

**Senator J. Stuart Adams** proposes the following substitute bill:

**ENERGY DEVELOPMENT AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: J. Stuart Adams**

House Sponsor: Francis D. Gibson

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**LONG TITLE**

**General Description:**

This bill enacts the Commercial Property Assessed Clean Energy Act or C-PACE Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ enacts the Commercial Property Assessed Clean Energy Act or C-PACE Act;
- ▶ repeals provisions related to energy assessments from the Assessment Area Act;
- ▶ limits the availability of judicial recourse to challenge or enjoin certain assessments and bonds;
- ▶ creates the C-PACE district;
- ▶ requires the Office of Energy Development (OED) to administer and direct the actions of the C-PACE district;
- ▶ allows OED to delegate OED's authority over the C-PACE district to a third party, subject to certain contractual provisions;
- ▶ provides for a local governing body to adopt an energy assessment resolution or ordinance to designate an energy assessment area and levy an energy assessment upon private property where the property owner consents to the assessment;
- ▶ allows a local entity to levy an assessment against government land under certain



- 26 circumstances;
- 27       ▶ allows a property owner to pay an energy assessment in installments;
- 28       ▶ provides for the creation of an assessment fund and limits the use and investment of
- 29 money in the fund;
- 30       ▶ describes the characteristics of an energy assessment lien;
- 31       ▶ allows a local entity to assign an energy assessment lien to a third-party lender to
- 32 provide financing for certain improvements, subject to certain contractual
- 33 provisions;
- 34       ▶ provides for the enforcement of an energy assessment lien, including for delinquent
- 35 assessment payments;
- 36       ▶ provides for the release and discharge of an assessed property and an energy
- 37 assessment area;
- 38       ▶ allows a local entity to issue an energy assessment bond and a refunding assessment
- 39 bond;
- 40       ▶ limits the liability and obligation of a local entity issuing an energy assessment
- 41 bond;
- 42       ▶ provides for the reduction of assessments after the issuance of a refunding
- 43 assessment bond;
- 44       ▶ subjects a refunding assessment bond that a local entity has already issued to the
- 45 provisions of this bill;
- 46       ▶ adds funds that OED collects for directing and administering the C-PACE district to
- 47 the list of nonlapsing funds and accounts in the Budgetary Procedures Act;
- 48       ▶ enacts a sunset date, subject to review, for the nonlapsing status of OED's funds;
- 49       ▶ allows OED to charge fees for the performance of OED's duties; and
- 50       ▶ makes technical and conforming changes.

51 **Money Appropriated in this Bill:**

52       None

53 **Other Special Clauses:**

54       This bill provides a special effective date.

55 **Utah Code Sections Affected:**

56 AMENDS:

- 57 [11-42-102](#), as last amended by Laws of Utah 2016, Chapter 371
- 58 [11-42-103](#), as last amended by Laws of Utah 2016, Chapter 371
- 59 [11-42-202](#), as last amended by Laws of Utah 2016, Chapters 85 and 371
- 60 [11-42-301](#), as last amended by Laws of Utah 2016, Chapter 371
- 61 [11-42-408](#), as last amended by Laws of Utah 2016, Chapter 371
- 62 [11-42-411](#), as last amended by Laws of Utah 2016, Chapter 371
- 63 [63I-1-263](#), as last amended by Laws of Utah 2016, Chapters 65, 136, 156, 322, and 408
- 64 [63J-1-505](#), as last amended by Laws of Utah 2014, Chapter 189
- 65 [63J-1-602.4](#), as last amended by Laws of Utah 2016, Chapters 193 and 240
- 66 [63M-4-401](#), as last amended by Laws of Utah 2015, Chapters 356 and 378

67 ENACTS:

- 68 [11-42a-101](#), Utah Code Annotated 1953
- 69 [11-42a-102](#), Utah Code Annotated 1953
- 70 [11-42a-103](#), Utah Code Annotated 1953
- 71 [11-42a-104](#), Utah Code Annotated 1953
- 72 [11-42a-105](#), Utah Code Annotated 1953
- 73 [11-42a-106](#), Utah Code Annotated 1953
- 74 [11-42a-201](#), Utah Code Annotated 1953
- 75 [11-42a-202](#), Utah Code Annotated 1953
- 76 [11-42a-203](#), Utah Code Annotated 1953
- 77 [11-42a-204](#), Utah Code Annotated 1953
- 78 [11-42a-205](#), Utah Code Annotated 1953
- 79 [11-42a-206](#), Utah Code Annotated 1953
- 80 [11-42a-301](#), Utah Code Annotated 1953
- 81 [11-42a-302](#), Utah Code Annotated 1953
- 82 [11-42a-303](#), Utah Code Annotated 1953
- 83 [11-42a-304](#), Utah Code Annotated 1953
- 84 [11-42a-305](#), Utah Code Annotated 1953
- 85 [11-42a-401](#), Utah Code Annotated 1953
- 86 [11-42a-402](#), Utah Code Annotated 1953
- 87 [11-42a-403](#), Utah Code Annotated 1953

88 [11-42a-404](#), Utah Code Annotated 1953

89 REPEALS:

90 [11-42-209](#), as last amended by Laws of Utah 2016, Chapter 371

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

93 Section 1. Section **11-42-102** is amended to read:

94 **11-42-102. Definitions.**

95 (1) "Adequate protests" means timely filed, written protests under Section [11-42-203](#)  
96 that represent at least 40% of the frontage, area, taxable value, fair market value, lots, number  
97 of connections, or equivalent residential units of the property proposed to be assessed,  
98 according to the same assessment method by which the assessment is proposed to be levied,  
99 after eliminating:

100 (a) protests relating to:

101 (i) property that has been deleted from a proposed assessment area; or

102 (ii) an improvement that has been deleted from the proposed improvements to be  
103 provided to property within the proposed assessment area; and

104 (b) protests that have been withdrawn under Subsection [11-42-203\(3\)](#).

105 (2) "Assessment area" means an area, or, if more than one area is designated, the  
106 aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a  
107 local entity under Part 2, Designating an Assessment Area, for the purpose of financing the  
108 costs of improvements, operation and maintenance, or economic promotion activities that  
109 benefit property within the area.

110 (3) "Assessment bonds" means bonds that are:

111 (a) issued under Section [11-42-605](#); and

112 (b) payable in part or in whole from assessments levied in an assessment area,  
113 improvement revenues, and a guaranty fund or reserve fund.

114 (4) "Assessment fund" means a special fund that a local entity establishes under  
115 Section [11-42-412](#).

116 (5) "Assessment lien" means a lien on property within an assessment area that arises  
117 from the levy of an assessment, as provided in Section [11-42-501](#).

118 (6) "Assessment method" means the method:

119 (a) by which an assessment is levied against benefitted property, whether by frontage,  
120 area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential  
121 unit, any combination of these methods, or any other method; and

122 (b) that, when applied to a benefitted property, accounts for an assessment that meets  
123 the requirements of Section 11-42-409.

124 (7) "Assessment ordinance" means an ordinance adopted by a local entity under  
125 Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

126 (8) "Assessment resolution" means a resolution adopted by a local entity under Section  
127 11-42-404 that levies an assessment on benefitted property within an assessment area.

128 (9) "Benefitted property" means property within an assessment area that directly or  
129 indirectly benefits from improvements, operation and maintenance, or economic promotion  
130 activities.

131 (10) "Bond anticipation notes" means notes issued under Section 11-42-602 in  
132 anticipation of the issuance of assessment bonds.

133 (11) "Bonds" means assessment bonds and refunding assessment bonds.

134 (12) "Commercial area" means an area in which at least 75% of the property is devoted  
135 to the interchange of goods or commodities.

136 (13) (a) "Commercial or industrial real property" means real property used directly or  
137 indirectly or held for one of the following purposes or activities, regardless of whether the  
138 purpose or activity is for profit:

139 (i) commercial;

140 (ii) mining;

141 (iii) industrial;

142 (iv) manufacturing;

143 (v) governmental;

144 (vi) trade;

145 (vii) professional;

146 (viii) a private or public club;

147 (ix) a lodge;

148 (x) a business; or

149 (xi) a similar purpose.

- 150 (b) "Commercial or industrial real property" includes real property that:
- 151 (i) is used as or held for dwelling purposes; and
- 152 (ii) contains more than four rental units.
- 153 (14) "Connection fee" means a fee charged by a local entity to pay for the costs of
- 154 connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or
- 155 electrical system, whether or not improvements are installed on the property.
- 156 (15) "Contract price" means:
- 157 (a) the cost of acquiring an improvement, if the improvement is acquired; or
- 158 (b) the amount payable to one or more contractors for the design, engineering,
- 159 inspection, and construction of an improvement.
- 160 (16) "Designation ordinance" means an ordinance adopted by a local entity under
- 161 Section 11-42-206 designating an assessment area.
- 162 (17) "Designation resolution" means a resolution adopted by a local entity under
- 163 Section 11-42-206 designating an assessment area.
- 164 (18) "Economic promotion activities" means activities that promote economic growth
- 165 in a commercial area of a local entity, including:
- 166 (a) sponsoring festivals and markets;
- 167 (b) promoting business investment or activities;
- 168 (c) helping to coordinate public and private actions; and
- 169 (d) developing and issuing publications designed to improve the economic well-being
- 170 of the commercial area.
- 171 [~~(19) "Electric vehicle charging infrastructure" means equipment that is:~~
- 172 [~~(a) permanently affixed to commercial or industrial real property; and~~
- 173 [~~(b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying~~
- 174 ~~plug-in hybrid vehicle as those terms are defined in Subsection 59-7-605(1).]~~
- 175 [~~(20) "Energy efficiency upgrade" means an improvement that is permanently affixed~~
- 176 ~~to commercial or industrial real property that is designed to reduce energy consumption,~~
- 177 ~~including:~~
- 178 [~~(a) insulation in:~~
- 179 [~~(i) a wall, roof, floor, or foundation; or~~
- 180 [~~(ii) a heating and cooling distribution system;]~~

- 181 [~~(b) a window or door, including:~~]
- 182 [~~(i) a storm window or door;~~]
- 183 [~~(ii) a multiglazed window or door;~~]
- 184 [~~(iii) a heat-absorbing window or door;~~]
- 185 [~~(iv) a heat-reflective glazed and coated window or door;~~]
- 186 [~~(v) additional window or door glazing;~~]
- 187 [~~(vi) a window or door with reduced glass area; or~~]
- 188 [~~(vii) other window or door modifications;~~]
- 189 [~~(c) an automatic energy control system;~~]
- 190 [~~(d) in a building or a central plant, a heating, ventilation, or air conditioning and~~
- 191 ~~distribution system;~~]
- 192 [~~(e) caulk or weatherstripping;~~]
- 193 [~~(f) a light fixture that does not increase the overall illumination of a building unless an~~
- 194 ~~increase is necessary to conform with the applicable building code;~~]
- 195 [~~(g) an energy recovery system;~~]
- 196 [~~(h) a daylighting system;~~]
- 197 [~~(i) measures to reduce the consumption of water, through conservation or more~~
- 198 ~~efficient use of water, including:~~]
- 199 [~~(i) installation of low-flow toilets and showerheads;~~]
- 200 [~~(ii) installation of timer or timing systems for a hot water heater; or~~]
- 201 [~~(iii) installation of rain catchment systems; or~~]
- 202 [~~(j) a modified, installed, or remodeled fixture that is approved as a utility cost-saving~~
- 203 ~~measure by the governing body of a local entity.]~~

204 [~~(21)~~] (19) "Environmental remediation activity" means a surface or subsurface  
 205 enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system,  
 206 earth movement, or change to grade or elevation [~~which~~] that improves the use, function,  
 207 aesthetics, or environmental condition of [~~publically or privately~~] publicly owned property.

208 [~~(22)~~] (20) "Equivalent residential unit" means a dwelling, unit, or development that is  
 209 equal to a single-family residence in terms of the nature of its use or impact on an improvement  
 210 to be provided in the assessment area.

