

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 678
Agriculture, Energy, and Environment Committee Substitute Adopted 4/19/23
Third Edition Engrossed 4/26/23
PROPOSED HOUSE COMMITTEE SUBSTITUTE S678-PCS45360-RIF-20

Short Title: Clean Energy/Other Changes. (Public)

Sponsors:

Referred to:

April 10, 2023

A BILL TO BE ENTITLED

AN ACT TO: (I) REDEFINE "RENEWABLE ENERGY" AS "CLEAN ENERGY," TO PROVIDE THAT THE TERM INCLUDES NUCLEAR RESOURCES AND FUSION ENERGY, AND TO ELIMINATE LANGUAGE IMPEDING CPCN ISSUANCE FOR NUCLEAR FACILITIES; (II) MODIFY CLOSURE DEADLINES FOR CERTAIN COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS; (III) MODIFY APPLICATIONS FEES FOR DAM CONSTRUCTION, REPAIR, ALTERATION, OR REMOVAL UNDER THE DAM SAFETY ACT; AND (IV) INCREASE THE ROOFTOP SOLAR LEASING CAP.

The General Assembly of North Carolina enacts:

PART I. PROMOTE CLEAN ENERGY

SECTION 1.(a) G.S. 62-133.8 reads as rewritten:

"§ 62-133.8. ~~Renewable~~Clean Energy and Energy Efficiency Portfolio Standard ~~(REPS)~~~~(CEPS)~~."

(a) Definitions. – As used in this section:

- (1) "Combined heat and power system" means a system that uses waste heat to produce electricity or useful, measurable thermal or mechanical energy at a retail electric customer's facility.
- (2) "Demand-side management" means activities, programs, or initiatives undertaken by an electric power supplier or its customers to shift the timing of electricity use from peak to nonpeak demand periods. "Demand-side management" includes, but is not limited to, load management, electric system equipment and operating controls, direct load control, and interruptible load.
- (3) "Electric power supplier" means a public utility, an electric membership corporation, or a municipality that sells electric power to retail electric power customers in the State.
- (3a) "Electricity demand reduction" means a measurable reduction in the electricity demand of a retail electric customer that is voluntary, under the real-time control of both the electric power supplier and the retail electric customer, and measured in real time, using two-way communications devices that communicate on the basis of standards.
- (4) "Energy efficiency measure" means an equipment, physical, or program change implemented after January 1, 2007, that results in less energy used to



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- 1 perform the same function. "Energy efficiency measure" includes, but is not
 2 limited to, energy produced from a combined heat and power system that uses
 3 ~~nonrenewable-non-clean~~ energy resources. "Energy efficiency measure" does
 4 not include demand-side management.
- 5 (4a) "Fusion" means a reaction in which at least one heavier, more stable nucleus
 6 is produced from two lighter, less stable nuclei, typically through high
 7 temperatures and pressures, emitting energy as a result.
- 8 (4b) "Fusion energy" means the product of fusion reactions inside a "fusion
 9 device," used for the purpose of generating electricity or other commercially
 10 usable forms of energy.
- 11 (5) "New ~~renewable-clean~~ energy facility" means a ~~renewable-clean~~ energy
 12 facility that either:
 13 a. Was placed into service on or after January 1, 2007.
 14 b. Delivers or has delivered electric power to an electric power supplier
 15 pursuant to a contract with NC GreenPower Corporation that was
 16 entered into prior to January 1, 2007.
 17 c. Is a hydroelectric power facility with a generation capacity of 10
 18 megawatts or less that delivers electric power to an electric power
 19 supplier.
- 20 (6) "Renewable energy certificate" means a tradable instrument that is equal to
 21 one megawatt hour of electricity or equivalent energy supplied by a ~~renewable~~
 22 clean energy facility, new ~~renewable-clean~~ energy facility, or reduced by
 23 implementation of an energy efficiency measure that is used to track and
 24 verify compliance with the requirements of this section as determined by the
 25 Commission. A "renewable energy certificate" does not include the related
 26 emission reductions, including, but not limited to, reductions of sulfur dioxide,
 27 oxides of nitrogen, mercury, or carbon dioxide.
- 28 (7) ~~"Renewable"~~ "Clean energy facility" means a facility, other than a
 29 hydroelectric power facility with a generation capacity of more than 10
 30 megawatts, that either:
 31 a. Generates electric power by the use of a ~~renewable-clean~~ energy
 32 resource.
 33 b. Generates useful, measurable combined heat and power derived from
 34 a ~~renewable-clean~~ energy resource.
 35 c. Is a solar thermal energy facility.
- 36 (8) ~~"Renewable"~~ "Clean energy resource" means a solar electric, solar thermal,
 37 wind, hydropower, geothermal, or ocean current or wave energy resource; a
 38 biomass resource, including agricultural waste, animal waste, wood waste,
 39 spent pulping liquors, combustible residues, combustible liquids, combustible
 40 gases, energy crops, or landfill methane; waste heat derived from a ~~renewable~~
 41 clean energy resource and used to produce electricity or useful, measurable
 42 thermal energy at a retail electric customer's facility; nuclear energy resources,
 43 including an uprate to a nuclear energy facility; fusion energy; or hydrogen
 44 derived from a ~~renewable-clean~~ energy resource. ~~"Renewable"~~ "Clean energy
 45 resource" does not include peat, ~~a fossil fuel, or nuclear energy resource.~~ or a
 46 fossil fuel.
- 47 (b) ~~Renewable-Clean~~ Energy and Energy Efficiency Standards ~~(REPS)-(CEPS)~~ for
 48 Electric Public Utilities. –
- 49 (1) Each electric public utility in the State shall be subject to a ~~Renewable-Clean~~
 50 Energy and Energy Efficiency Portfolio Standard ~~(REPS)-CEPS~~ according to
 51 the following schedule:

