation rules shall include the following provisions:

2753 (a) solar photovoltaic or thermal solar energy facilities may be acquired under the

2754 provisions of Section 54-17-807;

2755 (b) [renewable] clean energy resources developed under this part shall be constructed
2756 or acquired subject to an option by the qualified utility to own the [renewable] clean energy
2757 resource so long as including the option in a solicitation is in the interest of participating
2758 customers and other customers of the qualified utility; and

2759 (c) any other requirement determined by the commission to be in the public interest.

2760 (3) Upon completion of a solicitation under this section and the rules adopted by the
2761 commission to implement this section, the commission may approve cost recovery for a
2762 [renewable] clean energy resource for the community [renewable] clean energy program if
2763 approval of the [renewable] clean energy resource:

2764 (a) complies with the provisions of this part;

2765 (b) does not result in shifting of costs or benefits to other customers of the qualified
2766 utility; and

2767 (c) is in the public interest.

2768 Section 40. Section 59-2-102 is amended to read:

2769 **59-2-102. Definitions.**

2770 As used in this chapter:

2771 (1) (a) "Acquisition cost" means any cost required to put an item of tangible personal
2772 property into service.

2773 (b) "Acquisition cost" includes:

2774 (i) the purchase price of a new or used item;

2775 (ii) the cost of freight, shipping, loading at origin, unloading at destination, crating,
2776 skidding, or any other applicable cost of shipping;

2777 (iii) the cost of installation, engineering, rigging, erection, or assembly, including
2778 foundations, pilings, utility connections, or similar costs; and

2779 (iv) sales and use taxes.

2780 (2) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of
2781 engaging in dispensing activities directly affecting agriculture or horticulture with an
2782 airworthiness certificate from the Federal Aviation Administration certifying the aircraft or
2783 rotorcraft's use for agricultural and pest control purposes.

2784 (3) "Air charter service" means an air carrier operation that requires the customer to

2785 hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled
2786 trip.

2787 (4) "Air contract service" means an air carrier operation available only to customers
2788 that engage the services of the carrier through a contractual agreement and excess capacity on
2789 any trip and is not available to the public at large.

2790 (5) "Aircraft" means the same as that term is defined in Section [72-10-102](#).

2791 (6) (a) Except as provided in Subsection (6)(b), "airline" means an air carrier that:

2792 (i) operates:

2793 (A) on an interstate route; and

2794 (B) on a scheduled basis; and

2795 (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a
2796 regularly scheduled route.

2797 (b) "Airline" does not include an:

2798 (i) air charter service; or

2799 (ii) air contract service.

2800 (7) "Assessment roll" or "assessment book" means a permanent record of the
2801 assessment of property as assessed by the county assessor and the commission and may be
2802 maintained manually or as a computerized file as a consolidated record or as multiple records
2803 by type, classification, or categories.

2804 (8) "Base parcel" means a parcel of property that was legally:

2805 (a) subdivided into two or more lots, parcels, or other divisions of land; or

2806 (b) (i) combined with one or more other parcels of property; and

2807 (ii) subdivided into two or more lots, parcels, or other divisions of land.

2808 (9) (a) "Certified revenue levy" means a property tax levy that provides an amount of
2809 ad valorem property tax revenue equal to the sum of:

2810 (i) the amount of ad valorem property tax revenue to be generated statewide in the
2811 previous year from imposing a multicounty assessing and collecting levy, as specified in
2812 Section [59-2-1602](#); and

2813 (ii) the product of:

2814 (A) eligible new growth, as defined in Section [59-2-924](#); and

2815 (B) the multicounty assessing and collecting levy certified by the commission for the

2816 previous year.

2817 (b) For purposes of this Subsection (9), "ad valorem property tax revenue" does not
2818 include property tax revenue received by a taxing entity from personal property that is:

2819 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and

2820 (ii) semiconductor manufacturing equipment.

2821 (c) For purposes of calculating the certified revenue levy described in this Subsection
2822 (9), the commission shall use:

2823 (i) the taxable value of real property assessed by a county assessor contained on the
2824 assessment roll;

2825 (ii) the taxable value of real and personal property assessed by the commission; and

2826 (iii) the taxable year end value of personal property assessed by a county assessor
2827 contained on the prior year's assessment roll.

2828 (10) "County-assessed commercial vehicle" means:

2829 (a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section
2830 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in
2831 furtherance of the owner's commercial enterprise;

2832 (b) any passenger vehicle owned by a business and used by its employees for
2833 transportation as a company car or vanpool vehicle; and

2834 (c) vehicles that are:

2835 (i) especially constructed for towing or wrecking, and that are not otherwise used to
2836 transport goods, merchandise, or people for compensation;

2837 (ii) used or licensed as taxicabs or limousines;

2838 (iii) used as rental passenger cars, travel trailers, or motor homes;

2839 (iv) used or licensed in this state for use as ambulances or hearses;

2840 (v) especially designed and used for garbage and rubbish collection; or

2841 (vi) used exclusively to transport students or their instructors to or from any private,
2842 public, or religious school or school activities.

2843 (11) "Eligible judgment" means a final and unappealable judgment or order under
2844 Section 59-2-1330:

2845 (a) that became a final and unappealable judgment or order no more than 14 months
2846 before the day on which the notice described in Section 59-2-919.1 is required to be provided;

2847 and

2848 (b) for which a taxing entity's share of the final and unappealable judgment or order is
2849 greater than or equal to the lesser of:

2850 (i) \$5,000; or

2851 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
2852 previous fiscal year.

2853 (12) (a) "Escaped property" means any property, whether personal, land, or any
2854 improvements to the property, that is subject to taxation and is:

2855 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
2856 to the wrong taxpayer by the assessing authority;

2857 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
2858 comply with the reporting requirements of this chapter; or

2859 (iii) undervalued because of errors made by the assessing authority based upon
2860 incomplete or erroneous information furnished by the taxpayer.

2861 (b) "Escaped property" does not include property that is undervalued because of the use
2862 of a different valuation methodology or because of a different application of the same valuation
2863 methodology.

2864 (13) (a) "Fair market value" means the amount at which property would change hands
2865 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
2866 and both having reasonable knowledge of the relevant facts.

2867 (b) For purposes of taxation, "fair market value" shall be determined using the current
2868 zoning laws applicable to the property in question, except in cases where there is a reasonable
2869 probability of a change in the zoning laws affecting that property in the tax year in question and
2870 the change would have an appreciable influence upon the value.

2871 (14) "Geothermal fluid" means water in any form at temperatures greater than 120
2872 degrees centigrade naturally present in a geothermal system.

2873 (15) "Geothermal resource" means:

2874 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;

2875 and

2876 (b) the energy, in whatever form, including pressure, present in, resulting from, created
2877 by, or which may be extracted from that natural heat, directly or through a material medium.

- 2878 (16) (a) "Goodwill" means:
- 2879 (i) acquired goodwill that is reported as goodwill on the books and records that a
- 2880 taxpayer maintains for financial reporting purposes; or
- 2881 (ii) the ability of a business to:
- 2882 (A) generate income that exceeds a normal rate of return on assets and that results from
- 2883 a factor described in Subsection (16)(b); or
- 2884 (B) obtain an economic or competitive advantage resulting from a factor described in
- 2885 Subsection (16)(b).
- 2886 (b) The following factors apply to Subsection (16)(a)(ii):
- 2887 (i) superior management skills;
- 2888 (ii) reputation;
- 2889 (iii) customer relationships;
- 2890 (iv) patronage; or
- 2891 (v) a factor similar to Subsections (16)(b)(i) through (iv).
- 2892 (c) "Goodwill" does not include:
- 2893 (i) the intangible property described in Subsection (19)(a) or (b);
- 2894 (ii) locational attributes of real property, including:
- 2895 (A) zoning;
- 2896 (B) location;
- 2897 (C) view;
- 2898 (D) a geographic feature;
- 2899 (E) an easement;
- 2900 (F) a covenant;
- 2901 (G) proximity to raw materials;
- 2902 (H) the condition of surrounding property; or
- 2903 (I) proximity to markets;
- 2904 (iii) value attributable to the identification of an improvement to real property,
- 2905 including:
- 2906 (A) reputation of the designer, builder, or architect of the improvement;
- 2907 (B) a name given to, or associated with, the improvement; or
- 2908 (C) the historic significance of an improvement; or

2909 (iv) the enhancement or assemblage value specifically attributable to the interrelation
2910 of the existing tangible property in place working together as a unit.