211 [~~(23)~~] (21) "Governing body" means:

- 212 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 213 (b) for a local district, the board of trustees of the local district;
- 214 (c) for a special service district:
  - 215 (i) the legislative body of the county, city, or town that established the special service
  - 216 district, if no administrative control board has been appointed under Section 17D-1-301; or
  - 217 (ii) the administrative control board of the special service district, if an administrative
  - 218 control board has been appointed under Section 17D-1-301; and
- 219 (d) for the military installation development authority created in Section 63H-1-201,
- 220 the authority board, as defined in Section 63H-1-102.

221 [(24)] (22) "Guaranty fund" means the fund established by a local entity under Section  
222 11-42-701.

223 [(25)] (23) "Improved property" means property upon which a residential, commercial,  
224 or other building has been built.

225 [(26)] (24) "Improvement":

226 (a) (i) means a publicly owned infrastructure, system, [~~or other facility, a publicly or~~  
227 ~~privately owned energy efficiency upgrade, a publicly or privately owned renewable energy~~  
228 ~~system, or publicly or privately owned]~~ or environmental remediation activity that:

- 229 (A) a local entity is authorized to provide;
- 230 (B) the governing body of a local entity determines is necessary or convenient to
- 231 enable the local entity to provide a service that the local entity is authorized to provide; or
- 232 (C) a local entity is requested to provide through an interlocal agreement in accordance
- 233 with Title 11, Chapter 13, Interlocal Cooperation Act; and

234 (ii) includes facilities in an assessment area, including a private driveway, an irrigation  
235 ditch, and a water turnout, that:

236 (A) can be conveniently installed at the same time as an infrastructure, system, or other  
237 facility described in Subsection [(26)] (24)(a)(i); and

238 (B) are requested by a property owner on whose property or for whose benefit the  
239 infrastructure, system, or other facility is being installed; or

240 (b) for a local district created to assess groundwater rights in accordance with Section  
241 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific  
242 groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

243 [~~27~~] (25) "Improvement revenues":

244 (a) means charges, fees, impact fees, or other revenues that a local entity receives from  
245 improvements; and

246 (b) does not include revenue from assessments.

247 [~~28~~] (26) "Incidental refunding costs" means any costs of issuing refunding  
248 assessment bonds and calling, retiring, or paying prior bonds, including:

249 (a) legal and accounting fees;

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

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

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

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

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

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

260 [~~29~~] (27) "Installment payment date" means the date on which an installment  
261 payment of an assessment is payable.

262 [~~30~~] (28) "Interim warrant" means a warrant issued by a local entity under Section  
263 11-42-601.

264 [~~31~~] (29) "Jurisdictional boundaries" means:

265 (a) for a county, the boundaries of the unincorporated area of the county; and

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

267 [~~32~~] (30) "Local district" means a local district under Title 17B, Limited Purpose  
268 Local Government Entities - Local Districts.

269 [~~33~~] (31) "Local entity" means a county, city, town, special service district, local  
270 district, an interlocal entity as defined in Section 11-13-103, a military installation development  
271 authority created in Section 63H-1-201, or other political subdivision of the state.

272 [~~34~~] (32) "Local entity obligations" means assessment bonds, refunding assessment  
273 bonds, interim warrants, and bond anticipation notes issued by a local entity.

274 [~~(35)~~] (33) "Mailing address" means:

275 (a) a property owner's last-known address using the name and address appearing on the  
276 last completed real property assessment roll of the county in which the property is located; and

277 (b) if the property is improved property:

278 (i) the property's street number; or

279 (ii) the post office box, rural route number, or other mailing address of the property, if  
280 a street number has not been assigned.

281 [~~(36)~~] (34) "Net improvement revenues" means all improvement revenues that a local  
282 entity has received since the last installment payment date, less all amounts payable by the local  
283 entity from those improvement revenues for operation and maintenance costs.

284 [~~(37)~~] (35) "Operation and maintenance costs":

285 (a) means the costs that a local entity incurs in operating and maintaining  
286 improvements in an assessment area, whether or not those improvements have been financed  
287 under this chapter; and

288 (b) includes service charges, administrative costs, ongoing maintenance charges, and  
289 tariffs or other charges for electrical, water, gas, or other utility usage.

290 [~~(38)~~] (36) "Overhead costs" means the actual costs incurred or the estimated costs to  
291 be incurred by a local entity in connection with an assessment area for appraisals, legal fees,  
292 filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and  
293 paying agent fees, publishing and mailing costs, costs of levying an assessment, recording  
294 costs, and all other incidental costs.

295 [~~(39)~~] (37) "Prior assessment ordinance" means the ordinance levying the assessments  
296 from which the prior bonds are payable.

297 [~~(40)~~] (38) "Prior assessment resolution" means the resolution levying the assessments  
298 from which the prior bonds are payable.

299 [~~(41)~~] (39) "Prior bonds" means the assessment bonds that are refunded in part or in  
300 whole by refunding assessment bonds.

301 [~~(42)~~] (40) "Project engineer" means the surveyor or engineer employed by or the  
302 private consulting engineer engaged by a local entity to perform the necessary engineering  
303 services for and to supervise the construction or installation of the improvements.

304 [~~(43)~~] (41) "Property" includes real property and any interest in real property, including

305 water rights and leasehold rights.

306 [(44)] (42) "Property price" means the price at which a local entity purchases or  
307 acquires by eminent domain property to make improvements in an assessment area.

308 [(45)] (43) "Provide" or "providing," with reference to an improvement, includes the  
309 acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and  
310 expansion of an improvement.

311 [(46)] (44) "Public agency" means:

312 (a) the state or any agency, department, or division of the state; and

313 (b) a political subdivision of the state.

314 [(47)] (45) "Reduced payment obligation" means the full obligation of an owner of  
315 property within an assessment area to pay an assessment levied on the property after the  
316 assessment has been reduced because of the issuance of refunding assessment bonds, as  
317 provided in Section 11-42-608.

318 [(48)] (46) "Refunding assessment bonds" means assessment bonds that a local entity  
319 issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

320 [(49) "Renewable energy system" means a product, a system, a device, or an interacting  
321 group of devices that is permanently affixed to commercial or industrial real property and:]

322 [(a) produces energy from renewable resources, including:]

323 [(i) a photovoltaic system;]

324 [(ii) a solar thermal system;]

325 [(iii) a wind system;]

326 [(iv) a geothermal system, including:]

327 [(A) a generation system;]

328 [(B) a direct-use system; or]

329 [(C) a ground source heat pump system;]

330 [(v) a microhydro system; or]

331 [(vi) any other renewable source system approved by the governing body of a local  
332 entity; or]

333 [(b) stores energy, including:]

334 [(i) a battery storage system; or]

335 [(ii) any other energy storing system approved by the governing body of a local entity.]

336 [(50)] (47) "Reserve fund" means a fund established by a local entity under Section  
337 11-42-702.

338 [(51)] (48) "Service" means:

339 (a) water, sewer, storm drainage, garbage collection, library, recreation,  
340 communications, or electric service;

341 (b) economic promotion activities; or

342 (c) any other service that a local entity is required or authorized to provide.

343 [(52)] (49) "Special service district" means the same as that term is defined in Section  
344 17D-1-102.

345 [(53)] (50) "Unassessed benefitted government property" means property that a local  
346 entity may not assess in accordance with Section 11-42-408 but is benefitted by an  
347 improvement, operation and maintenance, or economic promotion activities.

348 [(54)] (51) "Unimproved property" means property upon which no residential,  
349 commercial, or other building has been built.

350 [(55)] (52) "Voluntary assessment area" means an assessment area that contains only  
351 property whose owners have voluntarily consented to an assessment.

352 Section 2. Section 11-42-103 is amended to read:

353 **11-42-103. Limit on effect of this chapter.**

354 (1) Nothing in this chapter may be construed to authorize a local entity to provide an  
355 improvement or service that the local entity is not otherwise authorized to provide.

356 (2) Notwithstanding Subsection (1), a local entity may provide [~~a renewable energy~~  
357 ~~system, an energy efficiency upgrade, electric vehicle charging infrastructure, or~~] an  
358 environmental remediation activity that the local entity finds or determines to be in the public  
359 interest.

360 Section 3. Section 11-42-202 is amended to read:

361 **11-42-202. Requirements applicable to a notice of a proposed assessment area**  
362 **designation.**

363 (1) Each notice required under Subsection 11-42-201(2)(a) shall:

364 (a) state that the local entity proposes to:

365 (i) designate one or more areas within the local entity's jurisdictional boundaries as an  
366 assessment area;

367 (ii) provide an improvement to property within the proposed assessment area; and

368 (iii) finance some or all of the cost of improvements by an assessment on benefitted  
369 property within the assessment area;

370 (b) describe the proposed assessment area by any reasonable method that allows an  
371 owner of property in the proposed assessment area to determine that the owner's property is  
372 within the proposed assessment area;

373 (c) describe, in a general and reasonably accurate way, the improvements to be  
374 provided to the assessment area, including:

375 (i) the nature of the improvements; and

376 (ii) the location of the improvements, by reference to streets or portions or extensions  
377 of streets or by any other means that the governing body chooses that reasonably describes the  
378 general location of the improvements;

379 (d) state the estimated cost of the improvements as determined by a project engineer;

380 (e) for the version of notice mailed in accordance with Subsection (4)(b), state the  
381 estimated total assessment specific to the benefitted property for which the notice is mailed;

382 (f) state that the local entity proposes to levy an assessment on benefitted property  
383 within the assessment area to pay some or all of the cost of the improvements according to the  
384 estimated benefits to the property from the improvements;

385 (g) if applicable, state that an unassessed benefitted government property will receive  
386 improvements for which the cost will be allocated proportionately to the remaining benefitted  
387 properties within the proposed assessment area and that a description of each unassessed  
388 benefitted government property is available for public review at the location or website  
389 described in Subsection (6);

390 (h) state the assessment method by which the governing body proposes to levy the  
391 assessment, including, if the local entity is a municipality or county, whether the assessment  
392 will be collected:

393 (i) by directly billing a property owner; or

394 (ii) by inclusion on a property tax notice issued in accordance with Section [59-2-1317](#)  
395 and in compliance with Section [11-42-401](#);

396 (i) state:

397 (i) the date described in Section [11-42-203](#) and the location at which protests against

398 designation of the proposed assessment area or of the proposed improvements are required to  
399 be filed;

400 (ii) the method by which the governing body will determine the number of protests  
401 required to defeat the designation of the proposed assessment area or acquisition or  
402 construction of the proposed improvements; and

403 (iii) in large, boldface, and conspicuous type that a property owner must protest the  
404 designation of the assessment area in writing if the owner objects to the area designation or  
405 being assessed for the proposed improvements, operation and maintenance costs, or economic  
406 promotion activities;

407 (j) state the date, time, and place of the public hearing required in Section 11-42-204;

408 (k) if the governing body elects to create and fund a reserve fund under Section  
409 11-42-702, include a description of:

410 (i) how the reserve fund will be funded and replenished; and

411 (ii) how remaining money in the reserve fund is to be disbursed upon full payment of  
412 the bonds;

413 (l) if the governing body intends to designate a voluntary assessment area, include a  
414 property owner consent form that:

415 (i) estimates the total assessment to be levied against the particular parcel of property;

416 (ii) describes any additional benefits that the governing body expects the assessed  
417 property to receive from the improvements;

418 (iii) designates the date and time by which the fully executed consent form is required  
419 to be submitted to the governing body; and

420 (iv) if the governing body intends to enforce an assessment lien on the property in  
421 accordance with Subsection 11-42-502.1(2)(c):

422 (A) appoints a trustee that satisfies the requirements described in Section 57-1-21;

423 (B) gives the trustee the power of sale; and

424 (C) explains that if an assessment or an installment of an assessment is not paid when  
425 due, the local entity may sell the property owner's property to satisfy the amount due plus  
426 interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;

427 (m) if the local entity intends to levy an assessment to pay operation and maintenance  
428 costs or for economic promotion activities, include:

429 (i) a description of the operation and maintenance costs or economic promotion  
430 activities to be paid by assessments and the initial estimated annual assessment to be levied;

431 (ii) a description of how the estimated assessment will be determined;

432 (iii) a description of how and when the governing body will adjust the assessment to  
433 reflect the costs of:

434 (A) in accordance with Section 11-42-406, current economic promotion activities; or

435 (B) current operation and maintenance costs;

436 (iv) a description of the method of assessment if different from the method of

437 assessment to be used for financing any improvement; and

438 (v) a statement of the maximum number of years over which the assessment will be  
439 levied for:

440 (A) operation and maintenance costs; or

441 (B) economic promotion activities;

442 (n) if the governing body intends to divide the proposed assessment area into  
443 classifications under Subsection 11-42-201(1)(b), include a description of the proposed  
444 classifications;

445 (o) if applicable, state the portion and value of the improvement that will be increased  
446 in size or capacity to serve property outside of the assessment area and how the increases will  
447 be financed; and

448 (p) state whether the improvements will be financed with a bond and, if so, the  
449 currently estimated interest rate and term of financing, subject to Subsection (2), for which the  
450 benefitted properties within the assessment area may be obligated.