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Calendar Year	REPS-CEPS Requirement
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018	10% of 2017 North Carolina retail sales
2021 and thereafter	12.5% of 2020 North Carolina retail sales

(2) An electric public utility may meet the requirements of this section by any one or more of the following:

- a. Generate electric power at a new ~~renewable-clean~~ energy facility.
- b. Use a ~~renewable-clean~~ energy resource to generate electric power at a generating facility other than the generation of electric power from waste heat derived from the combustion of fossil fuel.
- c. Reduce energy consumption through the implementation of an energy efficiency measure; provided, however, an electric public utility subject to the provisions of this subsection may meet up to twenty-five percent (25%) of the requirements of this section through savings due to implementation of energy efficiency measures. Beginning in calendar year 2021 and each year thereafter, an electric public utility may meet up to forty percent (40%) of the requirements of this section through savings due to implementation of energy efficiency measures.
- d. Purchase electric power from a new ~~renewable-clean~~ energy facility. Electric power purchased from a new ~~renewable-clean~~ energy facility located outside the geographic boundaries of the State shall meet the requirements of this section if the electric power is delivered to a public utility that provides electric power to retail electric customers in the State; provided, however, the electric public utility shall not sell the renewable energy certificates created pursuant to this paragraph to another electric public utility.
- e. Purchase renewable energy certificates derived from in-State or out-of-state new ~~renewable-clean~~ energy facilities. Certificates derived from out-of-state new ~~renewable-clean~~ energy facilities shall not be used to meet more than twenty-five percent (25%) of the requirements of this section, provided that this limitation shall not apply to an electric public utility with less than 150,000 North Carolina retail jurisdictional customers as of December 31, 2006.
- f. Use electric power that is supplied by a new ~~renewable-clean~~ energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements of this section for any calendar year as a credit towards the requirements of this section in the following calendar year or sell the associated renewable energy certificates.
- g. Electricity demand reduction.

(c) ~~Renewable-Clean~~ Energy and Energy Efficiency Standards (~~REPS~~)-(~~CEPS~~) for Electric Membership Corporations and Municipalities. –

(1) Each electric membership corporation or municipality that sells electric power to retail electric power customers in the State shall be subject to a ~~Renewable Clean~~ Energy and Energy Efficiency Portfolio Standard (~~REPS~~)-(~~CEPS~~) according to the following schedule:

Calendar Year	REPS-CEPS Requirement
2012	3% of 2011 North Carolina retail sales

1 (e) Compliance With ~~REPS-CEPS~~ Requirement Through Use of Swine Waste Resources.
 2 – For calendar year 2018 and for each calendar year thereafter, at least two-tenths of one percent
 3 (0.2%) of the total electric power in kilowatt hours sold to retail electric customers in the State
 4 shall be supplied, or contracted for supply in each year, by swine waste. The electric power
 5 suppliers, in the aggregate, shall comply with the requirements of this subsection according to
 6 the following schedule:

Calendar Year	Requirement for Swine Waste Resources
2012	0.07%
2015	0.14%
2018	0.20%

13 (f) Compliance With ~~REPS-CEPS~~ Requirement Through Use of Poultry Waste
 14 Resources. – For calendar year 2014 and for each calendar year thereafter, at least 900,000
 15 megawatt hours of the total electric power sold to retail electric customers in the State or an
 16 equivalent amount of energy shall be supplied, or contracted for supply in each year, by poultry
 17 waste combined with wood shavings, straw, rice hulls, or other bedding material. The electric
 18 power suppliers, in the aggregate, shall comply with the requirements of this subsection
 19 according to the following schedule:

Calendar Year	Requirement for Poultry Waste Resources
2012	170,000 megawatt hours
2013	700,000 megawatt hours
2014	900,000 megawatt hours

26 (g) Control of Emissions. – As used in this subsection, Best Available Control
 27 Technology (BACT) means an emissions limitation based on the maximum degree a reduction
 28 in the emission of air pollutants that is achievable for a facility, taking into account energy,
 29 environmental, and economic impacts and other costs. A biomass combustion process at any new
 30 ~~renewable-clean~~ energy facility that delivers electric power to an electric power supplier shall
 31 meet BACT. The Environmental Management Commission shall determine on a case-by-case
 32 basis the BACT for a facility that would not otherwise be required to comply with BACT
 33 pursuant to the Prevention of Significant Deterioration (PSD) emissions program. The
 34 Environmental Management Commission may adopt rules to implement this subsection. In
 35 adopting rules, the Environmental Management Commission shall take into account cumulative
 36 and secondary impacts associated with the concentration of biomass facilities in close proximity
 37 to one another. In adopting rules the Environmental Management Commission shall provide for
 38 the manner in which a facility that would not otherwise be required to comply with BACT
 39 pursuant to the PSD emissions programs shall meet the BACT requirement. This subsection shall
 40 not apply to a facility that qualifies as a new ~~renewable-clean~~ energy facility under
 41 sub-subdivision b. of subdivision (5) of subsection (a) of this section.