2911 (17) "Governing body" means:

2912 (a) for a county, city, or town, the legislative body of the county, city, or town;

2913 (b) for a special district under Title 17B, Limited Purpose Local Government Entities -
2914 Special Districts, the special district's board of trustees;

2915 (c) for a school district, the local board of education;

2916 (d) for a special service district under Title 17D, Chapter 1, Special Service District

2917 Act:

2918 (i) the legislative body of the county or municipality that created the special service
2919 district, to the extent that the county or municipal legislative body has not delegated authority
2920 to an administrative control board established under Section 17D-1-301; or

2921 (ii) the administrative control board, to the extent that the county or municipal
2922 legislative body has delegated authority to an administrative control board established under
2923 Section 17D-1-301; or

2924 (e) for a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure
2925 District Act, the public infrastructure district's board of trustees.

2926 (18) (a) Except as provided in Subsection (18)(c), "improvement" means a building,
2927 structure, fixture, fence, or other item that is permanently attached to land, regardless of
2928 whether the title has been acquired to the land, if:

2929 (i) (A) attachment to land is essential to the operation or use of the item; and

2930 (B) the manner of attachment to land suggests that the item will remain attached to the
2931 land in the same place over the useful life of the item; or

2932 (ii) removal of the item would:

2933 (A) cause substantial damage to the item; or

2934 (B) require substantial alteration or repair of a structure to which the item is attached.

2935 (b) "Improvement" includes:

2936 (i) an accessory to an item described in Subsection (18)(a) if the accessory is:

2937 (A) essential to the operation of the item described in Subsection (18)(a); and

2938 (B) installed solely to serve the operation of the item described in Subsection (18)(a);

2939 and

2940 (ii) an item described in Subsection (18)(a) that is temporarily detached from the land
2941 for repairs and remains located on the land.

2942 (c) "Improvement" does not include:

2943 (i) an item considered to be personal property pursuant to rules made in accordance
2944 with Section 59-2-107;

2945 (ii) a moveable item that is attached to land for stability only or for an obvious
2946 temporary purpose;

2947 (iii) (A) manufacturing equipment and machinery; or

2948 (B) essential accessories to manufacturing equipment and machinery;

2949 (iv) an item attached to the land in a manner that facilitates removal without substantial
2950 damage to the land or the item; or

2951 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
2952 transportable factory-built housing unit is considered to be personal property under Section
2953 59-2-1503.

2954 (19) "Intangible property" means:

2955 (a) property that is capable of private ownership separate from tangible property,
2956 including:

2957 (i) money;

2958 (ii) credits;

2959 (iii) bonds;

2960 (iv) stocks;

2961 (v) representative property;

2962 (vi) franchises;

2963 (vii) licenses;

2964 (viii) trade names;

2965 (ix) copyrights; and

2966 (x) patents;

2967 (b) a low-income housing tax credit;

2968 (c) goodwill; or

2969 (d) a clean or renewable energy tax credit or incentive, including:

2970 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue

2971 Code;

2972 (ii) a federal energy credit for qualified renewable electricity production facilities under
2973 Section 48, Internal Revenue Code;

2974 (iii) a federal grant for a renewable energy property under American Recovery and
2975 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

2976 (iv) a tax credit under Subsection 59-7-614(5).

2977 (20) "Livestock" means:

2978 (a) a domestic animal;

2979 (b) a fish;

2980 (c) a fur-bearing animal;

2981 (d) a honeybee; or

2982 (e) poultry.

2983 (21) "Low-income housing tax credit" means:

2984 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;

2985 or

2986 (b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

2987 (22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

2988 (23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
2989 valuable mineral.

2990 (24) "Mining" means the process of producing, extracting, leaching, evaporating, or
2991 otherwise removing a mineral from a mine.

2992 (25) (a) "Mobile flight equipment" means tangible personal property that is owned or
2993 operated by an air charter service, air contract service, or airline and:

2994 (i) is capable of flight or is attached to an aircraft that is capable of flight; or

2995 (ii) is contained in an aircraft that is capable of flight if the tangible personal property
2996 is intended to be used:

2997 (A) during multiple flights;

2998 (B) during a takeoff, flight, or landing; and

2999 (C) as a service provided by an air charter service, air contract service, or airline.

3000 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
3001 engine that is rotated at regular intervals with an engine that is attached to the aircraft.

3002 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3003 commission may make rules defining the term "regular intervals."

3004 (26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
3005 sand, rock, gravel, and all carboniferous materials.

3006 (27) "Part-year residential property" means property that is not residential property on
3007 January 1 of a calendar year but becomes residential property after January 1 of the calendar
3008 year.

3009 (28) "Personal property" includes:

3010 (a) every class of property as defined in Subsection (29) that is the subject of
3011 ownership and is not real estate or an improvement;

3012 (b) any pipe laid in or affixed to land whether or not the ownership of the pipe is
3013 separate from the ownership of the underlying land, even if the pipe meets the definition of an
3014 improvement;

3015 (c) bridges and ferries;

3016 (d) livestock; and

3017 (e) outdoor advertising structures as defined in Section [72-7-502](#).

3018 (29) (a) "Property" means property that is subject to assessment and taxation according
3019 to its value.

3020 (b) "Property" does not include intangible property as defined in this section.

3021 (30) (a) "Public utility" means:

3022 (i) the operating property of a railroad, gas corporation, oil or gas transportation or
3023 pipeline company, coal slurry pipeline company, electrical corporation, sewerage corporation,
3024 or heat corporation where the company performs the service for, or delivers the commodity to,
3025 the public generally or companies serving the public generally, or in the case of a gas
3026 corporation or an electrical corporation, where the gas or electricity is sold or furnished to any
3027 member or consumers within the state for domestic, commercial, or industrial use; and

3028 (ii) the operating property of any entity or person defined under Section [54-2-1](#) except
3029 water corporations.

3030 (b) "Public utility" does not include the operating property of a telecommunications
3031 service provider.

3032 (31) (a) Subject to Subsection (31)(b), "qualifying exempt primary residential rental

3033 personal property" means household furnishings, furniture, and equipment that:

3034 (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

3035 (ii) are owned by the owner of the dwelling unit that is the primary residence of a
3036 tenant; and

3037 (iii) after applying the residential exemption described in Section 59-2-103, are exempt
3038 from taxation under this chapter in accordance with Subsection 59-2-1115(2).

3039 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3040 commission may by rule define the term "dwelling unit" for purposes of this Subsection (31)
3041 and Subsection (34).

3042 (32) "Real estate" or "real property" includes:

3043 (a) the possession of, claim to, ownership of, or right to the possession of land;

3044 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
3045 individuals or corporations growing or being on the lands of this state or the United States, and
3046 all rights and privileges appertaining to these; and

3047 (c) improvements.

3048 (33) (a) "Relationship with an owner of the property's land surface rights" means a
3049 relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25%
3050 shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

3051 (b) For purposes of determining if a relationship described in Subsection 267(b),
3052 Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership
3053 rules in Subsection 267(c), Internal Revenue Code.

3054 (34) (a) "Residential property," for purposes of the reductions and adjustments under
3055 this chapter, means any property used for residential purposes as a primary residence.

3056 (b) "Residential property" includes:

3057 (i) except as provided in Subsection (34)(b)(ii), includes household furnishings,
3058 furniture, and equipment if the household furnishings, furniture, and equipment are:

3059 (A) used exclusively within a dwelling unit that is the primary residence of a tenant;
3060 and

3061 (B) owned by the owner of the dwelling unit that is the primary residence of a tenant;
3062 and

3063 (ii) if the county assessor determines that the property will be used for residential

3064 purposes as a primary residence:

3065 (A) property under construction; or

3066 (B) unoccupied property.

3067 (c) "Residential property" does not include property used for transient residential use.

3068 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3069 commission may by rule define the term "dwelling unit" for purposes of Subsection (31) and
3070 this Subsection (34).