451 (2) The estimated interest rate and term of financing in Subsection (1)(p) may not be  
452 interpreted as a limitation to the actual interest rate incurred or the actual term of financing as  
453 subject to the market rate at the time of the issuance of the bond.

454 (3) A notice required under Subsection 11-42-201(2)(a) may contain other information  
455 that the governing body considers to be appropriate, including:

456 (a) the amount or proportion of the cost of the improvement to be paid by the local  
457 entity or from sources other than an assessment;

458 (b) the estimated total amount of each type of assessment for the various improvements  
459 to be financed according to the method of assessment that the governing body chooses; and

460 (c) provisions for any improvements described in Subsection [~~11-42-102(26)(a)(ii)~~]  
461 ~~11-42-102(24)(a)(ii)~~.

462 (4) Each notice required under Subsection 11-42-201(2)(a) shall:

463 (a) (i) (A) be published in a newspaper of general circulation within the local entity's  
464 jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at  
465 least five but not more than 20 days before the day of the hearing required in Section  
466 11-42-204; or

467 (B) if there is no newspaper of general circulation within the local entity's jurisdictional  
468 boundaries, be posted in at least three public places within the local entity's jurisdictional  
469 boundaries at least 20 but not more than 35 days before the day of the hearing required in  
470 Section 11-42-204; and

471 (ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for  
472 four weeks before the deadline for filing protests specified in the notice under Subsection  
473 (1)(i); and

474 (b) be mailed, postage prepaid, within 10 days after the first publication or posting of  
475 the notice under Subsection (4)(a) to each owner of property to be assessed within the proposed  
476 assessment area at the property owner's mailing address.

477 (5) (a) The local entity may record the version of the notice that is published or posted  
478 in accordance with Subsection (4)(a) with the office of the county recorder, by legal description  
479 and tax identification number as identified in county records, against the property proposed to  
480 be assessed.

481 (b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year  
482 after the day on which the local entity records the notice if the local entity has failed to adopt  
483 the designation ordinance or resolution under Section 11-42-201 designating the assessment  
484 area for which the notice was recorded.

485 (6) A local entity shall make available on the local entity's website, or, if no website is  
486 available, at the local entity's place of business, the address and type of use of each unassessed  
487 benefitted government property described in Subsection (1)(g).

488 (7) If a governing body fails to provide actual or constructive notice under this section,  
489 the local entity may not assess a levy against a benefitted property omitted from the notice  
490 unless:

- 491 (a) the property owner gives written consent;
- 492 (b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did  
493 not object to the levy of the assessment before the final hearing of the board of equalization; or
- 494 (c) the benefitted property is conveyed to a subsequent purchaser and, before the date  
495 of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable,  
496 Subsection 11-42-207(1)(d)(i) are met.

497 Section 4. Section 11-42-301 is amended to read:

498 **11-42-301. Improvements made only under contract let to lowest responsive,**  
499 **responsible bidder -- Publishing notice -- Sealed bids -- Procedure -- Exceptions to**  
500 **contract requirement.**

501 (1) Except as otherwise provided in this section, a local entity may make improvements  
502 in an assessment area only under contract let to the lowest responsive, responsible bidder for  
503 the kind of service, material, or form of construction that the local entity's governing body  
504 determines in compliance with any applicable local entity ordinances.

505 (2) A local entity may:

- 506 (a) divide improvements into parts;
- 507 (b) (i) let separate contracts for each part; or
- 508 (ii) combine multiple parts into the same contract; and
- 509 (c) let a contract on a unit basis.

510 (3) (a) A local entity may not let a contract until after publishing notice as provided in  
511 Subsection (3)(b):

512 (i) at least one time in a newspaper of general circulation within the boundaries of the  
513 local entity at least 15 days before the date specified for receipt of bids; and

514 (ii) in accordance with Section 45-1-101, at least 15 days before the date specified for  
515 receipt of bids.

516 (b) Each notice under Subsection (3)(a) shall notify contractors that the local entity will  
517 receive sealed bids at a specified time and place for the construction of the improvements.

518 (c) Notwithstanding a local entity's failure, through inadvertence or oversight, to  
519 publish the notice or to publish the notice within 15 days before the date specified for receipt of  
520 bids, the governing body may proceed to let a contract for the improvements if the local entity  
521 receives at least three sealed and bona fide bids from contractors by the time specified for the

522 receipt of bids.

523 (d) A local entity may publish a notice required under this Subsection (3) at the same  
524 time as a notice under Section [11-42-202](#).

525 (4) (a) A local entity may accept as a sealed bid a bid that is:

526 (i) manually sealed and submitted; or

527 (ii) electronically sealed and submitted.

528 (b) The governing body or project engineer shall, at the time specified in the notice  
529 under Subsection (3), open and examine the bids.

530 (c) In open session, the governing body:

531 (i) shall declare the bids; and

532 (ii) may reject any or all bids if the governing body considers the rejection to be for the  
533 public good.

534 (d) The local entity may award the contract to the lowest responsive, responsible bidder  
535 even if the price bid by that bidder exceeds the estimated costs as determined by the project  
536 engineer.

537 (e) A local entity may in any case:

538 (i) refuse to award a contract;

539 (ii) obtain new bids after giving a new notice under Subsection (3);

540 (iii) determine to abandon the assessment area; or

541 (iv) not make some of the improvements proposed to be made.

542 (5) A local entity is not required to let a contract as provided in this section for:

543 (a) an improvement or part of an improvement the cost of which or the making of  
544 which is donated or contributed;

545 (b) an improvement that consists of furnishing utility service or maintaining  
546 improvements;

547 (c) labor, materials, or equipment supplied by the local entity;

548 (d) the local entity's acquisition of completed or partially completed improvements in  
549 an assessment area;

550 (e) design, engineering, and inspection costs incurred with respect to the construction  
551 of improvements in an assessment area; or

552 (f) additional work performed in accordance with the terms of a contract duly let to the

553 lowest responsive, responsible bidder.

554 (6) A local entity may itself furnish utility service and maintain improvements within  
555 an assessment area.

556 (7) (a) A local entity may acquire completed or partially completed improvements in an  
557 assessment area, but may not pay an amount for those improvements that exceeds their fair  
558 market value.

559 (b) Upon the local entity's payment for completed or partially completed  
560 improvements, title to the improvements shall be conveyed to the local entity or another public  
561 agency.

562 (8) The provisions of Title 11, Chapter 39, Building Improvements and Public Works  
563 Projects, and Section 72-6-108 do not apply to improvements to be constructed in an  
564 assessment area.

565 ~~[(9) (a) Except as provided in Subsection (9)(b), this section does not apply to a  
566 voluntary assessment area designated for the purpose of levying an assessment for an energy  
567 efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure.]~~

568 ~~[(b) (i) A local entity that designates a voluntary assessment area described in  
569 Subsection (9)(a) shall provide to each owner of property to be assessed a list of service  
570 providers authorized by the local entity to provide the energy efficiency upgrade, renewable  
571 energy system, or electric vehicle charging infrastructure.]~~

572 ~~[(ii) A property owner described in Subsection (9)(b)(i) shall select a service provider  
573 from the list to provide the energy efficiency upgrade, renewable energy system, or electric  
574 vehicle charging infrastructure for the owner's property.]~~

575 Section 5. Section 11-42-408 is amended to read:

576 **11-42-408. Assessment against government land prohibited -- Exception.**

577 (1) (a) Except as provided in Subsection (2), a local entity may not levy an assessment  
578 against property owned by the federal government or a public agency, even if the property  
579 benefits from the improvement.

580 (b) Notwithstanding Subsection (1)(a), a public agency may contract with a local  
581 entity:

582 (i) for the local entity to provide an improvement to property owned by the public  
583 agency; and

584 (ii) to pay for the improvement provided by the local entity.

585 (c) Nothing in this section may be construed to prevent a local entity from imposing on  
586 and collecting from a public agency, or a public agency from paying, a reasonable charge for a  
587 service rendered or material supplied by the local entity to the public agency, including a  
588 charge for water, sewer, or lighting service.

589 (2) Notwithstanding Subsection (1):

590 (a) a local entity may continue to levy and enforce an assessment against property  
591 acquired by a public agency within an assessment area if the acquisition occurred after the  
592 assessment area was designated; and

593 (b) property that is subject to an assessment lien at the time it is acquired by a public  
594 agency continues to be subject to the lien and to enforcement of the lien if the assessment and  
595 interest on the assessment are not paid when due[; ~~and~~].

596 [~~(c) a local entity may levy an assessment against property owned by the federal  
597 government or a public agency if the federal government or public agency voluntarily enters  
598 into a voluntary assessment area for the purpose of financing an energy efficiency upgrade, a  
599 renewable energy system, or electric vehicle charging infrastructure.~~]

600 Section 6. Section **11-42-411** is amended to read:

601 **11-42-411. Installment payment of assessments.**

602 (1) (a) In an assessment resolution or ordinance, the governing body may, subject to  
603 Subsection (1)(b) and except as provided in Subsection (2)(c), provide that some or all of the  
604 assessment be paid in installments over a period not to exceed 20 years from the effective date  
605 of the resolution or ordinance.

606 (b) If an assessment resolution or ordinance provides that some or all of the assessment  
607 be paid in installments for a period exceeding 10 years from the effective date of the resolution  
608 or ordinance, the governing body:

609 (i) shall make a determination that:

610 (A) the improvement for which the assessment is made has a reasonable useful life for  
611 the full period during which installments are to be paid; or

612 (B) it would be in the best interests of the local entity and the property owners for  
613 installments to be paid for more than 10 years; and

614 (ii) may provide in the resolution or ordinance that no assessment is payable during

615 some or all of the period ending three years after the effective date of the resolution or  
616 ordinance.

617 (2) An assessment resolution or ordinance that provides for the assessment to be paid  
618 in installments may provide that the unpaid balance be paid over the period of time that  
619 installments are payable:

620 (a) in substantially equal installments of principal; or

621 (b) in substantially equal installments of principal and interest[; ~~or~~].

622 [~~(c) for an assessment levied for an energy efficiency upgrade, a renewable energy  
623 system, or electric vehicle charging infrastructure:]~~

624 [~~(i) in accordance with the assessment resolution or ordinance; and]~~

625 [~~(ii) over a period not to exceed 30 years from the effective date of the resolution or  
626 ordinance:]~~

627 (3) (a) Each assessment resolution or ordinance that provides for the assessment to be  
628 paid in installments shall, subject to Subsections (3)(b) and (c), provide that the unpaid balance  
629 of the assessment bear interest at a fixed rate, variable rate, or a combination of fixed and  
630 variable rates, as determined by the governing body, from the effective date of the resolution or  
631 ordinance or another date specified in the resolution or ordinance.