42 ...
 43 (i) Adoption of Rules. – The Commission shall adopt rules to implement the provisions
 44 of this section. In developing rules, the Commission shall:

- 45 (1) Provide for the monitoring of compliance with and enforcement of the
 46 requirements of this section.
- 47 (2) Include a procedure to modify or delay the provisions of subsections (b), (c),
 48 (d), (e), and (f) of this section in whole or in part if the Commission determines
 49 that it is in the public interest to do so. The procedure adopted pursuant to this
 50 subdivision shall include a requirement that the electric power supplier

- 1 demonstrate that it made a reasonable effort to meet the requirements set out
2 in this section.
- 3 (3) Ensure that energy credited toward compliance with the provisions of this
4 section not be credited toward any other purpose, including another ~~renewable~~
5 clean energy portfolio standard or voluntary ~~renewable~~clean energy purchase
6 program in this State or any other state.
- 7 (4) Establish standards for interconnection of ~~renewable~~clean energy facilities
8 and other nonutility-owned generation with a generation capacity of 10
9 megawatts or less to an electric public utility's distribution system; provided,
10 however, that the Commission shall adopt, if appropriate, federal
11 interconnection standards. The standards adopted pursuant to this subdivision
12 shall include an expedited review process for swine and poultry waste to
13 energy projects of two megawatts (MW) or less and other measures necessary
14 and appropriate to achieve the objectives of subsections (e) and (f) of this
15 section.
- 16 (5) Ensure that the owner and operator of each ~~renewable~~clean energy facility
17 that delivers electric power to an electric power supplier is in substantial
18 compliance with all federal and state laws, regulations, and rules for the
19 protection of the environment and conservation of natural resources.
- 20 (6) Consider whether it is in the public interest to adopt rules for electric public
21 utilities for net metering of ~~renewable~~clean energy facilities with a generation
22 capacity of one megawatt or less.
- 23 (7) Develop procedures to track and account for renewable energy certificates,
24 including ownership of renewable energy certificates that are derived from a
25 customer owned ~~renewable~~clean energy facility as a result of any action by a
26 customer of an electric power supplier that is independent of a program
27 sponsored by the electric power supplier.
- 28 (j) Repealed by Session Laws 2021-23, s. 16, effective May 17, 2021.
- 29 (k) Tracking of Renewable Energy Certificates. – No later than July 1, 2010, the
30 Commission shall develop, implement, and maintain an Internet Web site for the online tracking
31 of renewable energy certificates in order to verify the compliance of electric power suppliers with
32 the ~~REPS-CEPS~~ requirements of this section and to facilitate the establishment of a market for
33 the purchase and sale of renewable energy certificates.
- 34 (l) The owner, including an electric power supplier, of each ~~renewable~~clean energy
35 facility or new ~~renewable~~clean energy facility, whether or not required to obtain a certificate of
36 public convenience and necessity pursuant to G.S. 62-110.1, that intends for renewable energy
37 certificates it earns to be eligible for use by an electric power supplier to comply with
38 G.S. 62-133.8 shall register the facility with the Commission. Such an owner shall file a
39 registration statement in the form prescribed by the Commission and remit to the Commission
40 the fee required pursuant to G.S. 62-300(a)(16)."
- 41 **SECTION 1.(b)** G.S. 62-2(a) reads as rewritten:
42 **"§ 62-2. Declaration of policy.**
43 (a) Upon investigation, it has been determined that the rates, services and operations of
44 public utilities as defined herein, are affected with the public interest and that the availability of
45 an adequate and reliable supply of electric power and natural gas to the people, economy and
46 government of North Carolina is a matter of public policy. It is hereby declared to be the policy
47 of the State of North Carolina:
48 ...
49 (10) To promote the development of ~~renewable~~clean energy and energy efficiency
50 through the implementation of a ~~Renewable-Clean~~ Energy and Energy
51 Efficiency Portfolio Standard (~~REPS~~)(CEPS) that will do all of the following:

- a. Diversify the resources used to reliably meet the energy needs of consumers in the State.
- b. Provide greater energy security through the use of indigenous energy resources available within the State.
- c. Encourage private investment in ~~renewable~~-clean energy and energy efficiency.
- d. Provide improved air quality and other benefits to energy consumers and citizens of the State."

SECTION 1.(c) G.S. 62-110.8 reads as rewritten:

"§ 62-110.8. **Competitive procurement of ~~renewable~~-clean energy.**

(a) Each electric public utility shall file for Commission approval a program for the competitive procurement of energy and capacity from ~~renewable~~-clean energy facilities with the purpose of adding ~~renewable~~-clean energy to the State's generation portfolio in a manner that allows the State's electric public utilities to continue to reliably and cost-effectively serve customers' future energy needs. ~~Renewable-Clean~~ energy facilities eligible to participate in the competitive procurement shall include those facilities that use ~~renewable~~-clean energy resources identified in G.S. 62-133.8(a)(8) but shall be limited to facilities with a nameplate capacity rating of 80 megawatts (MW) or less that are placed in service after the date of the electric public utility's initial competitive procurement. Subject to the limitations set forth in subsections (b) and (c) of this section, the electric public utilities shall issue requests for proposals to procure and shall procure, energy and capacity from ~~renewable~~-clean energy facilities in the aggregate amount of 2,660 megawatts (MW), and the total amount shall be reasonably allocated over a term of 45 months beginning when the Commission approves the program. The Commission shall require the additional competitive procurement of ~~renewable~~-clean energy capacity by the electric public utilities in an amount that includes all of the following: (i) any unawarded portion of the initial competitive procurement required by this subsection; (ii) any deficit in ~~renewable~~-clean energy capacity identified pursuant to subdivision (1) of subsection (b) of this section; and (iii) any capacity reallocated pursuant to G.S. 62-159.2.