3071 (35) "Split estate mineral rights owner" means a person that:

3072 (a) has a legal right to extract a mineral from property;

3073 (b) does not hold more than a 25% interest in:

3074 (i) the land surface rights of the property where the wellhead is located; or

3075 (ii) an entity with an ownership interest in the land surface rights of the property where
3076 the wellhead is located;

3077 (c) is not an entity in which the owner of the land surface rights of the property where
3078 the wellhead is located holds more than a 25% interest; and

3079 (d) does not have a relationship with an owner of the land surface rights of the property
3080 where the wellhead is located.

3081 (36) (a) "State-assessed commercial vehicle" means:

3082 (i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to
3083 transport passengers, freight, merchandise, or other property for hire; or

3084 (ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports
3085 the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

3086 (b) "State-assessed commercial vehicle" does not include vehicles used for hire that are
3087 specified in Subsection (10)(c) as county-assessed commercial vehicles.

3088 (37) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of
3089 a base parcel.

3090 (38) "Tax area" means a geographic area created by the overlapping boundaries of one
3091 or more taxing entities.

3092 (39) "Taxable value" means fair market value less any applicable reduction allowed for
3093 residential property under Section [59-2-103](#).

3094 (40) "Taxing entity" means any county, city, town, school district, special taxing

3095 district, special district under Title 17B, Limited Purpose Local Government Entities - Special
3096 Districts, or other political subdivision of the state with the authority to levy a tax on property.

3097 (41) (a) "Tax roll" means a permanent record of the taxes charged on property, as
3098 extended on the assessment roll, and may be maintained on the same record or records as the
3099 assessment roll or may be maintained on a separate record properly indexed to the assessment
3100 roll.

3101 (b) "Tax roll" includes tax books, tax lists, and other similar materials.

3102 (42) "Telecommunications service provider" means the same as that term is defined in
3103 Section [59-12-102](#).

3104 Section 41. Section **59-7-614** is amended to read:

3105 **59-7-614. Clean energy systems tax credits -- Definitions -- Certification --**
3106 **Rulemaking authority.**

3107 (1) As used in this section:

3108 (a) (i) "Active solar system" means a system of equipment that is capable of:

3109 (A) collecting and converting incident solar radiation into thermal, mechanical, or
3110 electrical energy; and

3111 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate
3112 apparatus to storage or to the point of use.

3113 (ii) "Active solar system" includes water heating, space heating or cooling, and
3114 electrical or mechanical energy generation.

3115 (b) "Biomass system" means a system of apparatus and equipment for use in:

3116 (i) converting material into biomass energy, as defined in Section [59-12-102](#); and

3117 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.

3118 (c) "Clean energy source" means the same as that term is defined in Section [54-17-601](#).

3119 [~~(c)~~] (d) "Commercial energy system" means a system that is:

3120 (i) (A) an active solar system;

3121 (B) a biomass system;

3122 (C) a direct use geothermal system;

3123 (D) a geothermal electricity system;

3124 (E) a geothermal heat pump system;

3125 (F) a hydroenergy system;

3126 (G) a passive solar system; or
3127 (H) a wind system;
3128 (ii) located in the state; and
3129 (iii) used:
3130 (A) to supply energy to a commercial unit; or
3131 (B) as a commercial enterprise.
3132 ~~[(d)]~~ (e) "Commercial enterprise" means an entity, the purpose of which is to produce:
3133 (i) electrical, mechanical, or thermal energy for sale from a commercial energy system;
3134 or
3135 (ii) hydrogen for sale from a hydrogen production system.
3136 ~~[(e)]~~ (f) (i) "Commercial unit" means a building or structure that an entity uses to
3137 transact business.
3138 (ii) Notwithstanding Subsection ~~[(1)(e)(i)]~~ (1)(f)(i):
3139 (A) with respect to an active solar system used for agricultural water pumping or a
3140 wind system, each individual energy generating device is considered to be a commercial unit;
3141 or
3142 (B) if an energy system is the building or structure that an entity uses to transact
3143 business, a commercial unit is the complete energy system itself.
3144 ~~[(f)]~~ (g) "Direct use geothermal system" means a system of apparatus and equipment
3145 that enables the direct use of geothermal energy to meet energy needs, including heating a
3146 building, an industrial process, and aquaculture.
3147 ~~[(g)]~~ (h) "Geothermal electricity" means energy that is:
3148 (i) contained in heat that continuously flows outward from the earth; and
3149 (ii) used as a sole source of energy to produce electricity.
3150 ~~[(h)]~~ (i) "Geothermal energy" means energy generated by heat that is contained in the
3151 earth.
3152 ~~[(i)]~~ (j) "Geothermal heat pump system" means a system of apparatus and equipment
3153 that:
3154 (i) enables the use of thermal properties contained in the earth at temperatures well
3155 below 100 degrees Fahrenheit; and
3156 (ii) helps meet heating and cooling needs of a structure.

3157 [(j)] (k) "Hydroenergy system" means a system of apparatus and equipment that is
3158 capable of:

3159 (i) intercepting and converting kinetic water energy into electrical or mechanical
3160 energy; and

3161 (ii) transferring this form of energy by separate apparatus to the point of use or storage.

3162 [(k)] (l) "Hydrogen production system" means a system of apparatus and equipment,
3163 located in this state, that uses:

3164 (i) electricity from a [renewable] clean energy source to create hydrogen gas from
3165 water, regardless of whether the [renewable] clean energy source is at a separate facility or the
3166 same facility as the system of apparatus and equipment; or

3167 (ii) uses renewable natural gas to produce hydrogen gas.

3168 [(H)] (m) "Office" means the Office of Energy Development created in Section
3169 79-6-401.

3170 [(m)] (n) (i) "Passive solar system" means a direct thermal system that utilizes the
3171 structure of a building and the structure's operable components to provide for collection,
3172 storage, and distribution of heating or cooling during the appropriate times of the year by
3173 utilizing the climate resources available at the site.

3174 (ii) "Passive solar system" includes those portions and components of a building that
3175 are expressly designed and required for the collection, storage, and distribution of solar energy.

3176 [(n)] (o) "Photovoltaic system" means an active solar system that generates electricity
3177 from sunlight.

3178 [(o)] (p) (i) "Principal recovery portion" means the portion of a lease payment that
3179 constitutes the cost a person incurs in acquiring a commercial energy system.

3180 (ii) "Principal recovery portion" does not include:

3181 (A) an interest charge; or

3182 (B) a maintenance expense.

3183 [(p)] "Renewable energy source" means the same as that term is defined in Section
3184 54-17-601.;

3185 (q) "Residential energy system" means the following used to supply energy to or for a
3186 residential unit:

3187 (i) an active solar system;

- 3188 (ii) a biomass system;
- 3189 (iii) a direct use geothermal system;
- 3190 (iv) a geothermal heat pump system;
- 3191 (v) a hydroenergy system;
- 3192 (vi) a passive solar system; or
- 3193 (vii) a wind system.

3194 (r) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling
3195 unit that:

- 3196 (A) is located in the state; and
- 3197 (B) serves as a dwelling for a person, group of persons, or a family.
- 3198 (ii) "Residential unit" does not include property subject to a fee under:
 - 3199 (A) Section [59-2-405](#);
 - 3200 (B) Section [59-2-405.1](#);
 - 3201 (C) Section [59-2-405.2](#);
 - 3202 (D) Section [59-2-405.3](#); or
 - 3203 (E) Section [72-10-110.5](#).

3204 (s) "Wind system" means a system of apparatus and equipment that is capable of:
3205 (i) intercepting and converting wind energy into mechanical or electrical energy; and
3206 (ii) transferring these forms of energy by a separate apparatus to the point of use, sale,
3207 or storage.

3208 (2) A taxpayer may claim an energy system tax credit as provided in this section
3209 against a tax due under this chapter for a taxable year.

3210 (3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a
3211 nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer
3212 owns or uses if:

- 3213 (i) the taxpayer:
 - 3214 (A) purchases and completes a residential energy system to supply all or part of the
3215 energy required for the residential unit; or
 - 3216 (B) participates in the financing of a residential energy system to supply all or part of
3217 the energy required for the residential unit; and
- 3218 (ii) the taxpayer obtains a written certification from the office in accordance with

3219 Subsection (8).

3220 (b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection
3221 (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy
3222 system installed with respect to each residential unit the taxpayer owns or uses.

3223 (ii) A tax credit under this Subsection (3) may include installation costs.