632 (b) If the assessment is for operation and maintenance costs or for the costs of  
633 economic promotion activities:

634 (i) a local entity may charge interest only from the date each installment is due; and

635 (ii) the first installment of an assessment shall be due 15 days after the effective date of  
636 the assessment resolution or ordinance.

637 (c) If an assessment resolution or ordinance provides for the unpaid balance of the  
638 assessment to bear interest at a variable rate, the assessment resolution or ordinance shall  
639 specify:

640 (i) the basis upon which the rate is to be determined from time to time;

641 (ii) the manner in which and schedule upon which the rate is to be adjusted; and

642 (iii) a maximum rate that the assessment may bear.

643 (4) Interest payable on assessments may include:

644 (a) interest on assessment bonds;

645 (b) ongoing local entity costs incurred for administration of the assessment area; and

646 (c) any costs incurred with respect to:

647 (i) securing a letter of credit or other instrument to secure payment or repurchase of  
648 bonds; or

649 (ii) retaining a marketing agent or an indexing agent.

650 (5) Interest imposed in an assessment resolution or ordinance shall be paid in addition  
651 to the amount of each installment annually or at more frequent intervals as provided in the  
652 assessment resolution or ordinance.

653 (6) (a) Except for an assessment for operation and maintenance costs or for the costs of  
654 economic promotion activities, a property owner may pay some or all of the entire assessment  
655 without interest if paid within 25 days after the assessment resolution or ordinance takes effect.

656 (b) After the 25-day period stated in Subsection (6)(a), a property owner may at any  
657 time prepay some or all of the assessment levied against the owner's property.

658 (c) A local entity may require a prepayment of an installment to include:

659 (i) an amount equal to the interest that would accrue on the assessment to the next date  
660 on which interest is payable on bonds issued in anticipation of the collection of the assessment;  
661 and

662 (ii) the amount necessary, in the governing body's opinion or the opinion of the officer  
663 designated by the governing body, to assure the availability of money to pay:

664 (A) interest that becomes due and payable on those bonds; and

665 (B) any premiums that become payable on bonds that are called in order to use the  
666 money from the prepaid assessment installment.

667 Section 7. Section 11-42a-101 is enacted to read:

668 **CHAPTER 42a. COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY ACT**

669 **Part 1. General Provisions**

670 **11-42a-101. Title.**

671 This chapter is known as the "Commercial Property Assessed Clean Energy Act" or  
672 "C-PACE Act."

673 Section 8. Section 11-42a-102 is enacted to read:

674 **11-42a-102. Definitions.**

675 (1) (a) "Assessment" means the assessment that a local entity or the C-PACE district  
676 levies on private property under this chapter to cover the costs of an energy efficiency upgrade,

677 a renewable energy system, or an electric vehicle charging infrastructure.

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

680 (2) "Assessment fund" means a special fund that a local entity establishes under  
681 Section [11-42a-206](#).

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

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

685 (5) (a) "Commercial or industrial real property" means private real property used  
686 directly or indirectly or held for one of the following purposes or activities, regardless of  
687 whether the purpose or activity is for profit:

688 (i) commercial;

689 (ii) mining;

690 (iii) agricultural;

691 (iv) industrial;

692 (v) manufacturing;

693 (vi) trade;

694 (vii) professional;

695 (viii) a private or public club;

696 (ix) a lodge;

697 (x) a business; or

698 (xi) a similar purpose.

699 (b) "Commercial or industrial real property" includes private real property that:

700 (i) is used as or held for dwelling purposes; and

701 (ii) contains more than four rental units.

702 (6) "Contract price" means:

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

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

707 (7) "C-PACE" means commercial property assessed clean energy.

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

711           (9) "Electric vehicle charging infrastructure" means equipment that is:

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

713           (b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying  
714 plug-in hybrid vehicle, as those terms are defined in Section [59-7-605](#).

715           (10) "Energy assessment area" means an area:

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

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

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

723           (i) contiguous; or

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

727           (11) "Energy assessment bond" means a bond:

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

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

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

732           (13) "Energy assessment ordinance" means an ordinance that a local entity adopts  
733 under Section [11-42a-201](#) that:

734           (a) designates an energy assessment area;

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

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

737           (14) "Energy assessment resolution" means one or more resolutions adopted by a local  
738 entity under Section [11-42a-201](#) that:

- 739 (a) designates an energy assessment area;  
740 (b) levies an assessment on benefitted property within the energy assessment area; and  
741 (c) if applicable, authorizes the issuance of energy assessment bonds.  
742 (15) "Energy efficiency upgrade" means an improvement that is:  
743 (a) permanently affixed to commercial or industrial real property; and  
744 (b) designed to reduce energy or water consumption, including:  
745 (i) insulation in:  
746 (A) a wall, roof, floor, or foundation; or  
747 (B) a heating and cooling distribution system;  
748 (ii) a window or door, including:  
749 (A) a storm window or door;  
750 (B) a multiglazed window or door;  
751 (C) a heat-absorbing window or door;  
752 (D) a heat-reflective glazed and coated window or door;  
753 (E) additional window or door glazing;  
754 (F) a window or door with reduced glass area; or  
755 (G) other window or door modifications;  
756 (iii) an automatic energy control system;  
757 (iv) in a building or a central plant, a heating, ventilation, or air conditioning and  
758 distribution system;  
759 (v) caulk or weatherstripping;  
760 (vi) a light fixture that does not increase the overall illumination of a building, unless  
761 an increase is necessary to conform with the applicable building code;  
762 (vii) an energy recovery system;  
763 (viii) a daylighting system;  
764 (ix) measures to reduce the consumption of water, through conservation or more  
765 efficient use of water, including installation of:  
766 (A) low-flow toilets and showerheads;  
767 (B) timer or timing systems for a hot water heater; or  
768 (C) rain catchment systems;  
769 (x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving

770 measure by the governing body or executive of a local entity;  
771 (xi) measures or other improvements to effect seismic upgrades;  
772 (xii) structures, measures, or other improvements to provide automated parking or  
773 parking that reduces land use;  
774 (xiii) the extension of an existing natural gas distribution company line;  
775 (xiv) an energy efficient elevator, escalator, or other vertical transport device;  
776 (xv) any other improvement that the governing body or executive of a local entity  
777 approves as an energy efficiency upgrade; or  
778 (xvi) any improvement that relates physically or functionally to any of the  
779 improvements listed in Subsections (15)(b)(i) through (xv).  
780 (16) "Governing body" means:  
781 (a) for a county, city, town, or metro township, the legislative body of the county, city,  
782 town, or metro township;  
783 (b) for a local district, the board of trustees of the local district;  
784 (c) for a special service district:  
785 (i) if no administrative control board has been appointed under Section [17D-1-301](#), the  
786 legislative body of the county, city, town, or metro township that established the special service  
787 district; or  
788 (ii) if an administrative control board has been appointed under Section [17D-1-301](#), the  
789 administrative control board of the special service district; and  
790 (d) for the military installation development authority created in Section [63H-1-201](#),  
791 the board, as that term is defined in Section [63H-1-102](#).  
792 (17) "Improvement" means a publicly or privately owned energy efficiency upgrade,  
793 renewable energy system, or electric vehicle charging infrastructure that:  
794 (a) a property owner has requested; or  
795 (b) has been or is being installed on a property for the benefit of the property owner.  
796 (18) "Incidental refunding costs" means any costs of issuing a refunding assessment  
797 bond and calling, retiring, or paying prior bonds, including:  
798 (a) legal and accounting fees;  
799 (b) charges of financial advisors, escrow agents, certified public accountant verification  
800 entities, and trustees;

- 801 (c) underwriting discount costs, printing costs, and the costs of giving notice;
- 802 (d) any premium necessary in the calling or retiring of prior bonds;
- 803 (e) fees to be paid to the local entity to issue the refunding assessment bond and to
- 804 refund the outstanding prior bonds;
- 805 (f) any other costs that the governing body determines are necessary and proper to incur
- 806 in connection with the issuance of a refunding assessment bond; and
- 807 (g) any interest on the prior bonds that is required to be paid in connection with the
- 808 issuance of the refunding assessment bond.
- 809 (19) "Installment payment date" means the date on which an installment payment of an
- 810 assessment is payable.
- 811 (20) "Jurisdictional boundaries" means:
- 812 (a) for the C-PACE district or any state interlocal entity, the boundaries of the state;
- 813 and
- 814 (b) for each local entity, the boundaries of the local entity.
- 815 (21) "Local district" means a local district under Title 17B, Limited Purpose Local
- 816 Government Entities - Local Districts.
- 817 (22) (a) "Local entity" means:
- 818 (i) a county, city, town, or metro township;
- 819 (ii) a special service district, a local district, or an interlocal entity as that term is
- 820 defined in Section 11-13-103;
- 821 (iii) a state interlocal entity;
- 822 (iv) the military installation development authority created in Section [63H-1-201](#); or
- 823 (v) any political subdivision of the state.
- 824 (b) "Local entity" includes the C-PACE district solely in connection with:
- 825 (i) the designation of an energy assessment area;
- 826 (ii) the levying of an assessment; and
- 827 (iii) the assignment of an energy assessment lien to a third-party lender under Section
- 828 [11-42a-302](#).
- 829 (23) "Local entity obligations" means energy assessment bonds and refunding
- 830 assessment bonds that a local entity issues.
- 831 (24) "OED" means the Office of Energy Development created in Section [63M-4-401](#).

832 (25) "Overhead costs" means the actual costs incurred or the estimated costs to be  
833 incurred in connection with an energy assessment area, including:

- 834 (a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;
- 835 (b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;
- 836 (c) publishing and mailing costs;
- 837 (d) costs of levying an assessment;
- 838 (e) recording costs; and
- 839 (f) all other incidental costs.

840 (26) "Prior bonds" means the energy assessment bonds refunded in part or in whole by  
841 a refunding assessment bond.

842 (27) "Prior energy assessment ordinance" means the ordinance levying the assessments  
843 from which the prior bonds are payable.

844 (28) "Prior energy assessment resolution" means the resolution levying the assessments  
845 from which the prior bonds are payable.

846 (29) "Property" includes real property and any interest in real property, including water  
847 rights and leasehold rights.

848 (30) "Public electrical utility" means a large-scale electric utility as that term is defined  
849 in Section [54-2-1](#).

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

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

856 (33) (a) "Renewable energy system" means a product, system, device, or interacting  
857 group of devices that is permanently affixed to commercial or industrial real property and:

- 858 (i) produces energy from renewable resources, including:
  - 859 (A) a photovoltaic system;
  - 860 (B) a solar thermal system;
  - 861 (C) a wind system;
  - 862 (D) a geothermal system, including a generation system, a direct-use system, or a

863 ground source heat pump system;  
864 (E) a microhydro system;  
865 (F) a biofuel system; or  
866 (G) any other renewable source system that the governing body of the local entity  
867 approves;  
868 (ii) stores energy, including:  
869 (A) a battery storage system; or  
870 (B) any other energy storing system that the governing body or chief executive officer  
871 of a local entity approves; or  
872 (iii) any improvement that relates physically or functionally to any of the products,  
873 systems, or devices listed in Subsection (33)(a)(i) or (ii).  
874 (b) "Renewable energy system" does not include a system described in Subsection  
875 (33)(a)(i) if the system provides energy to property outside the energy assessment area, unless  
876 the system:  
877 (i) (A) existed before the creation of the energy assessment area; and  
878 (B) beginning before January 1, 2017, provides energy to property outside of the area  
879 that became the energy assessment area; or  
880 (ii) provides energy to property outside the energy assessment area under an agreement  
881 with a public electrical utility that is substantially similar to agreements for other renewable  
882 energy systems that are not funded under this chapter.  
883 (34) "Special service district" means the same as that term is defined in Section  
884 [17D-1-102](#).  
885 (35) "State interlocal entity" means:  
886 (a) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act,  
887 by two or more counties, cities, towns, or metro townships that collectively represent at least a  
888 majority of the state's population; or  
889 (b) an entity that another state authorized, before January 1, 2017, to issue bonds,  
890 notes, or other obligations or refunding obligations to finance or refinance projects in the state.  
891 (36) "Third-party lender" means a trust company, savings bank, savings and loan  
892 association, bank, credit union, or any other entity that provides loans directly to property  
893 owners for improvements authorized under this chapter.