(b) Electric public utilities may jointly or individually implement the aggregate competitive procurement requirements set forth in subsection (a) of this section and may satisfy such requirements for the procurement of ~~renewable~~-clean energy capacity to be supplied by ~~renewable~~-clean energy facilities through any of the following: (i) ~~renewable~~-clean energy facilities to be acquired from third parties and subsequently owned and operated by the soliciting public utility or utilities; (ii) ~~renewable~~-clean energy facilities to be constructed, owned, and operated by the soliciting public utility or utilities subject to the limitations of subdivision (4) of this subsection; or (iii) the purchase of ~~renewable~~-clean energy, capacity, and environmental and ~~renewable~~-clean attributes from ~~renewable~~-clean energy facilities owned and operated by third parties that commit to allow the procuring public utility rights to dispatch, operate, and control the solicited ~~renewable~~-clean energy facilities in the same manner as the utility's own generating resources. Procured ~~renewable~~-clean energy capacity, as provided for in this section, shall be subject to the following limitations:

- (1) If prior to the end of the initial 45-month competitive procurement period the public utilities subject to this section have executed power purchase agreements and interconnection agreements for ~~renewable~~-clean energy capacity within their balancing authority areas that are not subject to economic dispatch or curtailment and were not procured pursuant to G.S. 62-159.2 having an aggregate capacity in excess of 3,500 megawatts (MW), the Commission shall reduce the competitive procurement aggregate amount by the amount of such exceedance. If the aggregate capacity of such ~~renewable~~-clean energy facilities is less than 3,500 megawatts (MW) at the end of the initial 45-month competitive procurement period, the Commission shall

1 require the electric public utilities to conduct an additional competitive
2 procurement in the amount of such deficit.

3 ...

4 (4) No more than thirty percent (30%) of an electric public utility's competitive
5 procurement requirement may be satisfied through the utility's own
6 development of ~~renewable-clean~~ energy facilities offered by the electric public
7 utility or any subsidiary of the electric public utility that is located within the
8 electric public utility's service territory. This limitation shall not apply to any
9 ~~renewable-clean~~ energy facilities acquired by an electric public utility that are
10 selected through the competitive procurement and are located within the
11 electric public utility's service territory.

12 (c) Subject to the aggregate competitive procurement requirements established by this
13 section, the electric public utilities shall have the authority to determine the location and allocated
14 amount of the competitive procurement within their respective balancing authority areas, whether
15 located inside or outside the geographic boundaries of the State, taking into consideration (i) the
16 State's desire to foster diversification of siting of ~~renewable-clean~~ energy resources throughout
17 the State; (ii) the efficiency and reliability impacts of siting of additional ~~renewable-clean~~ energy
18 facilities in each public utility's service territory; and (iii) the potential for increased delivered
19 cost to a public utility's customers as a result of siting additional ~~renewable-clean~~ energy facilities
20 in a public utility's service territory, including additional costs of ancillary services that may be
21 imposed due to the operational or locational characteristics of a specific ~~renewable-clean~~ energy
22 resource technology, such as nondispatchability, unreliability of availability, and creation or
23 exacerbation of system congestion that may increase redispatch costs.

24 (d) The competitive procurement of ~~renewable-clean~~ energy capacity established
25 pursuant to this section shall be independently administered by a third-party entity to be approved
26 by the Commission. The third-party entity shall develop and publish the methodology used to
27 evaluate responses received pursuant to a competitive procurement solicitation and to ensure that
28 all responses are treated equitably. All reasonable and prudent administrative and related
29 expenses incurred to implement this subsection shall be recovered from market participants
30 through administrative fees levied upon those that participate in the competitive bidding process,
31 as approved by the Commission.

32 ...

33 (g) An electric public utility shall be authorized to recover the costs of all purchases of
34 energy, capacity, and environmental and ~~renewable-clean~~ attributes from third-party ~~renewable~~
35 ~~clean~~ energy facilities and to recover the authorized revenue of any utility-owned assets that are
36 procured pursuant to this section through an annual rider approved by the Commission and
37 reviewed annually. Provided it is in the public interest, the authorized revenue for any ~~renewable~~
38 ~~clean~~ energy facilities owned by an electric public utility may be calculated on a market basis in
39 lieu of cost-of-service based recovery, using data from the applicable competitive procurement
40 to determine the market price in accordance with the methodology established by the
41 Commission pursuant to subsection (h) of this section. The annual increase in the aggregate
42 amount of these costs that are recoverable by an electric public utility pursuant to this subsection
43 shall not exceed one percent (1%) of the electric public utility's total North Carolina retail
44 jurisdictional gross revenues for the preceding calendar year.