3224 (iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in
3225 which the residential energy system is completed and placed in service.

3226 (iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax
3227 liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the
3228 tax credit exceeding the liability for a period that does not exceed the next four taxable years.

3229 (c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a
3230 residential energy system, other than a photovoltaic system, may not exceed \$2,000 per
3231 residential unit.

3232 (d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a
3233 photovoltaic system may not exceed:

3234 (i) for a system installed on or after January 1, 2018, but on or before December 31,
3235 2020, \$1,600;

3236 (ii) for a system installed on or after January 1, 2021, but on or before December 31,
3237 2021, \$1,200;

3238 (iii) for a system installed on or after January 1, 2022, but on or before December 31,
3239 2022, \$800;

3240 (iv) for a system installed on or after January 1, 2023, but on or before December 31,
3241 2023, \$400; and

3242 (v) for a system installed on or after January 1, 2024, \$0.

3243 (e) If a taxpayer sells a residential unit to another person before the taxpayer claims the
3244 tax credit under this Subsection (3):

3245 (i) the taxpayer may assign the tax credit to the other person; and

3246 (ii) (A) if the other person files a return under this chapter, the other person may claim
3247 the tax credit under this section as if the other person had met the requirements of this section
3248 to claim the tax credit; or

3249 (B) if the other person files a return under Chapter 10, Individual Income Tax Act, the

3250 other person may claim the tax credit under Section 59-10-1014 as if the other person had met
3251 the requirements of Section 59-10-1014 to claim the tax credit.

3252 (4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a
3253 refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

3254 (i) the commercial energy system does not use:

3255 (A) wind, geothermal electricity, solar, or biomass equipment capable of producing a
3256 total of 660 or more kilowatts of electricity; or

3257 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

3258 (ii) the taxpayer purchases or participates in the financing of the commercial energy
3259 system;

3260 (iii) (A) the commercial energy system supplies all or part of the energy required by
3261 commercial units owned or used by the taxpayer; or

3262 (B) the taxpayer sells all or part of the energy produced by the commercial energy
3263 system as a commercial enterprise;

3264 (iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7)
3265 for hydrogen production using electricity for which the taxpayer claims a tax credit under this
3266 Subsection (4); and

3267 (v) the taxpayer obtains a written certification from the office in accordance with
3268 Subsection (8).

3269 (b) (i) Subject to Subsections (4)(b)(ii) through (iv), the tax credit is equal to 10% of
3270 the reasonable costs of the commercial energy system.

3271 (ii) A tax credit under this Subsection (4) may include installation costs.

3272 (iii) A taxpayer is eligible to claim a tax credit under this Subsection (4) for the taxable
3273 year in which the commercial energy system is completed and placed in service.

3274 (iv) The total amount of tax credit a taxpayer may claim under this Subsection (4) may
3275 not exceed \$50,000 per commercial unit.

3276 (c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a
3277 commercial energy system installed on a commercial unit may claim a tax credit under this
3278 Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax
3279 credit.

3280 (ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this

3281 Subsection (4) only the principal recovery portion of the lease payments.

3282 (iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this
3283 Subsection (4) for a period that does not exceed seven taxable years after the day on which the
3284 lease begins, as stated in the lease agreement.

3285 (5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a
3286 refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

3287 (i) the commercial energy system uses wind, geothermal electricity, or biomass
3288 equipment capable of producing a total of 660 or more kilowatts of electricity;

3289 (ii) (A) the commercial energy system supplies all or part of the energy required by
3290 commercial units owned or used by the taxpayer; or

3291 (B) the taxpayer sells all or part of the energy produced by the commercial energy
3292 system as a commercial enterprise;

3293 (iii) the taxpayer has not claimed and will not claim a tax credit under Subsection (7)
3294 for hydrogen production using electricity for which the taxpayer claims a tax credit under this
3295 Subsection (5); and

3296 (iv) the taxpayer obtains a written certification from the office in accordance with
3297 Subsection (8).

3298 (b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to
3299 the product of:

3300 (A) 0.35 cents; and

3301 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

3302 (ii) A taxpayer is eligible to claim a tax credit under this Subsection (5) for production
3303 occurring during a period of 48 months beginning with the month in which the commercial
3304 energy system is placed in commercial service.

3305 (c) A taxpayer that is a lessee of a commercial energy system installed on a commercial
3306 unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor
3307 irrevocably elects not to claim the tax credit.

3308 (6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a
3309 refundable tax credit as provided in this Subsection (6) if:

3310 (i) the taxpayer owns a commercial energy system that uses solar equipment capable of
3311 producing a total of 660 or more kilowatts of electricity;

3312 (ii) (A) the commercial energy system supplies all or part of the energy required by
3313 commercial units owned or used by the taxpayer; or

3314 (B) the taxpayer sells all or part of the energy produced by the commercial energy
3315 system as a commercial enterprise;

3316 (iii) the taxpayer does not claim a tax credit under Subsection (4) and has not claimed
3317 and will not claim a tax credit under Subsection (7) for hydrogen production using electricity
3318 for which a taxpayer claims a tax credit under this Subsection (6); and

3319 (iv) the taxpayer obtains a written certification from the office in accordance with
3320 Subsection (8).

3321 (b) (i) Subject to Subsection (6)(b)(ii), a tax credit under this Subsection (6) is equal to
3322 the product of:

3323 (A) 0.35 cents; and

3324 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

3325 (ii) A taxpayer is eligible to claim a tax credit under this Subsection (6) for production
3326 occurring during a period of 48 months beginning with the month in which the commercial
3327 energy system is placed in commercial service.

3328 (c) A taxpayer that is a lessee of a commercial energy system installed on a commercial
3329 unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor
3330 irrevocably elects not to claim the tax credit.

3331 (7) (a) A taxpayer may claim a refundable tax credit as provided in this Subsection (7)
3332 if:

3333 (i) the taxpayer owns a hydrogen production system;

3334 (ii) the hydrogen production system is completed and placed in service on or after
3335 January 1, 2022;

3336 (iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own
3337 use in commercial units, the hydrogen produced from the hydrogen production system;

3338 (iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4),
3339 (5), or (6) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this
3340 Subsection (7); and

3341 (v) the taxpayer obtains a written certification from the office in accordance with
3342 Subsection (8).

3343 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7)
3344 is equal to the product of:

3345 (A) \$0.12; and

3346 (B) the number of kilograms of hydrogen produced during the taxable year.

3347 (ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than
3348 5,600 metric tons of hydrogen per taxable year.

3349 (iii) A taxpayer is eligible to claim a tax credit under this Subsection (7) for production
3350 occurring during a period of 48 months beginning with the month in which the hydrogen
3351 production system is placed in commercial service.

3352 (8) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall
3353 obtain a written certification from the office.

3354 (b) The office shall issue a taxpayer a written certification if the office determines that:

3355 (i) the taxpayer meets the requirements of this section to receive a tax credit; and

3356 (ii) the residential energy system, the commercial energy system, or the hydrogen
3357 production system with respect to which the taxpayer seeks to claim a tax credit:

3358 (A) has been completely installed;

3359 (B) is a viable system for saving or producing energy from [~~renewable~~] clean
3360 resources; and

3361 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
3362 energy system, the commercial energy system, or the hydrogen production system uses the
3363 state's [~~renewable~~] clean and nonrenewable energy resources in an appropriate and economic
3364 manner.

3365 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3366 office may make rules:

3367 (i) for determining whether a residential energy system, a commercial energy system,
3368 or a hydrogen production system meets the requirements of Subsection (8)(b)(ii); and

3369 (ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable
3370 costs of a residential energy system or a commercial energy system, as an amount per unit of
3371 energy production.

3372 (d) A taxpayer that obtains a written certification from the office shall retain the
3373 certification for the same time period a person is required to keep books and records under

3374 Section 59-1-1406.

3375 (e) The office shall submit to the commission an electronic list that includes:

3376 (i) the name and identifying information of each taxpayer to which the office issues a
3377 written certification; and

3378 (ii) for each taxpayer:

3379 (A) the amount of the tax credit listed on the written certification; and

3380 (B) the date the [~~renewable~~] clean energy system was installed.

3381 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3382 commission may make rules to address the certification of a tax credit under this section.