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

895 **11-42a-103. No limitation on other local entity powers -- Conflict with other**  
896 **statutory provisions.**

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

899 (a) make an improvement or provide a service;

900 (b) create a district;

901 (c) levy an assessment or tax; or

902 (d) issue a bond or a refunding bond.

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

905 (3) After January 1, 2017, if a local entity or the C-PACE district creates an energy  
906 assessment area within the certificated service territory of a public electrical utility for the  
907 installation of a renewable energy system with a nameplate rating greater than 2.0 megawatts  
908 on benefitted property that an existing customer of the public electrical utility owns, the local  
909 entity or the C-PACE district, as applicable, shall compensate the public electrical utility for  
910 any infrastructure that the public electrical utility installed to serve the customer that the  
911 customer no longer uses as a result of the installation of the renewable energy system.

912 Section 10. Section **11-42a-104** is enacted to read:

913 **11-42a-104. Action to contest assessment or proceeding -- Requirements --**  
914 **Exclusive remedy -- Bonds and assessment incontestable.**

915 (1) (a) A person may commence a civil action against a local entity to contest an  
916 assessment, a proceeding to designate an energy assessment area, or a proceeding to levy an  
917 assessment.

918 (b) The remedies available in a civil action described in Subsection (1)(a) are:

919 (i) setting aside the proceeding to designate an energy assessment area; or

920 (ii) enjoining the levy or collection of an assessment.

921 (2) (a) A person bringing an action under Subsection (1) shall bring the action in the  
922 district court with jurisdiction in the county in which the energy assessment area is located.

923 (b) A person may not begin the action against or serve a summons relating to the action  
924 on the local entity more than 30 days after the effective date of the energy assessment

925 resolution, the energy assessment ordinance, or the written agreement between a local entity  
926 and a third-party lender, described in Section [11-42a-302](#).

927 (3) An action under Subsection (1) is the exclusive remedy of a person:

928 (a) claiming an error or irregularity in an assessment, a proceeding to designate an  
929 energy assessment area, or a proceeding to levy an assessment; or

930 (b) challenging a bondholder's or third-party lender's right to repayment.

931 (4) A court may not set aside, in part or in whole or declare invalid an assessment, a  
932 proceeding to designate an energy assessment area, or a proceeding to levy an assessment  
933 because of an error or irregularity that does not relate to the equity or justice of the assessment  
934 or proceeding.

935 (5) Except as provided in Subsection (6), after the expiration of the 30-day period  
936 described in Subsection (2)(b):

937 (a) the following become incontestable against any person that has not commenced an  
938 action and served a summons as provided in this section:

939 (i) the written agreement entered into or to be entered into under Section [11-42a-302](#);

940 (ii) the energy assessment bonds and refunding assessment bonds:

941 (A) that a local entity has issued or intends to issue; or

942 (B) with respect to the creation of an energy assessment area; and

943 (iii) assessments levied on property in the energy assessment area; and

944 (b) a court may not inquire into and a person may not bring a suit to enjoin or  
945 challenge:

946 (i) the issuance or payment of an energy assessment bond or a refunding assessment  
947 bond;

948 (ii) the payment under the written agreement between a local entity and a third-party  
949 lender described in Section [11-42a-302](#);

950 (iii) the levy, collection, or enforcement of an assessment;

951 (iv) the legality of an energy assessment bond, a refunding assessment bond, or a  
952 written agreement between a local entity and a third-party lender described in Section

953 [11-42a-302](#); or

954 (v) an assessment.

955 (6) (a) A person may bring a claim of misuse of assessment funds through a mandamus

956 action regardless of the expiration of the 30-day period described in Subsection (2)(b).

957 (b) This section does not prohibit the filing of criminal charges against or the  
958 prosecution of a party for the misuse of assessment funds.

959 Section 11. Section **11-42a-105** is enacted to read:

960 **11-42a-105. Severability.**

961 A court's invalidation of any provision of this chapter does not affect the validity of any  
962 other provision of this chapter.

963 Section 12. Section **11-42a-106** is enacted to read:

964 **11-42a-106. C-PACE district established -- OED to direct and administer**  
965 **C-PACE district.**

966 (1) There is created the C-PACE district.

967 (2) The C-PACE district may, subject to Subsection (3):

968 (a) designate an energy assessment area;

969 (b) levy an assessment;

970 (c) assign an energy assessment lien to a third-party lender; and

971 (d) collect an assessment within an energy assessment area in accordance with Section  
972 [11-42a-302](#).

973 (3) (a) The C-PACE district may only take the actions described in Subsection (2) if a  
974 governing body makes a written request of the C-PACE district to, in accordance with this  
975 chapter:

976 (i) create an energy assessment area within the jurisdiction of the governing body; and

977 (ii) finance an improvement within that energy assessment area.

978 (b) Before creating an energy assessment area under Subsection (3)(a), the C-PACE  
979 district shall enter into an agreement with the relevant public electrical utility to establish the  
980 scope of the improvement to be financed.

981 (4) (a) OED shall administer and direct the operation of the C-PACE district.

982 (b) OED may:

983 (i) adopt a fee schedule and charge fees, in accordance with Section [63J-1-504](#), to  
984 cover the cost of administering and directing the operation of the C-PACE district;

985 (ii) delegate OED's powers under this chapter to a third party to assist in administering  
986 and directing the operation of the C-PACE district; and

987 (iii) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
988 Rulemaking Act, to establish procedures necessary to carry out the actions described in  
989 Subsection (2).

990 (c) If OED delegates OED's power under Subsection (4)(b)(ii), OED shall:

991 (i) delegate the authority through a written agreement with the third party; and

992 (ii) ensure that the written agreement includes provisions that:

993 (A) require the third party to be subject to an audit by the state auditor regarding the  
994 delegation;

995 (B) require the third party to submit to OED monthly reports, including information  
996 regarding the assessments the C-PACE district levies and the payments the C-PACE district  
997 receives; and

998 (C) insulate OED from liability for the actions of the third party and the C-PACE  
999 district while under the direction and administration of the third party.

1000 (d) OED is subject to Title 63G, Chapter 7, Governmental Immunity Act of Utah.

1001 (5) The state is not liable for the acts or omissions of the C-PACE district or the  
1002 C-PACE district's directors, administrators, officers, agents, employees, third-party directors or  
1003 administrators, or third-party lenders, including any obligation, expense, debt, or liability of the  
1004 C-PACE district.

1005 Section 13. Section **11-42a-201** is enacted to read:

1006 **Part 2. Energy Assessments**

1007 **11-42a-201. Resolution or ordinance designation an energy assessment area,**  
1008 **levying an assessment, and issuing an energy assessment bond.**

1009 (1) (a) Except as otherwise provided in this chapter, and subject to the requirements of  
1010 this part, at the request of a property owner on whose property or for whose benefit an  
1011 improvement is being installed or being reimbursed, a governing body of a local entity may  
1012 adopt an energy assessment resolution or an energy assessment ordinance that:

1013 (i) designates an energy assessment area;

1014 (ii) levies an assessment within the energy assessment area; and

1015 (iii) if applicable, authorizes the issuance of an energy assessment bond.

1016 (b) The boundaries of a proposed energy assessment area may:

1017 (i) include property that is not intended to be assessed; and

1018 (ii) overlap, be coextensive with, or be substantially coterminous with the boundaries  
1019 of any other energy assessment area or an assessment area created under Title 11, Chapter 42,  
1020 Assessment Area Act.

1021 (c) The energy assessment resolution or ordinance described in Subsection (1)(a) is  
1022 adequate for purposes of identifying the property to be assessed within the energy assessment  
1023 area if the resolution or ordinance describes the property to be assessed by legal description and  
1024 tax identification number.

1025 (2) (a) A local entity that adopts an energy assessment resolution or ordinance under  
1026 Subsection (1)(a) shall give notice of the adoption by:

1027 (i) publishing a copy or a summary of the resolution or ordinance once in a newspaper  
1028 of general circulation where the energy assessment area is located; or

1029 (ii) if there is no newspaper of general circulation where the energy assessment area is  
1030 located, posting a copy of the resolution or ordinance in at least three public places within the  
1031 local entity's jurisdictional boundaries for at least 21 days.

1032 (b) Except as provided in Subsection (2)(a), a local entity is not required to make any  
1033 other publication or posting of the resolution or ordinance.

1034 (3) Notwithstanding any other statutory provision regarding the effective date of a  
1035 resolution or ordinance, each energy assessment resolution or ordinance takes effect:

1036 (a) on the date of publication or posting of the notice under Subsection (2); or

1037 (b) at a later date as provided in the resolution or ordinance.

1038 (4) (a) The governing body of each local entity that has adopted an energy assessment  
1039 resolution or ordinance under Subsection (1) shall, within five days after the effective date of  
1040 the resolution or ordinance, file a notice of assessment interest with the recorder of the county  
1041 in which the property to be assessed is located.

1042 (b) Each notice of assessment interest under Subsection (4)(a) shall:

1043 (i) state that the local entity has an assessment interest in the property to be assessed;

1044 and

1045 (ii) describe the property to be assessed by legal description and tax identification  
1046 number.

1047 (c) A local entity's failure to file a notice of assessment interest under this Subsection

1048 (4) has no effect on the validity of an assessment levied under an energy assessment resolution

1049 or ordinance adopted under Subsection (1).

1050 Section 14. Section **11-42a-202** is enacted to read:

1051 **11-42a-202. Designation of energy assessment area -- Requirements.**

1052 A local entity may not include property in an energy assessment area unless the owner  
1053 of the property located in the energy assessment area provides to the local entity:

1054 (1) evidence that there are no existing delinquent taxes, special assessments, or water  
1055 or sewer charges on the property;

1056 (2) evidence that the property is not subject to a trust deed or other lien on which there  
1057 is a recorded notice of default, foreclosure, or delinquency that has not been cured;

1058 (3) evidence that there are no involuntary liens, including a lien on real property or on  
1059 the proceeds of a contract relating to real property, for services, labor, or materials furnished in  
1060 connection with the construction or improvement of the property; and

1061 (4) the written consent of each person or institution holding a lien on the property.

1062 Section 15. Section **11-42A-203** is enacted to read:

1063 **11-42A-203. Levying an assessment within an energy assessment area--**  
1064 **Prerequisites.**

1065 (1) If a local entity designates an energy assessment area in accordance with this  
1066 chapter, the local entity may:

1067 (a) levy an assessment within the energy assessment area; and

1068 (b) collect the assessment by:

1069 (i) directly billing the property owner; or

1070 (ii) inclusion on a property tax notice issued in accordance with this section and  
1071 Section [59-2-1317](#).

1072 (2) If a local entity includes an assessment on a property tax notice as described in  
1073 Subsection (1)(b) and bills for the assessment in the same manner as a property tax, the  
1074 assessment constitutes a lien, is enforced, and is subject to other penalty provisions, in  
1075 accordance with this chapter.

1076 (3) If a local entity includes an assessment on a property tax notice, the county  
1077 treasurer shall, on the property tax notice:

1078 (a) clearly state that the assessment is for the improvement provided by the local entity;  
1079 and

1080 (b) itemize the assessment separately from any other tax, fee, charge, interest, or  
1081 penalty that is included on the property tax notice in accordance with Section 59-2-1317.