45 (h) The Commission shall adopt rules to implement the requirements of this section, as
46 follows:

- 47 (1) Oversight of the competitive procurement program.
- 48 (2) To provide for a waiver of regulatory conditions or code of conduct
49 requirements that would unreasonably restrict a public utility or its affiliates
50 from participating in the competitive procurement process, unless the

- 1 Commission finds that such a waiver would not hold the public utility's
2 customers harmless.
- 3 (3) Establishment of a procedure for expedited review and approval of certificates
4 of public convenience and necessity, or the transfer thereof, for ~~renewable~~
5 clean energy facilities owned by the public utility and procured pursuant to
6 this section. The Commission shall issue an order not later than 30 days after
7 a petition for a certificate is filed by the public utility.
- 8 (4) Establishment of a methodology to allow an electric public utility to recover
9 its costs pursuant to subsection (g) of this section.
- 10 (5) Repealed by Session Laws 2021-165, s. 2(b), effective October 13, 2021.
- 11 (i) The requirements of this section shall not apply to an electric public utility serving
12 fewer than 150,000 North Carolina retail jurisdictional customers as of January 1, 2017."

13 **SECTION 1.(d)** G.S. 62-126.4 reads as rewritten:

14 **"§ 62-126.4. Commission to establish net metering rates.**

15 (a) Each electric public utility shall file for Commission approval revised net metering
16 rates for electric customers that (i) own a ~~renewable-clean~~ energy facility for that person's own
17 primary use or (ii) are customer generator lessees.

18 ...

19 (c) Until the rates have been approved by the Commission as required by this section, the
20 rate shall be the applicable net metering rate in place at the time the facility interconnects. Retail
21 customers that own and install an on-site ~~renewable-clean~~ energy facility and interconnect to the
22 grid prior to the date the Commission approves new metering rates may elect to continue net
23 metering under the net metering rate in effect at the time of interconnection until January 1,
24 2027."

25 **SECTION 1.(f)** G.S. 62-133.2 reads as rewritten:

26 **"§ 62-133.2. Fuel and fuel-related charge adjustments for electric utilities.**

27 (a) The Commission shall permit an electric public utility that generates electric power
28 by fossil fuel or nuclear fuel to charge an increment or decrement as a rider to its rates for changes
29 in the cost of fuel and fuel-related costs used in providing its North Carolina customers with
30 electricity from the cost of fuel and fuel-related costs established in the electric public utility's
31 previous general rate case on the basis of cost per kilowatt hour.

32 (a1) As used in this section, "cost of fuel and fuel-related costs" means all of the following:

33 ...

34 (6) Except for those costs recovered pursuant to G.S. 62-133.8(h), the total
35 delivered costs of all purchases of power from ~~renewable-clean~~ energy
36 facilities and new ~~renewable-clean~~ energy facilities pursuant to G.S. 62-133.8
37 or to comply with any federal mandate that is similar to the requirements of
38 subsections (b), (c), (d), (e), and (f) of G.S. 62-133.8.

39 ...

40 (11) All nonadministrative costs related to the ~~renewable-clean~~ energy procurement
41 pursuant to G.S. 62-159.2 not recovered from the program participants.

42"

43 **SECTION 1.(g)** G.S. 62-133.16 reads as rewritten:

44 **"§ 62-133.16. Performance-based regulation authorized.**

45 ...

46 (d) Commission Action on Application. –

47 ...

48 (2) In reviewing any such PBR application under this section, the Commission
49 may consider whether the PBR application:

- 50 a. Encourages peak load reduction or efficient use of the system.
51 b. Encourages utility-scale ~~renewable-clean~~ energy and storage.

...."

SECTION 1.(h) G.S. 62-133.20 reads as rewritten:

"§ 62-133.20. **Cleanfields ~~renewable-clean~~ energy demonstration parks.**

(a) Criteria for Designation. – A parcel or tract of land, or any combination of contiguous parcels or tracts of land, that meet all of the following criteria may be designated as a cleanfields ~~renewable-clean~~ energy demonstration park:

...

(7) The creation of the park is for the purpose of featuring clean-energy facilities, laboratories, and companies, thereby spurring economic growth by attracting ~~renewable-clean~~ energy and alternative fuel industries.

(8) The development plan for the park must include at least three ~~renewable-clean~~ energy or alternative fuel facilities.

(9) The development plan for the park must include a biomass ~~renewable-clean~~ energy facility that utilizes refuse derived fuel, including yard waste, wood waste, and waste generated from construction and demolition, but not including wood directly derived from whole trees, as the primary source for generating energy. The refuse derived fuel shall undergo an enhanced recycling process before being utilized by the biomass ~~renewable-clean~~ energy facility.

(10) The initial biomass ~~renewable-clean~~ energy facility will not be a major source, as that term is defined in 40 C.F.R. § 70.2 (July 1, 2009 edition), for air quality purposes. The biomass ~~renewable-clean~~ energy facility will remain in compliance with all applicable State and federal emissions requirements throughout its operating life.

(b) Certification. – The owner of a parcel or tract of land that seeks to establish a cleanfields ~~renewable-clean~~ energy demonstration park shall submit to the Secretary of State an application for designation. The Secretary shall examine the application and may request any additional information from the owner of the parcel or tract of land or the Department of Environment and Natural Resources needed to verify that the project meets all of the criteria for designation. The Secretary may rely on certifications provided by the owner or the Department of Environment and Natural Resources that the criteria are met. If the Secretary determines that the project meets all of the criteria, the Secretary shall make and issue a certificate designating the parcel or tract of land as a cleanfields ~~renewable-clean~~ energy demonstration park to the owner and shall file and record the application and certificate in an appropriate book of record. The parcel or tract of land shall be designated as a cleanfields ~~renewable-clean~~ energy demonstration park on the date the certificate is filed and recorded.