3383 (10) A tax credit under this section is in addition to any tax credits provided under the
3384 laws or rules and regulations of the United States.

3385 (11) A taxpayer may not claim or carry forward a tax credit described in this section in
3386 a taxable year during which the taxpayer claims or carries forward a tax credit under Section
3387 59-7-614.7.

3388 Section 42. Section 59-10-1014 is amended to read:

3389 **59-10-1014. Nonrefundable clean energy systems tax credits -- Definitions --**
3390 **Certification -- Rulemaking authority.**

3391 (1) As used in this section:

3392 (a) (i) "Active solar system" means a system of equipment that is capable of:

3393 (A) collecting and converting incident solar radiation into thermal, mechanical, or
3394 electrical energy; and

3395 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate
3396 apparatus to storage or to the point of use.

3397 (ii) "Active solar system" includes water heating, space heating or cooling, and
3398 electrical or mechanical energy generation.

3399 (b) "Biomass system" means a system of apparatus and equipment for use in:

3400 (i) converting material into biomass energy, as defined in Section 59-12-102; and

3401 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.

3402 (c) "Direct use geothermal system" means a system of apparatus and equipment that
3403 enables the direct use of geothermal energy to meet energy needs, including heating a building,
3404 an industrial process, and aquaculture.

- 3405 (d) "Geothermal electricity" means energy that is:
3406 (i) contained in heat that continuously flows outward from the earth; and
3407 (ii) used as a sole source of energy to produce electricity.
- 3408 (e) "Geothermal energy" means energy generated by heat that is contained in the earth.
3409 (f) "Geothermal heat pump system" means a system of apparatus and equipment that:
3410 (i) enables the use of thermal properties contained in the earth at temperatures well
3411 below 100 degrees Fahrenheit; and
3412 (ii) helps meet heating and cooling needs of a structure.
- 3413 (g) "Hydroenergy system" means a system of apparatus and equipment that is capable
3414 of:
3415 (i) intercepting and converting kinetic water energy into electrical or mechanical
3416 energy; and
3417 (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- 3418 (h) "Office" means the Office of Energy Development created in Section 79-6-401.
3419 (i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of
3420 a building and its operable components to provide for collection, storage, and distribution of
3421 heating or cooling during the appropriate times of the year by utilizing the climate resources
3422 available at the site.
3423 (ii) "Passive solar system" includes those portions and components of a building that
3424 are expressly designed and required for the collection, storage, and distribution of solar energy.
- 3425 (j) "Photovoltaic system" means an active solar system that generates electricity from
3426 sunlight.
- 3427 (k) (i) "Principal recovery portion" means the portion of a lease payment that
3428 constitutes the cost a person incurs in acquiring a residential energy system.
3429 (ii) "Principal recovery portion" does not include:
3430 (A) an interest charge; or
3431 (B) a maintenance expense.
- 3432 (l) "Residential energy system" means the following used to supply energy to or for a
3433 residential unit:
3434 (i) an active solar system;
3435 (ii) a biomass system;

- 3436 (iii) a direct use geothermal system;
- 3437 (iv) a geothermal heat pump system;
- 3438 (v) a hydroenergy system;
- 3439 (vi) a passive solar system; or
- 3440 (vii) a wind system.
- 3441 (m) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling
- 3442 unit that:
 - 3443 (A) is located in the state; and
 - 3444 (B) serves as a dwelling for a person, group of persons, or a family.
- 3445 (ii) "Residential unit" does not include property subject to a fee under:
 - 3446 (A) Section 59-2-405;
 - 3447 (B) Section 59-2-405.1;
 - 3448 (C) Section 59-2-405.2;
 - 3449 (D) Section 59-2-405.3; or
 - 3450 (E) Section 72-10-110.5.
- 3451 (n) "Wind system" means a system of apparatus and equipment that is capable of:
 - 3452 (i) intercepting and converting wind energy into mechanical or electrical energy; and
 - 3453 (ii) transferring these forms of energy by a separate apparatus to the point of use or
 - 3454 storage.
- 3455 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in
- 3456 this section against a tax due under this chapter for a taxable year.
- 3457 (3) For a taxable year beginning on or after January 1, 2007, a claimant, estate, or trust
- 3458 may claim a nonrefundable tax credit under this section with respect to a residential unit the
- 3459 claimant, estate, or trust owns or uses if:
 - 3460 (a) the claimant, estate, or trust:
 - 3461 (i) purchases and completes a residential energy system to supply all or part of the
 - 3462 energy required for the residential unit; or
 - 3463 (ii) participates in the financing of a residential energy system to supply all or part of
 - 3464 the energy required for the residential unit;
 - 3465 (b) the residential energy system is installed on or after January 1, 2007; and
 - 3466 (c) the claimant, estate, or trust obtains a written certification from the office in

3467 accordance with Subsection (5).

3468 (4) (a) For a residential energy system, other than a photovoltaic system, the tax credit
3469 described in this section is equal to the lesser of:

3470 (i) 25% of the reasonable costs, including installation costs, of each residential energy
3471 system installed with respect to each residential unit the claimant, estate, or trust owns or uses;
3472 and

3473 (ii) \$2,000.

3474 (b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic
3475 system, the tax credit described in this section is equal to the lesser of:

3476 (i) 25% of the reasonable costs, including installation costs, of each system installed
3477 with respect to each residential unit the claimant, estate, or trust owns or uses; or

3478 (ii) (A) for a system installed on or after January 1, 2007, but on or before December
3479 31, 2017, \$2,000;

3480 (B) for a system installed on or after January 1, 2018, but on or before December 31,
3481 2020, \$1,600;

3482 (C) for a system installed on or after January 1, 2021, but on or before December 31,
3483 2021, \$1,200;

3484 (D) for a system installed on or after January 1, 2022, but on or before December 31,
3485 2022, \$800;

3486 (E) for a system installed on or after January 1, 2023, but on or before December 31,
3487 2023, \$400; and

3488 (F) for a system installed on or after January 1, 2024, \$0.

3489 (c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or
3490 trust may claim and list that amount on the written certification that the office issues under
3491 Subsection (5).

3492 (ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the
3493 written certification that the office issues under Subsection (5).

3494 (d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the
3495 taxable year in which the residential energy system is installed.

3496 (e) If the amount of a tax credit listed on the written certification exceeds a claimant's,
3497 estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust

3498 may carry forward the amount of the tax credit exceeding the liability for a period that does not
3499 exceed the next four taxable years.

3500 (f) A claimant, estate, or trust may claim a tax credit with respect to additional
3501 residential energy systems or parts of residential energy systems for a subsequent taxable year
3502 if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per
3503 residential unit.

3504 (g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a
3505 residential energy system installed on a residential unit may claim a tax credit under Subsection
3506 (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax
3507 credit.

3508 (ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential
3509 energy system may claim as a tax credit under Subsection (3) only the principal recovery
3510 portion of the lease payments.

3511 (iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a
3512 residential energy system may claim a tax credit under Subsection (3) for a period that does not
3513 exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

3514 (h) If a claimant, estate, or trust sells a residential unit to another person before the
3515 claimant, estate, or trust claims the tax credit under Subsection (3):

3516 (i) the claimant, estate, or trust may assign the tax credit to the other person; and

3517 (ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and
3518 Income Taxes, the other person may claim the tax credit as if the other person had met the
3519 requirements of Section 59-7-614 to claim the tax credit; or

3520 (B) if the other person files a return under this chapter, the other person may claim the
3521 tax credit under this section as if the other person had met the requirements of this section to
3522 claim the tax credit.

3523 (5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
3524 claimant, estate, or trust shall obtain a written certification from the office.

3525 (b) The office shall issue a claimant, estate, or trust a written certification if the office
3526 determines that:

3527 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
3528 credit; and

3529 (ii) the office determines that the residential energy system with respect to which the
3530 claimant, estate, or trust seeks to claim a tax credit:

3531 (A) has been completely installed;

3532 (B) is a viable system for saving or producing energy from [~~renewable~~] clean
3533 resources; and

3534 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
3535 energy system uses the state's renewable and nonrenewable energy resources in an appropriate
3536 and economic manner.

3537 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3538 office may make rules:

3539 (i) for determining whether a residential energy system meets the requirements of
3540 Subsection (5)(b)(ii); and

3541 (ii) for purposes of determining the amount of a tax credit that a claimant, estate, or
3542 trust may receive under Subsection (4), establishing the reasonable costs of a residential energy
3543 system, as an amount per unit of energy production.