1082 Section 16. Section **11-42a-204** is enacted to read:

1083 **11-42a-204. Limit on amount of assessment.**

1084 (1) An assessment levied within an energy assessment area may not, in the aggregate,  
1085 exceed the sum of:

1086 (a) the contract price or estimated contract price;

1087 (b) overhead costs not to exceed 15% of the sum of the contract price or estimated  
1088 contract price;

1089 (c) an amount for contingencies of not more than 10% of the sum of the contract price  
1090 or estimated contract price, if the assessment is levied before the completion of the  
1091 construction of the improvements in the energy assessment area;

1092 (d) capitalized interest; or

1093 (e) an amount sufficient to fund a reserve fund.

1094 (2) A local entity may only use the proceeds of an energy assessment bond or any  
1095 third-party financing to refinance or reimburse the costs of improvements authorized under this  
1096 chapter if the property owner incurred or financed the costs no earlier than three years before  
1097 the day on which the local entity issues the energy assessment bond or assigns the energy  
1098 assessment lien.

1099 Section 17. Section **11-42a-205** is enacted to read:

1100 **11-42a-205. Installment payment of assessments.**

1101 (1) (a) In an energy assessment resolution or ordinance that a local entity adopts under  
1102 Subsection 11-42a-201(1)(a), the governing body may provide that some or all of the  
1103 assessment be paid in installments:

1104 (i) in accordance with the resolution or ordinance; and

1105 (ii) over a period not to exceed 30 years from the effective date of the resolution or  
1106 ordinance.

1107 (2) (a) Each governing body that adopts an energy assessment resolution or ordinance  
1108 that provides for the assessment to be paid in installments shall ensure that the resolution or  
1109 ordinance provides that the unpaid balance of the assessment bears interest at a fixed rate, a  
1110 variable rate, or a combination of fixed and variable rates, as determined by the governing

1111 body, from the effective date of the resolution or ordinance or another date that the resolution  
1112 or ordinance specifies.

1113 (b) Each governing body that adopts an energy assessment resolution or ordinance that  
1114 provides for the unpaid balance of the assessment to bear interest at a variable rate shall ensure  
1115 that the resolution or ordinance specifies:

1116 (i) the basis upon which the rate is to be determined from time to time;

1117 (ii) the manner in which and schedule upon which the rate is to be adjusted; and

1118 (iii) a maximum rate that the assessment may bear.

1119 (3) Interest payable on assessments may include:

1120 (a) interest on energy assessment bonds;

1121 (b) ongoing costs that the local entity incurs for administration of the energy  
1122 assessment area; and

1123 (c) any costs that the local entity incurs with respect to:

1124 (i) securing a letter of credit or other instrument to secure payment or repurchase of  
1125 bonds; or

1126 (ii) retaining a marketing agent or an indexing agent.

1127 (4) A property owner shall pay interest imposed in an energy assessment resolution or  
1128 ordinance annually or at more frequent intervals as the resolution or ordinance provides, in  
1129 addition to the amount of each installment.

1130 (5) (a) At any time, a property owner may prepay some or all of the assessment levied  
1131 against the owner's property.

1132 (b) A local entity may require that a prepayment of an installment include:

1133 (i) an amount equal to the interest that would accrue on the assessment to the next date  
1134 on which interest is payable on a bond issued or a loan made in anticipation of the collection of  
1135 the assessment; and

1136 (ii) the amount necessary, as determined by the governing body or the officer that the  
1137 governing body designates, to ensure the availability of money to pay:

1138 (A) interest that becomes due and payable on a bond or loan described in Subsection

1139 (5)(b)(i); and

1140 (B) any premiums that become payable on a loan that is prepaid or on a bond that is  
1141 called for redemption in order to use the money from the prepaid assessment installment.

1142 Section 18. Section **11-42a-206** is enacted to read:

1143 **11-42a-206. Assessment fund -- Uses of money in the fund -- Treasurer's duties.**

1144 (1) Unless a local entity has assigned an energy assessment lien to a third-party lender  
1145 under Section [11-42a-302](#), the governing body of each local entity that levies an assessment  
1146 under this part on benefitted property within an energy assessment area, or the local entity's  
1147 designee, may establish an assessment fund.

1148 (2) The governing body or the local entity's designee, as applicable, shall deposit into  
1149 the assessment fund all money paid to or for the benefit of the local entity from an assessment  
1150 and interest on the assessment.

1151 (3) The local entity may only expend money in an assessment fund for paying:

1152 (a) local entity obligations; and

1153 (b) costs that the local entity or the local entity's designee incurs with respect to the  
1154 administration of the energy assessment area.

1155 (4) (a) The treasurer of the local entity or the local entity's designee, as applicable, is  
1156 the custodian of the assessment fund, subject to Subsection (4)(c)(i).

1157 (b) The treasurer of the local entity or the local entity's designee, as applicable, shall:

1158 (i) keep the assessment fund intact and separate from all other local entity funds and  
1159 money;

1160 (ii) invest money in the assessment fund in accordance with Title 51, Chapter 7, State  
1161 Money Management Act; and

1162 (iii) keep on deposit in the assessment fund any interest the local entity receives from  
1163 the investment of money in the assessment fund and use the interest exclusively for the  
1164 purposes for which the governing body or the local entity's designee established the assessment  
1165 fund.

1166 (c) The treasurer of the local entity or the local entity's designee, as applicable, may:

1167 (i) arrange for a trustee bank to hold the assessment fund on behalf of the local entity;

1168 and

1169 (ii) pay money out of the assessment fund subject to Subsection (3).

1170 Section 19. Section **11-42a-301** is enacted to read:

1171 **Part 3. Energy Assessment Liens**

1172 **11-42a-301. Assessment constitutes a lien -- Characteristics of an energy**

1173 **assessment lien.**

1174 (1) Each assessment levied under this chapter, including any installment of an  
1175 assessment, interest, and any penalties and costs of collection, constitutes a lien against the  
1176 assessed property, beginning on the effective date of the energy assessment resolution or  
1177 ordinance that the local entity adopts under Subsection 11-42a-201(1)(a).

1178 (2) An energy assessment lien under this section:

1179 (a) is superior to the lien of a trust deed, mortgage, mechanic's or materialman's lien, or  
1180 other encumbrances;

1181 (b) has the same priority as, but is separate and distinct from:

1182 (i) a lien for general property taxes; or

1183 (ii) any other energy assessment lien levied under this chapter;

1184 (c) applies to any reduced payment obligations without interruption, change in priority,  
1185 or alteration in any manner; and

1186 (d) continues until the assessment and any related reduced payment obligations,  
1187 interest, penalties, and costs are paid, regardless of:

1188 (i) a sale of the property for or on account of a delinquent general property tax, special  
1189 tax, or other assessment; or

1190 (ii) the issuance of a tax deed, an assignment of interest by the county, or a sheriff's  
1191 certificate of sale or deed.

1192 Section 20. Section **11-42a-302** is enacted to read:

1193 **11-42a-302. Assignment of energy assessment lien.**

1194 (1) (a) In lieu of issuing energy assessment bonds to finance the costs of improvements  
1195 under this chapter, a third-party lender may provide financing to a property owner to finance,  
1196 refinance, or reimburse the costs of improvements.

1197 (b) A local entity, through the local entity's executive or administrator, as applicable,  
1198 may assign to the third-party lender described in Subsection (1)(a) the local entity's rights in the  
1199 energy assessment lien by entering into a written agreement with the third-party lender.

1200 (2) (a) If a local entity assigns the local entity's rights in an energy assessment lien to a  
1201 third-party lender under Subsection (1), the local entity's executive or administrator, as  
1202 applicable, may authorize the designation of the energy assessment area and the levying of the  
1203 assessment in lieu of the adoption of an energy assessment resolution or ordinance by the

1204 governing body of the local entity under Section 11-42a-201.

1205 (b) If a local entity assigns the local entity's rights under Subsection (1)(b), the local  
1206 entity shall ensure that the written agreement with the third-party lender:

1207 (i) includes the information required to be included within an energy assessment  
1208 resolution or ordinance described in Section 11-42a-201;

1209 (ii) complies with Section 11-42a-201;

1210 (iii) requires the third-party lender to be subject to an audit by the state auditor  
1211 regarding the assigned energy assessment lien;

1212 (iv) requires the third party lender to submit to the local entity monthly reports,  
1213 including information regarding the payments the third-party lender receives; and

1214 (v) insulates the local entity from liability for the actions of the third-party lender.

1215 (3) If a local entity assigns an energy assessment lien to a third-party lender, in  
1216 accordance with Subsection (1), except as provided in Subsection 11-42a-303(2), the  
1217 third-party lender has and possesses the same powers and rights at law or in equity to enforce  
1218 the lien that the local entity creating the lien would have if the local entity did not assign the  
1219 lien, including the rights and powers of the local entity under Sections 11-42a-303 and  
1220 11-42a-304.

1221 (4) (a) Any financing in connection with the assignment of an energy assessment lien  
1222 to a third-party lender under this section is not:

1223 (i) an obligation of the local entity that assigns the lien; or

1224 (ii) a charge against the general credit or taxing powers of the local entity that assigns  
1225 the lien.

1226 (b) A local entity may not obligate itself to pay any assessment levied or bond issued  
1227 under this chapter.

1228 (c) The assessments and the property upon which the energy assessment lien is  
1229 recorded are the sole securities for the assignment of an energy assessment lien.

1230 Section 21. Section **11-42a-303** is enacted to read:

1231 **11-42a-303. Enforcement of an energy assessment lien.**

1232 (1) If an assessment or an installment of an assessment is not paid when due, the local  
1233 entity may sell the property on which the assessment has been levied for the amount due plus  
1234 interest, penalties, and costs, in the manner provided:

- 1235 (a) by resolution or ordinance of the local entity;  
1236 (b) in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for  
1237 delinquent general property taxes; or  
1238 (c) in Title 57, Chapter 1, Conveyances, as though the property were the subject of a  
1239 trust deed in favor of the local entity.
- 1240 (2) If the local entity has assigned the local entity's rights to a third-party lender under  
1241 Section [11-42a-302](#), the local entity shall provide written instructions to the third-party lender  
1242 as to which method of enforcement the third-party lender shall pursue.
- 1243 (3) Except as otherwise provided in this chapter, each tax sale under Subsection (1)(b)  
1244 is governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the  
1245 sale were for the sale of property for delinquent general property taxes.
- 1246 (4) (a) In a foreclosure under Subsection (1)(c):  
1247 (i) the local entity may bid at the sale;  
1248 (ii) the local entity's governing body shall designate a trustee that satisfies the  
1249 requirements of Section [57-1-21](#);  
1250 (iii) each trustee designated under Subsection (4)(a)(ii) has a power of sale with respect  
1251 to the property that is the subject of the delinquent energy assessment lien;  
1252 (iv) the property that is the subject of the delinquent energy assessment lien is  
1253 considered to have been conveyed to the trustee, in trust, for the sole purpose of permitting the  
1254 trustee to exercise the trustee's power of sale under Subsection (4)(a)(iii);  
1255 (v) if no one bids at the sale and pays the local entity the amount due on the  
1256 assessment, plus interest and costs, the property is considered sold to the local entity for those  
1257 amounts; and  
1258 (vi) the local entity's chief financial officer may substitute and appoint one or more  
1259 successor trustees, as provided in Section [57-1-22](#).
- 1260 (b) (i) The local entity shall disclose the designation of a trustee under Subsection  
1261 (4)(a)(ii) in the notice of default that the trustee gives to commence the foreclosure.  
1262 (ii) The local entity is not required to disclose the designation of a trustee under  
1263 Subsection (4)(a)(ii) in an instrument separate from the notice described in Subsection  
1264 (4)(b)(i).
- 1265 (5) (a) The redemption of property that is the subject of a tax sale under Subsection

1266 (1)(b) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

1267 (b) The redemption of property that is the subject of a foreclosure proceeding under  
1268 Subsection (1)(c) is governed by Title 57, Chapter 1, Conveyances.

1269 (6) The remedies described in this part for the collection of an assessment and the  
1270 enforcement of an energy assessment lien are cumulative, and the use of one or more of those  
1271 remedies does not deprive the local entity of any other available remedy, means of collecting  
1272 the assessment, or means of enforcing the energy assessment lien.