(c) ~~Renewable-Clean~~ Energy Generation. – The definitions in G.S. 62-133.8 apply to this section. If the Utilities Commission determines that a biomass ~~renewable-clean~~ energy facility located in the cleanfields ~~renewable-clean~~ energy demonstration park is a new ~~renewable-clean~~ energy facility, the Commission shall assign triple credit to any electric power or renewable energy certificates generated from ~~renewable-clean~~ energy resources at the biomass ~~renewable-clean~~ energy facility that are purchased by an electric power supplier for the purposes of compliance with G.S. 62-133.8. The additional credits assigned to the first 10 megawatts of biomass ~~renewable-clean~~ energy facility generation capacity shall be eligible for use to meet the requirements of G.S. 62-133.8(f). The additional credits assigned to the first 10 megawatts of biomass ~~renewable-clean~~ energy facility generation capacity shall first be used to satisfy the requirements of G.S. 62-133.8(f). Only when the requirements of G.S. 62-133.8(f) are met, shall the additional credits assigned to the first 10 megawatts of biomass ~~renewable-clean~~ energy facility generation capacity be utilized to comply with G.S. 62-133.8(b) and (c). The triple credit shall apply only to the first 20 megawatts of biomass ~~renewable-clean~~ energy facility generation capacity located in all cleanfields ~~renewable-clean~~ energy demonstration parks in the State."

1 **SECTION 1.(i)** G.S. 62-153 reads as rewritten:

2 "**§ 62-153. Contracts of public utilities with certain companies and for services.**

3 ...

4 (b) No public utility shall pay any fees, commissions or compensation of any description
5 whatsoever to any affiliated or subsidiary holding, managing, operating, constructing,
6 engineering, financing or purchasing company or agency for services rendered or to be rendered
7 without first filing copies of all proposed agreements and contracts with the Commission and
8 obtaining its approval. Provided, however, that this subsection shall not apply to (i) motor carriers
9 of passengers or (ii) power purchase agreements entered into pursuant to the competitive
10 ~~renewable-clean~~ energy procurement process established pursuant to G.S. 62-110.8."

11 **SECTION 1.(j)** G.S. 62-156 reads as rewritten:

12 "**§ 62-156. Power sales by small power producers to public utilities.**

13 ...

14 (c) Rates to be paid by electric public utilities to small power producers not eligible for
15 the utility's standard contract pursuant to subsection (b) of this section shall be established
16 through good-faith negotiations between the utility and small power producer, subject to the
17 Commission's oversight as required by law. In establishing rates for purchases from such small
18 power producers, the utility shall design rates consistent with the most recent
19 Commission-approved avoided cost methodology for a fixed five-year term. Rates for such
20 purchases shall take into account factors related to the individual characteristics of the small
21 power producer, as well as the factors identified in subdivisions (2) and (3) of subsection (b) of
22 this section. Notwithstanding this subsection, small power producers that produce electric energy
23 primarily by the use of any of the following ~~renewable-clean~~ energy resources may negotiate for
24 a fixed-term contract that exceeds five years: (i) swine or poultry waste; (ii) hydropower, if the
25 hydroelectric power facility total capacity is equal to or less than five megawatts (MW); or (iii)
26 landfill gas, manure digester gas, agricultural waste digester gas, sewage digester gas, or sewer
27 sludge digester gas.

28 "

29 **SECTION 1.(k)** G.S. 62-159.2 reads as rewritten:

30 "**§ 62-159.2. Direct ~~renewable-clean~~ energy procurement for major military installations,**
31 **public universities, and large customers.**

32 ...

33 (b) Each public utility's program application required by this section shall provide
34 standard contract terms and conditions for participating customers and for ~~renewable-clean~~
35 energy suppliers from which the electric public utility procures energy and capacity on behalf of
36 the participating customer. The application shall allow eligible customers to select the new
37 ~~renewable-clean~~ energy facility from which the electric public utility shall procure energy and
38 capacity. The standard terms and conditions available to ~~renewable-clean~~ energy suppliers shall
39 provide a range of terms, between two years and 20 years, from which the participating customer
40 may elect. Eligible customers shall be allowed to negotiate with ~~renewable-clean~~ energy suppliers
41 regarding price terms.

42 (c) Each contracted amount of capacity shall be limited to no more than one hundred
43 twenty-five percent (125%) of the maximum annual peak demand of the eligible customer
44 premises. Each public utility shall establish reasonable credit requirements for financial
45 assurance for eligible customers that are consistent with the Uniform Commercial Code of North
46 Carolina. Major military installations and The University of North Carolina are exempt from the
47 financial assurance requirements of this section. The requirements of this subsection shall apply
48 except as otherwise provided by law.