3544 (d) A claimant, estate, or trust that obtains a written certification from the office shall
3545 retain the certification for the same time period a person is required to keep books and records
3546 under Section [59-1-1406](#).

3547 (e) The office shall submit to the commission an electronic list that includes:

3548 (i) the name and identifying information of each claimant, estate, or trust to which the
3549 office issues a written certification; and

3550 (ii) for each claimant, estate, or trust:

3551 (A) the amount of the tax credit listed on the written certification; and

3552 (B) the date the [~~renewable~~] clean energy system was installed.

3553 (6) A tax credit under this section is in addition to any tax credits provided under the
3554 laws or rules and regulations of the United States.

3555 (7) A purchaser of one or more solar units that claims a tax credit under Section
3556 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this
3557 section for that purchase.

3558 Section 43. Section **59-10-1106** is amended to read:

3559 **59-10-1106. Refundable clean energy systems tax credits -- Definitions --**

3560 **Certification -- Rulemaking authority.**

3561 (1) As used in this section:

3562 (a) "Active solar system" means the same as that term is defined in Section

3563 [59-10-1014](#).3564 (b) "Biomass system" means the same as that term is defined in Section [59-10-1014](#).

3565 (c) "Commercial energy system" means the same as that term is defined in Section

3566 [59-7-614](#).

3567 (d) "Commercial enterprise" means the same as that term is defined in Section

3568 [59-7-614](#).3569 (e) "Commercial unit" means the same as that term is defined in Section [59-7-614](#).

3570 (f) "Direct use geothermal system" means the same as that term is defined in Section

3571 [59-10-1014](#).

3572 (g) "Geothermal electricity" means the same as that term is defined in Section

3573 [59-10-1014](#).3574 (h) "Geothermal energy" means the same as that term is defined in Section [59-10-1014](#).

3575 (i) "Geothermal heat pump system" means the same as that term is defined in Section

3576 [59-10-1014](#).

3577 (j) "Hydroenergy system" means the same as that term is defined in Section

3578 [59-10-1014](#).

3579 (k) "Hydrogen production system" means the same as that term is defined in Section

3580 [59-7-614](#).3581 (l) "Office" means the Office of Energy Development created in Section [79-6-401](#).

3582 (m) "Passive solar system" means the same as that term is defined in Section

3583 [59-10-1014](#).

3584 (n) "Principal recovery portion" means the same as that term is defined in Section

3585 [59-10-1014](#).3586 (o) "Wind system" means the same as that term is defined in Section [59-10-1014](#).

3587 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in

3588 this section against a tax due under this chapter for a taxable year.

3589 (3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust

3590 may claim a refundable tax credit under this Subsection (3) with respect to a commercial

3591 energy system if:

3592 (i) the commercial energy system does not use:

3593 (A) wind, geothermal electricity, solar, or biomass equipment capable of producing a
3594 total of 660 or more kilowatts of electricity; or

3595 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

3596 (ii) the claimant, estate, or trust purchases or participates in the financing of the
3597 commercial energy system;

3598 (iii) (A) the commercial energy system supplies all or part of the energy required by
3599 commercial units owned or used by the claimant, estate, or trust; or

3600 (B) the claimant, estate, or trust sells all or part of the energy produced by the
3601 commercial energy system as a commercial enterprise;

3602 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
3603 Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust
3604 claims a tax credit under this Subsection (3); and

3605 (v) the claimant, estate, or trust obtains a written certification from the office in
3606 accordance with Subsection (7).

3607 (b) (i) Subject to Subsections (3)(b)(ii) through (iv), the tax credit is equal to 10% of
3608 the reasonable costs of the commercial energy system.

3609 (ii) A tax credit under this Subsection (3) may include installation costs.

3610 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (3)
3611 for the taxable year in which the commercial energy system is completed and placed in service.

3612 (iv) The total amount of tax credit a claimant, estate, or trust may claim under this
3613 Subsection (3) may not exceed \$50,000 per commercial unit.

3614 (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a
3615 lessee of a commercial energy system installed on a commercial unit may claim a tax credit
3616 under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably
3617 elects not to claim the tax credit.

3618 (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax
3619 credit under this Subsection (3) only the principal recovery portion of the lease payments.

3620 (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit
3621 under this Subsection (3) for a period that does not exceed seven taxable years after the day on

3622 which the lease begins, as stated in the lease agreement.

3623 (4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust
3624 may claim a refundable tax credit under this Subsection (4) with respect to a commercial
3625 energy system if:

3626 (i) the commercial energy system uses wind, geothermal electricity, or biomass
3627 equipment capable of producing a total of 660 or more kilowatts of electricity;

3628 (ii) (A) the commercial energy system supplies all or part of the energy required by
3629 commercial units owned or used by the claimant, estate, or trust; or

3630 (B) the claimant, estate, or trust sells all or part of the energy produced by the
3631 commercial energy system as a commercial enterprise;

3632 (iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under
3633 Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust
3634 claims a tax credit under this Subsection (4); and

3635 (iv) the claimant, estate, or trust obtains a written certification from the office in
3636 accordance with Subsection (7).

3637 (b) (i) Subject to Subsection (4)(b)(ii), a tax credit under this Subsection (4) is equal to
3638 the product of:

3639 (A) 0.35 cents; and

3640 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

3641 (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4)
3642 for production occurring during a period of 48 months beginning with the month in which the
3643 commercial energy system is placed in commercial service.

3644 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
3645 on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or
3646 trust confirms that the lessor irrevocably elects not to claim the tax credit.

3647 (5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust
3648 may claim a refundable tax credit as provided in this Subsection (5) if:

3649 (i) the claimant, estate, or trust owns a commercial energy system that uses solar
3650 equipment capable of producing a total of 660 or more kilowatts of electricity;

3651 (ii) (A) the commercial energy system supplies all or part of the energy required by
3652 commercial units owned or used by the claimant, estate, or trust; or

3653 (B) the claimant, estate, or trust sells all or part of the energy produced by the
3654 commercial energy system as a commercial enterprise;
3655 (iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);
3656 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
3657 Subsection (6) for hydrogen production using electricity for which a taxpayer claims a tax
3658 credit under this Subsection (5); and
3659 (v) the claimant, estate, or trust obtains a written certification from the office in
3660 accordance with Subsection (7).

3661 (b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to
3662 the product of:
3663 (A) 0.35 cents; and
3664 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.
3665 (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5)
3666 for production occurring during a period of 48 months beginning with the month in which the
3667 commercial energy system is placed in commercial service.
3668 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
3669 on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or
3670 trust confirms that the lessor irrevocably elects not to claim the tax credit.

3671 (6) (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this
3672 Subsection (6) if:
3673 (i) the claimant, estate, or trust owns a hydrogen production system;
3674 (ii) the hydrogen production system is completed and placed in service on or after
3675 January 1, 2022;
3676 (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the
3677 claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the
3678 hydrogen production system;
3679 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
3680 Subsection (3), (4), or (5) for electricity used to meet the requirements of this Subsection (6);
3681 and
3682 (v) the claimant, estate, or trust obtains a written certification from the office in
3683 accordance with Subsection (7).

3684 (b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6)
3685 is equal to the product of:

3686 (A) \$0.12; and

3687 (B) the number of kilograms of hydrogen produced during the taxable year.

3688 (ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (6) for
3689 more than 5,600 metric tons of hydrogen per taxable year.

3690 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (6)
3691 for production occurring during a period of 48 months beginning with the month in which the
3692 hydrogen production system is placed in commercial service.

3693 (7) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the
3694 claimant, estate, or trust shall obtain a written certification from the office.

3695 (b) The office shall issue a claimant, estate, or trust a written certification if the office
3696 determines that:

3697 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
3698 credit; and

3699 (ii) the commercial energy system or the hydrogen production system with respect to
3700 which the claimant, estate, or trust seeks to claim a tax credit:

3701 (A) has been completely installed;

3702 (B) is a viable system for saving or producing energy from [~~renewable~~] clean
3703 resources; and

3704 (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial
3705 energy system or the hydrogen production system uses the state's [~~renewable~~] clean and
3706 nonrenewable resources in an appropriate and economic manner.