1273 Section 22. Section **11-42a-304** is enacted to read:

1274 **11-42a-304. Default in the payment of an installment of an assessment -- Interest**  
1275 **and costs -- Restoring the property owner to the right to pay installments.**

1276 (1) If an assessment is payable in installments and a default occurs in the payment of an  
1277 installment when due:

1278 (a) the local entity may:

1279 (i) declare the delinquent amount to be immediately due and subject to collection as  
1280 provided in this chapter;

1281 (ii) if the financed improvements are not completed by the completion deadline to  
1282 which the property owner agreed in the bond or financing documents, then within 60 days after  
1283 the completion deadline, accelerate payment of the total unpaid balance of the assessment and  
1284 declare the whole of the unpaid principal and the interest then due to be immediately due and  
1285 payable; and

1286 (iii) charge and collect all costs of collection, including attorney fees; and

1287 (b) except as provided in Subsection (1)(a)(ii), the local entity may not accelerate  
1288 payment of the total unpaid balance of the assessment.

1289 (2) Delinquency interest accrues from the date of delinquency on all applicable  
1290 amounts described in Subsection (1)(a) until the property owner pays the delinquency in full.

1291 (3) A local entity shall ensure that any interest that the local entity assesses under this  
1292 section and any collection costs that the local entity charges under this section are the same as  
1293 for delinquent real property taxes for the year in which the balance of the fee or charge  
1294 becomes delinquent unless the local entity determines otherwise.

1295 (4) Notwithstanding Subsection (1), a property owner may regain the right to pay an  
1296 assessment in installments as if no default had occurred if the owner pays the amount of all

1297 unpaid installments that are past due with interest, collection and foreclosure costs, and  
1298 administrative, redemption, and other fees, including attorney fees, before:

1299 (a) the final date that payment may be legally made under a final sale or foreclosure of  
1300 property to collect delinquent assessment installments, if the governing body enforces  
1301 collection under Title 59, Chapter 2, Part 13, Collection of Taxes; or

1302 (b) the end of the three-month reinstatement period provided in Section 57-1-31, if the  
1303 governing body enforces collection through the method of foreclosing trust deeds.

1304 Section 23. Section 11-42a-305 is enacted to read:

1305 **11-42a-305. Release and discharge of energy assessment lien -- Notice of**  
1306 **dissolution of energy assessment area.**

1307 (1) (a) Upon payment in full of an assessment on a parcel of property, the local entity  
1308 or third-party lender, in the event the local entity has assigned the energy assessment lien to the  
1309 third-party lender, shall file a release and discharge of the energy assessment lien on the  
1310 property in the office of the recorder of the county where the property is located.

1311 (b) The local entity or third-party lender shall ensure that each release and discharge  
1312 under Subsection (1)(a):

1313 (i) includes a legal description of the affected property; and

1314 (ii) complies with other applicable requirements for recording a document.

1315 (2) (a) Upon payment in full of all assessments levied within an energy assessment  
1316 area, or upon providing for payment in full, the local entity or third-party lender, in the event  
1317 the local entity has assigned the energy assessment lien to the third-party lender, shall file a  
1318 notice of the dissolution of the energy assessment area in the office of the recorder of the  
1319 county where the property within the energy assessment area is located.

1320 (b) The local entity or third-party lender shall ensure that each notice under Subsection  
1321 (2)(a):

1322 (i) includes a legal description of the property assessed within the energy assessment  
1323 area; and

1324 (ii) complies with all other applicable requirements for recording a document.

1325 Section 24. Section 11-42a-401 is enacted to read:

1326 **Part 4. Energy Assessment Bonds and Refunding Assessment Bonds**

1327 **11-42a-401. Local entity may authorize the issuance of energy assessment bonds --**

1328 **Limit on amount of bonds -- Features of energy assessment bonds.**

1329 (1) A local entity may, subject to the requirements of this chapter, authorize the  
1330 issuance of a bond to pay, refinance, or reimburse the costs of improvements in an energy  
1331 assessment area, and other related costs, against the funds that the local entity will receive  
1332 because of an assessment in an energy assessment area.

1333 (2) A local entity may, by resolution or ordinance, delegate to one or more officers of  
1334 the issuer the authority to:

1335 (a) in accordance with the parameters in the resolution or ordinance, approve the final  
1336 interest rate or rates, price, principal amount, maturity or maturities, redemption features, and  
1337 other terms of the bond; and

1338 (b) approve and execute all documents relating to the issuance of a bond.

1339 (3) The aggregate principal amount of a bond authorized under Subsection (1) may not  
1340 exceed:

1341 (a) the unpaid balance of assessments at the time the bond is issued; or

1342 (b) if the property owner incurred the costs of improvements to be refinanced or  
1343 reimbursed no earlier than three years before the date of issuance of the energy assessment  
1344 bond, the total costs of the improvements to be refinanced or reimbursed.

1345 (4) The issuer of an energy assessment bond issued under this section shall ensure that:

1346 (a) the energy assessment bond:

1347 (i) is fully negotiable for all purposes;

1348 (ii) matures at a time that does not exceed the period that installments of assessments  
1349 in the assessment area are due and payable, plus one year;

1350 (iii) bears interest at the lowest rate or rates reasonably obtainable;

1351 (iv) is issued in registered form as provided in Title 15, Chapter 7, Registered Public  
1352 Obligations Act;

1353 (v) provides that interest be paid semiannually, annually, or at another interval as  
1354 specified by the governing body; and

1355 (vi) is not dated earlier than the effective date of the assessment ordinance; and

1356 (b) the resolution authorizing the issuance of the bond defines the place where the bond  
1357 is payable, the form of the bond, and the manner in which the bond is sold.

1358 (5) (a) A local entity may:

1359 (i) (A) provide that an energy assessment bond may be called for redemption before  
1360 maturity; and

1361 (B) fix the terms and conditions of redemption, including the notice to be given and  
1362 any premium to be paid;

1363 (ii) subject to Subsection (5)(b), require an energy assessment bond to bear interest at a  
1364 fixed or variable rate, or a combination of fixed and variable rates;

1365 (iii) specify the terms and conditions under which:

1366 (A) an energy assessment bond bearing interest at a variable interest rate may be  
1367 converted to bear interest at a fixed interest rate; and

1368 (B) the local entity agrees to repurchase the bonds;

1369 (iv) engage a remarketing agent and indexing agent, subject to the terms and conditions  
1370 to which the governing body agrees; and

1371 (v) include all costs associated with an energy assessment bond, including any costs  
1372 resulting from any of the actions the local entity is authorized to take under this section, in an  
1373 assessment levied under Section [11-42a-203](#).

1374 (b) If an energy assessment bond carries a variable interest rate, the local entity shall  
1375 specify:

1376 (i) the basis upon which the variable rate is to be determined over the life of the bond;

1377 (ii) the manner in which and schedule upon which the rate is to be adjusted; and

1378 (iii) a maximum rate that the bond may carry.

1379 (6) A local entity may only use the proceeds of an energy assessment bond to refinance  
1380 or reimburse costs of improvements authorized under this chapter if the property owner  
1381 incurred the costs no earlier than three years before the date of issuance of the energy  
1382 assessment bond.

1383 Section 25. Section **11-42a-402** is enacted to read:

1384 **11-42a-402. Energy assessment bond not a local entity's general obligation --**

1385 **Liability and responsibility of a local entity issuing an energy assessment bond -- No state**  
1386 **liability.**

1387 (1) (a) An energy assessment bond that a local entity issues under this chapter:

1388 (i) is a limited obligation of the local entity; and

1389 (ii) does not constitute nor give rise to:

- 1390 (A) a general obligation or liability of the local entity or the state; or  
1391 (B) a charge against the general credit or taxing powers of the local entity or the state.  
1392 (b) The local entity shall ensure that the limitation described in Subsection (1)(a) is  
1393 plainly stated upon the face of the bond.  
1394 (c) The assessments and the property upon which the energy assessment lien is  
1395 recorded are the sole securities for an energy assessment bond.  
1396 (2) (a) A local entity that issues an energy assessment bond is not liable and may not  
1397 obligate itself for payment of the bond, except for a fund that the local entity creates and  
1398 receives from assessments against which the bond is issued.  
1399 (b) Unless otherwise provided in this chapter, a local entity that issues an energy  
1400 assessment bond is responsible for:  
1401 (i) the lawful levy of all assessments; and  
1402 (ii) the faithful accounting, collection, settlement, and payment of assessments.  
1403 Section 26. Section **11-42a-403** is enacted to read:  
1404 **11-42a-403. Refunding assessment bonds.**  
1405 (1) A local entity may, by a resolution adopted by the governing body, authorize the  
1406 issuance of a refunding assessment bond as provided in this section, to repay prior bonds in  
1407 whole or in part, whether at or before the maturity of the prior bonds, at stated maturity, upon  
1408 redemption, or upon declaration of maturity.  
1409 (2) (a) Subject to Subsection (2)(b), the issuance of a refunding assessment bond is  
1410 governed by Title 11, Chapter 27, Utah Refunding Bond Act.  
1411 (b) If there is a conflict between a provision of Title 11, Chapter 27, Utah Refunding  
1412 Bond Act, and a provision of this part, the provision of this part governs.  
1413 (3) In issuing a refunding assessment bond, the local entity shall require the refunding  
1414 assessment bond and interest on the bond to be payable from and secured, to the extent the  
1415 prior bonds were payable from and secured, by:  
1416 (a) the same assessments; or  
1417 (b) the reduced assessments adopted by the governing body under Section [11-42a-404](#).  
1418 (4) A refunding assessment bond:  
1419 (a) is payable solely from the sources described in Subsection (3);  
1420 (b) matures no later than one year after the date of final maturity of the prior bonds;

1421 (c) does not mature at a time or bear interest at a rate that will cause the local entity to  
1422 be unable to pay the bond when due from the sources listed in Subsection (3);

1423 (d) bears interest as the governing body determines and subject to the provisions  
1424 relating to interest in Section 11-42a-401; and

1425 (e) pays one or more issues of the issuing local entity's prior bonds.

1426 (5) If the bond refunds two or more issues of a local entity's prior bonds, the local  
1427 entity may issue the bond in one or more series.

1428 Section 27. Section 11-42a-404 is enacted to read:

1429 **11-42a-404. Reducing assessments after issuance of refunding assessment bonds --**  
1430 **Retroactive effect.**

1431 (1) Each local entity that issues a refunding assessment bond shall adopt a resolution or  
1432 ordinance amending the previously adopted energy assessment resolution or ordinance that:

1433 (a) reduces, as determined by the local entity's governing body:

1434 (i) the assessments levied under the previous resolution or ordinance;

1435 (ii) the interest payable on the assessments levied under the previous resolution or  
1436 ordinance; or

1437 (iii) both the assessments levied under the previous resolution or ordinance and the  
1438 interest payable on those assessments;

1439 (b) allocates the reductions under Subsection (1)(a) so the then unpaid assessments  
1440 levied against benefitted property within the assessment area and the unpaid interest on those  
1441 assessments receive a proportionate share of the reductions;

1442 (c) states the amounts of the reduced payment obligation for each property assessed in  
1443 the prior resolution or ordinance; and

1444 (d) states the effective date of any reduction in the assessment levied in the prior  
1445 resolution or ordinance.

1446 (2) In a resolution or ordinance described in Subsection (1), the local entity is not  
1447 required to describe each block, lot, part of a block or lot, tract, or parcel of property assessed.

1448 (3) The local entity shall ensure that each reduction under Subsection (1)(a) is equal to  
1449 the amount by which the principal, interest, or combined principal and interest payable on the  
1450 refunding assessment bond, after accounting for incidental refunding costs associated with the  
1451 refunding assessment bond, is less than the amount of principal, interest, or combined principal

1452 and interest payable on the prior bonds.

1453 (4) A reduction under Subsection (1)(a) does not apply to an assessment or interest  
1454 paid before the reduction.