49 (d) The program shall be offered by the electric public utilities subject to this section for
50 a period of five years or until December 31, 2022, whichever is later, and shall not exceed a
51 combined 600 megawatts (MW) of total capacity. For the public utilities subject to this section,

1 where a major military installation is located within its Commission-assigned service territory,
 2 at least 100 megawatts (MW) of new ~~renewable-clean~~ energy facility capacity offered under the
 3 program shall be reserved for participation by major military installations. At least 250
 4 megawatts (MW) of new ~~renewable-clean~~ energy facility capacity offered under the programs
 5 shall also be reserved for participation by The University of North Carolina. Major military
 6 installations and The University of North Carolina must fully subscribe to all their allocations
 7 prior to December 31, 2020, or a period of no more than three years after approval of the program,
 8 whichever is later. If any portion of total capacity set aside to major military installations or The
 9 University of North Carolina is not used, it shall be reallocated for use by any eligible program
 10 participant. If any portion of the 600 megawatts (MW) of ~~renewable-clean~~ energy capacity
 11 provided for in this section is not awarded prior to the expiration of the program, it shall be
 12 reallocated to and included in a competitive procurement in accordance with G.S. 62-110.8(a).
 13 The requirements of this subsection shall apply except as otherwise provided by law.

14 (e) In addition to the participating customer's normal retail bill, the total cost of any
 15 ~~renewable-clean~~ energy and capacity procured by or provided by the electric public utility for the
 16 benefit of the program customer shall be paid by that customer. The electric public utility shall
 17 pay the owner of the ~~renewable-clean~~ energy facility which provided the electricity. The program
 18 customer shall receive a bill credit for the energy as determined by the Commission; provided,
 19 however, that the bill credit shall not exceed utility's avoided cost. The Commission shall ensure
 20 that all other customers are held neutral, neither advantaged nor disadvantaged, from the impact
 21 of the ~~renewable-clean~~ electricity procured on behalf of the program customer."

22 **SECTION 1.(l)** G.S. 62-300 reads as rewritten:

23 **"§ 62-300. Particular fees and charges fixed; payment.**

24 (a) The Commission shall receive and collect the following fees and charges in
 25 accordance with the classification of utilities as provided in rules and regulations of the
 26 Commission, and no others:

27 ...

28 (16) Two hundred fifty dollars (\$250.00) with each application for a certificate of
 29 authority to engage in business as an electric generator lessor filed pursuant
 30 to G.S. 62-126.7 or each registration statement for a ~~renewable-clean~~ energy
 31 facility or new ~~renewable-clean~~ energy facility filed pursuant to
 32 G.S. 62-133.8(l).

33"

34 **SECTION 1.(m)** G.S. 143-213 reads as rewritten:

35 **"§ 143-213. Definitions.**

36 Unless the context otherwise requires, the following terms as used in this Article and Articles
 37 21A and 21B of this Chapter are defined as follows:

38 ...

39 (12a) The term "farm digester system" means a system, including all associated
 40 equipment and lagoon covers, by which gases are collected and processed
 41 from an animal waste management system for the digestion of animal biomass
 42 for use as a ~~renewable-clean~~ energy resource. A farm digester system shall be
 43 considered an agricultural feedlot activity within the meaning of "animal
 44 operation" and shall also be considered a part of an "animal waste
 45 management system" as those terms are defined in G.S. 143-215.10B.

46 ...

47 (14a) The term "~~renewable-~~clean animal biomass energy resource" means any
 48 ~~renewable-clean~~ energy resource, as defined in G.S. 62-133.8(a)(8), that
 49 utilizes animal waste as a biomass resource, including a farm digester system.

50"

51 **SECTION 1.(n)** G.S. 143B-282 reads as rewritten:

1 **"§ 143B-282. Environmental Management Commission – creation; powers and duties.**

2 (a) There is hereby created the Environmental Management Commission of the
3 Department of Environmental Quality with the power and duty to promulgate rules to be followed
4 in the protection, preservation, and enhancement of the water and air resources of the State.

5 ...
6 (6) The Commission may establish a procedure for evaluating ~~renewable-clean~~
7 energy technologies that are, or are proposed to be, employed as part of a
8 ~~renewable-clean~~ energy facility, as defined in G.S. 62-133.8; establish
9 standards to ensure that ~~renewable-clean~~ energy technologies do not harm the
10 environment, natural resources, cultural resources, or public health, safety, or
11 welfare of the State; and, to the extent that there is not an environmental
12 regulatory program, establish an environmental regulatory program to
13 implement these protective standards.

14"

15 **SECTION 1.(o)** G.S. 160A-272 reads as rewritten:

16 **"§ 160A-272. Lease or rental of property.**

17 ...

18 (c) Notwithstanding subsection (b1) of this section, the council may approve a lease
19 without treating that lease as a sale of property for any of the following reasons:

20 (1) For the siting and operation of a ~~renewable-clean~~ energy facility, as that term
21 is defined in G.S. 62-133.8(a)(7), for a term up to 25 years.

22"

23 **SECTION 1.(p)** G.S. 160D-1320 reads as rewritten:

24 **"§ 160D-1320. Program to finance energy improvements.**

25 (a) Purpose. – The General Assembly finds it is in the best interest of the citizens of North
26 Carolina to promote and encourage ~~renewable-clean~~ energy and energy efficiency within the
27 State in order to conserve energy, promote economic competitiveness, and expand employment
28 in the State. The General Assembly also finds that a local government has an integral role in
29 furthering this purpose by promoting and encouraging ~~renewable-clean~~ energy and energy
30 efficiency within the local government's territorial jurisdiction. In furtherance of this purpose, a
31 local government may establish a program to finance the purchase and installation of distributed
32 generation ~~renewable-clean~~ energy sources or energy efficiency improvements that are
33 permanently affixed to residential, commercial, or other real property.