3707 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3708 office may make rules:

3709 (i) for determining whether a commercial energy system or a hydrogen production
3710 system meets the requirements of Subsection (7)(b)(ii); and

3711 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs
3712 of a commercial energy system, as an amount per unit of energy production.

3713 (d) A claimant, estate, or trust that obtains a written certification from the office shall
3714 retain the certification for the same time period a person is required to keep books and records

3715 under Section 59-1-1406.

3716 (e) The office shall submit to the commission an electronic list that includes:

3717 (i) the name and identifying information of each claimant, estate, or trust to which the
3718 office issues a written certification; and

3719 (ii) for each claimant, estate, or trust:

3720 (A) the amount of the tax credit listed on the written certification; and

3721 (B) the date the commercial energy system or the hydrogen production system was
3722 installed.

3723 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3724 commission may make rules to address the certification of a tax credit under this section.

3725 (9) A tax credit under this section is in addition to any tax credits provided under the
3726 laws or rules and regulations of the United States.

3727 (10) A purchaser of one or more solar units that claims a tax credit under Section
3728 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this
3729 section for that purchase.

3730 (11) A claimant, estate, or trust may not claim or carry forward a tax credit described in
3731 this section in a taxable year during which the claimant, estate, or trust claims or carries
3732 forward a tax credit under Section 59-10-1029.

3733 Section 44. Section 63A-5b-702 is amended to read:

3734 **63A-5b-702. Standards and requirements for state facilities -- Life-cycle cost**
3735 **effectiveness.**

3736 (1) As used in this section:

3737 (a) "Clean energy system" means a system designed to use solar, wind, geothermal
3738 power, wood, hydropower, nuclear, or other clean energy source to heat, cool, or provide
3739 electricity to a building.

3740 (b) "Life cycle cost-effective" means the most prudent cost of owning, operating, and
3741 maintaining a facility, including the initial cost, energy costs, operation and maintenance costs,
3742 repair costs, and the costs of energy conservation and [renewable] clean energy systems.

3743 ~~[(b) "Renewable energy system" means a system designed to use solar, wind,~~
3744 ~~geothermal power, wood, or other replenishable energy source to heat, cool, or provide~~
3745 ~~electricity to a building.]~~

3746 (2) The director shall, in accordance with Title 63G, Chapter 3, Utah Administrative
3747 Rulemaking Act, make rules:

3748 (a) that establish standards and requirements for determining whether a state facility
3749 project is life cycle cost-effective;

3750 (b) for the monitoring of an agency's operation and maintenance expenditures for a
3751 state-owned facility;

3752 (c) to establish standards and requirements for utility metering;

3753 (d) that create an operation and maintenance program for an agency's facilities;

3754 (e) that establish a methodology for determining reasonably anticipated inflationary
3755 costs for each operation and maintenance program described in Subsection (2)(d);

3756 (f) that require an agency to report the amount the agency receives and expends on
3757 operation and maintenance; and

3758 (g) that provide for determining the actual cost for operation and maintenance requests
3759 for a new facility.

3760 (3) The director shall:

3761 (a) ensure that state-owned facilities, except for facilities under the control of the State
3762 Capitol Preservation Board, are life cycle cost-effective;

3763 (b) conduct ongoing facilities audits of state-owned facilities; and

3764 (c) monitor an agency's operation and maintenance expenditures for state-owned
3765 facilities as provided in rules made under Subsection (2)(b).

3766 (4) (a) An agency shall comply with the rules made under Subsection (2) for new
3767 facility requests submitted to the Legislature for a session of the Legislature after the 2017
3768 General Session.

3769 (b) The Office of the Legislative Fiscal Analyst and the Governor's Office of Planning
3770 and Budget shall, for each agency with operation and maintenance expenses, ensure that each
3771 required budget for the agency is adjusted in accordance with the rules described in Subsection
3772 (2)(e).

3773 Section 45. Section **63H-1-201** is amended to read:

3774 **63H-1-201. Creation of military installation development authority -- Status and**
3775 **powers of authority -- Limitation.**

3776 (1) There is created a military installation development authority.

- 3777 (2) The authority is:
- 3778 (a) an independent, nonprofit, separate body corporate and politic, with perpetual
- 3779 succession and statewide jurisdiction, whose purpose is to facilitate the development of land
- 3780 within a project area or on military land associated with a project area;
- 3781 (b) a political subdivision of the state; and
- 3782 (c) a public corporation, as defined in Section [63E-1-102](#).
- 3783 (3) The authority may:
- 3784 (a) facilitate the development of land within one or more project areas, including the
- 3785 ongoing operation of facilities within a project area, or development of military land associated
- 3786 with a project area;
- 3787 (b) sue and be sued;
- 3788 (c) enter into contracts generally;
- 3789 (d) by itself or through a subsidiary, buy, obtain an option upon, or otherwise acquire
- 3790 any interest in real or personal property:
- 3791 (i) in a project area; or
- 3792 (ii) outside a project area for public infrastructure and improvements, if the board
- 3793 considers the purchase, option, or other interest acquisition to be necessary for fulfilling the
- 3794 authority's development objectives;
- 3795 (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or
- 3796 personal property;
- 3797 (f) enter into a lease agreement on real or personal property, either as lessee or lessor:
- 3798 (i) in a project area; or
- 3799 (ii) outside a project area, if the board considers the lease to be necessary for fulfilling
- 3800 the authority's development objectives;
- 3801 (g) provide for the development of land within a project area or military land
- 3802 associated with the project area under one or more contracts;
- 3803 (h) exercise powers and perform functions under a contract, as authorized in the
- 3804 contract;
- 3805 (i) exercise exclusive police power within a project area to the same extent as though
- 3806 the authority were a municipality, including the collection of regulatory fees;
- 3807 (j) receive the property tax allocation and other taxes and fees as provided in this

3808 chapter;

3809 (k) accept financial or other assistance from any public or private source for the
3810 authority's activities, powers, and duties, and expend any funds so received for any of the
3811 purposes of this chapter;

3812 (l) borrow money, contract with, or accept financial or other assistance from the federal
3813 government, a public entity, or any other source for any of the purposes of this chapter and
3814 comply with any conditions of the loan, contract, or assistance;

3815 (m) issue bonds to finance the undertaking of any development objectives of the
3816 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and
3817 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

3818 (n) hire employees, including contract employees;

3819 (o) transact other business and exercise all other powers provided for in this chapter;

3820 (p) enter into a development agreement with a developer of land within a project area;

3821 (q) enter into an agreement with a political subdivision of the state under which the
3822 political subdivision provides one or more municipal services within a project area;

3823 (r) enter into an agreement with a private contractor to provide one or more municipal
3824 services within a project area;

3825 (s) provide for or finance an energy efficiency upgrade, a [renewable] clean energy
3826 system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in
3827 accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

3828 (t) exercise powers and perform functions that the authority is authorized by statute to
3829 exercise or perform;

3830 (u) enter into an agreement with the federal government or an agency of the federal
3831 government under which the federal government or agency:

3832 (i) provides law enforcement services only to military land within a project area; and

3833 (ii) may enter into a mutual aid or other cooperative agreement with a law enforcement
3834 agency of the state or a political subdivision of the state;

3835 (v) by itself or through a subsidiary, act as a facilitator under Title 63N, Chapter 13,
3836 Part 3, Facilitating Public-private Partnerships Act, to provide expertise and knowledge to
3837 another governmental entity interested in public-private partnerships;

3838 (w) enter into an intergovernmental support agreement under Title 10, U.S.C. Sec.

3839 2679 with the military to provide support services to the military in accordance with the
3840 agreement;

3841 (x) act as a developer, or assist a developer chosen by the military, to develop military
3842 land as part of an enhanced use lease under Title 10, U.S.C. Sec. 2667; and

3843 (y) develop public infrastructure and improvements.

3844 (4) The authority may not itself provide law enforcement service or fire protection
3845 service within a project area but may enter into an agreement for one or both of those services,
3846 as provided in Subsection (3)(q).

3847 (5) The authority shall provide support to a subsidiary that enters into an agreement
3848 under Subsection (3)(v) that the authority determines necessary for the subsidiary to fulfill the
3849 requirements of the agreement.