1455 (5) A resolution or ordinance under Subsection (1) may not become effective before  
1456 the date when any principal, interest, redemption premium on the prior bonds, and advances  
1457 under Subsection 11-42-607(5)(a) are fully paid or legally considered to be paid.

1458 (6) Except for the amount of reduction to a prior assessment or interest on a prior  
1459 assessment, neither the issuance of a refunding assessment bond nor the adoption of a  
1460 resolution or ordinance under Subsection (1) affects:

1461 (a) the validity or continued enforceability of a prior assessment or interest on the  
1462 assessment; or

1463 (b) the validity, enforceability, or priority of an energy assessment lien.

1464 (7) Each reduction of a prior assessment and the interest on the assessment continues to  
1465 exist in favor of the refunding assessment bonds.

1466 (8) Even after payment in full of the prior bonds that a refunding assessment bond  
1467 refunds, an energy assessment lien continues to exist to secure payment of:

1468 (a) the reduced payment obligations;

1469 (b) the penalties and costs of collection of those obligations; and

1470 (c) the refunding assessment bond.

1471 (9) A lien securing a reduced payment obligation from which a refunding assessment  
1472 bond is payable and by which the bond is secured is subordinate to an energy assessment lien  
1473 that secures the original or prior assessment and prior bonds until the prior bonds are paid in  
1474 full or legally considered to be paid in full.

1475 (10) Unless prior bonds are paid in full simultaneously with the issuance of a refunding  
1476 assessment bond, the local entity shall:

1477 (a) irrevocably set aside the proceeds of the refunding assessment bond in an escrow or  
1478 other separate account; and

1479 (b) pledge the account described in Subsection (10)(a) as security for the payment of  
1480 the prior bonds, the refunding assessment bond, or both.

1481 (11) This part applies to any refunding assessment bond:

1482 (a) regardless of whether the local entity already issued the bond; and

1483 (b) regardless of whether the local entity issued the prior bonds that the bond refunded  
1484 under prior law and regardless of whether that law is currently in effect.

1485 Section 28. Section **63I-1-263** is amended to read:

1486 **63I-1-263. Repeal dates, Titles 63A to 63N.**

1487 (1) Subsection **63A-5-104**(4)(h) is repealed on July 1, 2024.

1488 (2) Section **63A-5-603**, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

1489 (3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July  
1490 1, 2018.

1491 (4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is  
1492 repealed November 30, 2019.

1493 (5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1,  
1494 2020.

1495 (6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is  
1496 repealed July 1, 2021.

1497 (7) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,  
1498 2020.

1499 (8) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

1500 (9) On July 1, 2025:

1501 (a) in Subsection **17-27a-404**(3)(c)(ii), the language that states "the Resource  
1502 Development Coordinating Committee," is repealed;

1503 (b) Subsection **23-14-21**(2)(c) is amended to read "(c) provide notification of proposed  
1504 sites for the transplant of species to local government officials having jurisdiction over areas  
1505 that may be affected by a transplant.";

1506 (c) in Subsection **23-14-21**(3), the language that states "and the Resource Development  
1507 Coordinating Committee" is repealed;

1508 (d) in Subsection **23-21-2.3**(1), the language that states "the Resource Development  
1509 Coordinating Committee created in Section **63J-4-501** and" is repealed;

1510 (e) in Subsection **23-21-2.3**(2), the language that states "the Resource Development  
1511 Coordinating Committee and" is repealed;

1512 (f) Subsection **63J-4-102**(1) is repealed and the remaining subsections are renumbered  
1513 accordingly;

- 1514 (g) Subsections 63J-4-401(5)(a) and (c) are repealed;
- 1515 (h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the
- 1516 word "and" is inserted immediately after the semicolon;
- 1517 (i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);
- 1518 (j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed;
- 1519 and

1520 (k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are

1521 renumbered accordingly.

1522 (10) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.

1523 (b) When repealing Subsection 63J-1-602.4(15), the Office of Legislative Research and

1524 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make

1525 necessary changes to subsection numbering and cross references.

1526 [~~(10)~~] (11) The Crime Victim Reparations and Assistance Board, created in Section

1527 63M-7-504, is repealed July 1, 2017.

1528 [~~(11)~~] (12) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,

1529 2017.

1530 [~~(12)~~] (13) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

1531 [~~(13)~~] (14) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act,

1532 is repealed January 1, 2021.

1533 (b) Subject to Subsection [~~(13)~~] (14)(c), Sections 59-7-610 and 59-10-1007 regarding

1534 tax credits for certain persons in recycling market development zones, are repealed for taxable

1535 years beginning on or after January 1, 2021.

1536 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

1537 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or

1538 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

1539 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if

1540 the expenditure is made on or after January 1, 2021.

1541 (d) Notwithstanding Subsections [~~(13)~~] (14)(b) and (c), a person may carry forward a

1542 tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

1543 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

1544 (ii) (A) for the purchase price of machinery or equipment described in Section

1545 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,  
1546 2020; or

1547 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the  
1548 expenditure is made on or before December 31, 2020.

1549 ~~[(14)]~~ (15) Section 63N-2-512 is repealed on July 1, 2021.

1550 ~~[(15)]~~ (16) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed  
1551 January 1, 2021.

1552 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for  
1553 calendar years beginning on or after January 1, 2021.

1554 (c) Notwithstanding Subsection ~~[(15)]~~ (16)(b), an entity may carry forward a tax credit  
1555 in accordance with Section 59-9-107 if:

1556 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December  
1557 31, 2020; and

1558 (ii) the qualified equity investment that is the basis of the tax credit is certified under  
1559 Section 63N-2-603 on or before December 31, 2023.

1560 ~~[(16)]~~ (17) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed  
1561 July 1, 2018.

1562 Section 29. Section 63J-1-505 is amended to read:

1563 **63J-1-505. Payment of fees prerequisite to service -- Exception.**

1564 (1) (a) State and county officers required by law to charge fees may not perform any  
1565 official service unless the fees prescribed for that service are paid in advance.

1566 (b) When the fee is paid, the officer shall perform the services required.

1567 (c) An officer is liable upon the officer's official bond for every failure or refusal to  
1568 perform an official duty when the fees are tendered.

1569 (2) (a) Except as provided in Subsection (2)(b), no fees may be charged:

1570 (i) to the officer's state, or any county or subdivision of the state;

1571 (ii) to any public officer acting for the state, county, or subdivision;

1572 (iii) in cases of habeas corpus;

1573 (iv) in criminal causes before final judgment;

1574 (v) for administering and certifying the oath of office;

1575 (vi) for swearing pensioners and their witnesses; or

- 1576 (vii) for filing and recording bonds of public officers.
- 1577 (b) Fees may be charged for payment:
- 1578 (i) of recording fees for assessment area recordings in compliance with [Section]
- 1579 Sections 11-42-205 and 11-42a-302;
- 1580 (ii) of recording fees for judgments recorded in compliance with Sections 57-3-106 and
- 1581 78A-7-105; and
- 1582 (iii) to the state engineer under Section 73-2-14.
- 1583 Section 30. Section **63J-1-602.4** is amended to read:
- 1584 **63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.**
- 1585 (1) Funds paid to the Division of Real Estate for the cost of a criminal background
- 1586 check for a mortgage loan license, as provided in Section 61-2c-202.
- 1587 (2) Funds paid to the Division of Real Estate for the cost of a criminal background
- 1588 check for principal broker, associate broker, and sales agent licenses, as provided in Section
- 1589 61-2f-204.
- 1590 (3) Certain funds donated to the Department of Human Services, as provided in
- 1591 Section 62A-1-111.
- 1592 (4) Appropriations from the National Professional Men's Basketball Team Support of
- 1593 Women and Children Issues Restricted Account created in Section 62A-1-202.
- 1594 (5) Certain funds donated to the Division of Child and Family Services, as provided in
- 1595 Section 62A-4a-110.
- 1596 (6) Appropriations from the Choose Life Adoption Support Restricted Account created
- 1597 in Section 62A-4a-608.
- 1598 (7) Appropriations to the Division of Services for People with Disabilities, as provided
- 1599 in Section 62A-5-102.
- 1600 (8) Appropriations to the Division of Fleet Operations for the purpose of upgrading
- 1601 underground storage tanks under Section 63A-9-401.
- 1602 (9) A portion of the funds appropriated to the Utah Seismic Safety Commission, as
- 1603 provided in Section 63C-6-104.
- 1604 (10) Funds appropriated or collected for publishing the Office of Administrative Rules'
- 1605 publications, as provided in Section 63G-3-402.
- 1606 (11) The Immigration Act Restricted Account created in Section 63G-12-103.

1607 (12) Money received by the military installation development authority, as provided in  
1608 Section [63H-1-504](#).

1609 (13) Appropriations to the Utah Science Technology and Research Initiative created in  
1610 Section [63M-2-301](#).

1611 (14) Appropriations to fund the Governor's Office of Economic Development's  
1612 Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

1613 (15) Funds collected for directing and administering the C-PACE district created in  
1614 Section [11-42a-302](#).

1615 [~~15~~] (16) The Motion Picture Incentive Account created in Section [63N-8-103](#).

1616 [~~16~~] (17) Certain money payable for commission expenses of the Pete Suazo Utah  
1617 Athletic Commission, as provided under Section [63N-10-301](#).

1618 Section 31. Section **63M-4-401** is amended to read:

1619 **63M-4-401. Creation of Office of Energy Development -- Director -- Purpose --**  
1620 **Rulemaking regarding confidential information.**

1621 (1) There is created an Office of Energy Development.

1622 (2) (a) The governor's energy advisor shall serve as the director of the office or appoint  
1623 a director of the office.

1624 (b) The director:

1625 (i) shall, if the governor's energy advisor appoints a director under Subsection (2)(a),  
1626 report to the governor's energy advisor; and

1627 (ii) may appoint staff as funding within existing budgets allows.

1628 (c) The office may consolidate energy staff and functions existing in the state energy  
1629 program.

1630 (3) The purposes of the office are to:

1631 (a) serve as the primary resource for advancing energy and mineral development in the  
1632 state;

1633 (b) implement:

1634 (i) the state energy policy under Section [63M-4-301](#); and

1635 (ii) the governor's energy and mineral development goals and objectives;

1636 (c) advance energy education, outreach, and research, including the creation of  
1637 elementary, higher education, and technical college energy education programs;

1638 (d) promote energy and mineral development workforce initiatives; and  
1639 (e) support collaborative research initiatives targeted at Utah-specific energy and  
1640 mineral development.

1641 (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal  
1642 Funds Procedures Act, the office may:

1643 (a) seek federal grants or loans;  
1644 (b) seek to participate in federal programs; and  
1645 (c) in accordance with applicable federal program guidelines, administer federally  
1646 funded state energy programs.

1647 (5) The office shall perform the duties required by Sections [11-42a-106](#), [59-7-614.7](#),  
1648 [59-10-1029](#), Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost  
1649 Infrastructure Development Tax Credit Act.

1650 (6) (a) For purposes of administering this section, the office may make rules, by  
1651 following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative  
1652 Rulemaking Act, to maintain as confidential, and not as a public record, information that the  
1653 office receives from any source.

1654 (b) The office shall maintain information the office receives from any source at the  
1655 level of confidentiality assigned by the source.

1656 (7) The office may charge application, filing, and processing fees in amounts  
1657 determined by the office in accordance with Section [63J-1-504](#) for performing office duties  
1658 described in this part.

1659 Section 32. **Repealer.**

1660 This bill repeals:

1661 Section [11-42-209](#), **Designation of assessment area for an energy efficiency**  
1662 **upgrade, a renewable energy system, or electric vehicle charging infrastructure --**  
1663 **Requirements.**

1664 Section 33. **Effective date.**

1665 If approved by two-thirds of all the members elected to each house, this bill takes effect  
1666 upon approval by the governor, or the day following the constitutional time limit of Utah  
1667 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
1668 the date of veto override.