3850 (6) Because providing procurement, utility, construction, and other services for use by
3851 a military installation, including providing public infrastructure and improvements for use or
3852 occupancy by the military, are core functions of the authority and are typically provided by a
3853 local government for the local government's own needs or use, these services provided by the
3854 authority for the military under this chapter are considered to be for the authority's own needs
3855 and use.

3856 (7) A public infrastructure district created by the authority under Title 17D, Chapter 4,
3857 Public Infrastructure District Act, is a subsidiary of the authority.

3858 Section 46. Section **63L-11-304** is amended to read:

3859 **63L-11-304. Public lands transfer study and economic analysis -- Report.**

3860 (1) As used in this section:

3861 (a) "Public lands" means the same as that term is defined in Section [63L-6-102](#).

3862 (b) "Transfer of public lands" means the transfer of public lands from federal
3863 ownership to state ownership.

3864 (2) The office shall, on an ongoing basis, report to the Federalism Commission
3865 regarding the ramifications and economic impacts of the transfer of public lands.

3866 (3) The office shall:

3867 (a) on an ongoing basis, discuss issues related to the transfer of public lands with:

3868 (i) the School and Institutional Trust Lands Administration;

3869 (ii) local governments;

- 3870 (iii) water managers;
- 3871 (iv) environmental advocates;
- 3872 (v) outdoor recreation advocates;
- 3873 (vi) nonconventional [~~and~~], renewable, and clean energy producers;
- 3874 (vii) tourism representatives;
- 3875 (viii) wilderness advocates;
- 3876 (ix) ranchers and agriculture advocates;
- 3877 (x) oil, gas, and mining producers;
- 3878 (xi) fishing, hunting, and other wildlife interests;
- 3879 (xii) timber producers;
- 3880 (xiii) other interested parties; and
- 3881 (xiv) the Federalism Commission; and

3882 (b) develop ways to obtain input from citizens of the state regarding the transfer of
3883 public lands and the future care and use of public lands.

3884 Section 47. Section **79-3-202** is amended to read:

3885 **79-3-202. Powers and duties of survey.**

3886 (1) The survey shall:

3887 (a) assist and advise state and local agencies and state educational institutions on
3888 geologic, paleontologic, and mineralogic subjects;

3889 (b) collect and distribute reliable information regarding the mineral industry and
3890 mineral resources, topography, paleontology, and geology of the state;

3891 (c) survey the geology of the state, including mineral occurrences and the ores of
3892 metals, energy resources, industrial minerals and rocks, mineral-bearing waters, and surface
3893 and ground water resources, with special reference to their economic contents, values, uses,
3894 kind, and availability in order to facilitate their economic use;

3895 (d) investigate the kind, amount, and availability of mineral substances contained in
3896 lands owned and controlled by the state, to contribute to the most effective and beneficial
3897 administration of these lands for the state;

3898 (e) determine and investigate areas of geologic and topographic hazards that could
3899 affect the safety of, or cause economic loss to, the citizens of the state;

3900 (f) assist local and state agencies in their planning, zoning, and building regulation

3901 functions by publishing maps, delineating appropriately wide special earthquake risk areas,
3902 and, at the request of state agencies or other governmental agencies, review the siting of critical
3903 facilities;

3904 (g) cooperate with state agencies, political subdivisions of the state,
3905 quasi-governmental agencies, federal agencies, schools of higher education, and others in fields
3906 of mutual concern, which may include field investigations and preparation, publication, and
3907 distribution of reports and maps;

3908 (h) collect and preserve data pertaining to mineral resource exploration and
3909 development programs and construction activities, such as claim maps, location of drill holes,
3910 location of surface and underground workings, geologic plans and sections, drill logs, and
3911 assay and sample maps, including the maintenance of a sample library of cores and cuttings;

3912 (i) study and analyze other scientific, economic, or aesthetic problems as, in the
3913 judgment of the board, should be undertaken by the survey to serve the needs of the state and to
3914 support the development of natural resources and utilization of lands within the state;

3915 (j) prepare, publish, distribute, and sell maps, reports, and bulletins, embodying the
3916 work accomplished by the survey, directly or in collaboration with others, and collect and
3917 prepare exhibits of the geological and mineral resources of this state and interpret their
3918 significance;

3919 (k) collect, maintain, and preserve data and information in order to accomplish the
3920 purposes of this section and act as a repository for information concerning the geology of this
3921 state;

3922 (l) stimulate research, study, and activities in the field of paleontology;

3923 (m) mark, protect, and preserve critical paleontological sites;

3924 (n) collect, preserve, and administer critical paleontological specimens until the
3925 specimens are placed in a repository or curation facility;

3926 (o) administer critical paleontological site excavation records;

3927 (p) edit and publish critical paleontological records and reports;

3928 (q) by following the procedures and requirements of Title 63J, Chapter 5, Federal
3929 Funds Procedures Act, seek federal grants, loans, or participation in federal programs, and, in
3930 accordance with applicable federal program guidelines, administer federally funded state
3931 programs regarding;

- 3932 (i) renewable energy;
- 3933 (ii) energy efficiency; [~~and~~]
- 3934 (iii) energy conservation; and
- 3935 (iv) clean energy; and
- 3936 (r) collect the land use permits described in Sections [10-9a-521](#) and [17-27a-520](#).
- 3937 (2) (a) The survey may maintain as confidential, and not as a public record,
- 3938 information provided to the survey by any source.
- 3939 (b) The board shall adopt rules in order to determine whether to accept the information
- 3940 described in Subsection (2)(a) and to maintain the confidentiality of the accepted information.
- 3941 (c) The survey shall maintain information received from any source at the level of
- 3942 confidentiality assigned to it by the source.
- 3943 (3) Upon approval of the board, the survey shall undertake other activities consistent
- 3944 with Subsection (1).
- 3945 (4) (a) Subject to the authority granted to the department, the survey may enter into
- 3946 cooperative agreements with the entities specified in Subsection (1)(g), if approved by the
- 3947 board, and may accept or commit allocated or budgeted funds in connection with those
- 3948 agreements.
- 3949 (b) The survey may undertake joint projects with private entities if:
- 3950 (i) the action is approved by the board;
- 3951 (ii) the projects are not inconsistent with the state's objectives; and
- 3952 (iii) the results of the projects are available to the public.
- 3953 Section 48. **Effective date.**
- 3954 This bill takes effect on May 1, 2024.
- 3955 Section 49. **Coordinating H.B. 241 with H.B. 116.**
- 3956 If H.B. 241, Clean Energy Amendments, and H.B. 116, Commercial Property
- 3957 Assessed Clean Energy Act Amendments, both pass and become law, the Legislature intends
- 3958 that, on May 1, 2024, Subsection [11-42a-102\(6\)](#) in H.B. 241 be amended to read:
- 3959 "(6)(a) "Clean energy system" means an energy system that:
- 3960 (i) produces energy from clean resources, including:
- 3961 (A) a photovoltaic system;
- 3962 (B) a solar thermal system;

- 3963 (C) a wind system;
- 3964 (D) a geothermal system, including a generation system, a direct-use system, or a
- 3965 ground source heat pump system;
- 3966 (E) a micro-hydro system;
- 3967 (F) a biofuel system;
- 3968 (G) energy derived from nuclear fuel; or
- 3969 (H) any other clean source system that the governing body of the local entity approves;
- 3970 (ii) stores energy, including:
- 3971 (A) a battery storage system; or
- 3972 (B) any other energy storing system that the governing body or chief executive officer
- 3973 of a local entity approves.
- 3974 (b) "Clean energy system" includes any improvement that relates physically or
- 3975 functionally to any of the products, systems, or devices listed in Subsection (6)(a)(i) or (ii).
- 3976 (c) "Clean energy system" does not include a system described in Subsection (6)(a)(i) if
- 3977 the system provides energy to property outside the energy assessment area, unless the system:
- 3978 (i)(A) existed before the creation of the energy assessment area; and
- 3979 (B) beginning before January 1, 2017, provides energy to property outside of the area
- 3980 that became the energy assessment area;
- 3981 (ii) provides energy to property outside the energy assessment area under an agreement
- 3982 with a public electrical utility that is substantially similar to agreements for other renewable
- 3983 energy systems that are not funded under this chapter; or
- 3984 (iii) is a biofuel system."