34 (b) Financing Assistance. – A local government may establish a revolving loan fund and
35 a loan loss reserve fund for the purpose of financing or assisting in the financing of the purchase
36 and installation of distributed generation ~~renewable-clean~~ energy sources or energy efficiency
37 improvements that are permanently fixed to residential, commercial, or other real property. A
38 local government may establish other local government energy efficiency and distributed
39 generation ~~renewable-clean~~ energy source finance programs funded through federal grants. A
40 local government may use State and federal grants and loans and its general revenue for this
41 financing. The annual interest rate charged for the use of funds from the revolving fund may not
42 exceed eight percent (8%) per annum, excluding other fees for loan application review and
43 origination. The term of any loan originated under this section may not be greater than 20 years.

44 (c) Definition. – As used in this Article, "~~renewable-~~clean energy source" has the same
45 meaning as "~~renewable-~~clean energy resource" in G.S. 62-133.8."

46 **SECTION 2.** G.S. 62-110.1 reads as rewritten:

47 **"§ 62-110.1. Certificate for construction of generating facility; analysis of long-range needs
48 for expansion of facilities; ongoing review of construction costs; inclusion of
49 approved construction costs in rates.**

50 ...

(e) As a condition for receiving a certificate, the applicant shall file an estimate of construction costs in such detail as the Commission may require. The Commission shall hold a public hearing on each application and no certificate shall be granted unless the Commission has approved the estimated construction costs and made a finding that construction will be consistent with the Commission's plan for expansion of electric generating capacity. A certificate for the construction of ~~a coal or nuclear~~ any electric generating facility shall be granted only if the applicant demonstrates and the Commission finds that energy efficiency measures; demand-side management; renewable clean energy resource generation; combined heat and power generation; or any combination thereof, would not establish or maintain a more cost-effective and reliable generation system and that the construction and operation of the facility is in the public interest. In making its determination, the Commission shall consider resource and fuel diversity and reasonably anticipated future operating costs. Once the Commission grants a certificate, no public utility shall cancel construction of a generating unit or facility without approval from the Commission based upon a finding that the construction is no longer in the public interest.

...

(g) The certification requirements of this section shall not apply to (i) a nonutility-owned generating facility fueled by renewable clean energy resources under two megawatts in capacity; (ii) to persons who construct an electric generating facility primarily for that person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation; or (iii) a solar energy facility or a community solar energy facility, as provided by and subject to the limitations of Article 6B of this Chapter. However, such persons shall be required to report the proposed construction of the facility and the completion of the facility to the Commission and the interconnecting public utility. Such reports shall be for informational purposes only and shall not require action by the Commission or the Public Staff.

(h) Expired pursuant to its own terms, effective January 1, 2011."

PART II. MODIFICATIONS TO CLOSURE DEADLINES FOR CERTAIN COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS

SECTION 3.(a) G.S. 130A-309.214 reads as rewritten:

"§ 130A-309.214. Closure of coal combustion residuals surface impoundments.

(a) An owner of a coal combustion residuals surface impoundment shall submit a proposed Coal Combustion Residuals Surface Impoundment Closure Plan for the Department's approval. If corrective action to restore groundwater has not been completed pursuant to the requirements of G.S. 130A-309.211(b), the proposed closure plan shall include provisions for completion of activities to restore groundwater in conformance with the requirements of Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code. In addition, the following requirements, at a minimum, shall apply to such plans:

...

(2) ~~Intermediate-risk~~ Except as otherwise provided by law, intermediate-risk impoundments shall be closed as soon as practicable, but no later than December 31, 2024. A proposed closure plan for such impoundments must be submitted as soon as practicable, but no later than December 31, 2019. At a minimum, such impoundments shall be dewatered, and the owner of an impoundment shall close the impoundment in any manner allowed pursuant to subdivision (1) of this subsection, or, if applicable, as provided in G.S. 130A-309.216.

...

(3) ~~Low-risk~~ Except as otherwise provided by law, low-risk impoundments shall be closed as soon as practicable, but no later than December 31, 2029. A proposed closure plan for such impoundments must be submitted as soon as practicable, but no later than December 31, 2019. At a minimum, (i)

1 impoundments located in whole above the seasonal high groundwater table
2 shall be dewatered; (ii) impoundments located in whole or in part beneath the
3 seasonal high groundwater table shall be dewatered to the maximum extent
4 practicable; and (iii) at the election of the Department, the owner of an
5 impoundment shall either:

6"

7 **SECTION 3.(b)** The following coal combustion residuals surface impoundments
8 shall be closed as soon as practicable but not later than the following dates, except as otherwise
9 preempted by the requirements of federal law, and notwithstanding any applicable deadlines
10 established in State law, including (i) G.S. 130A-309.214, as amended by subsection (a) of this
11 section, (ii) G.S. 130A-309.216, and (iii) S.L. 2014-122 and S.L. 2016-95:

- 12 (1) Coal combustion residuals surface impoundments located at the H.F. Lee
13 Steam Station owned and operated by Duke Energy Progress, and located in
14 Wayne County, December 31, 2035.
- 15 (2) Coal combustion residuals surface impoundments located at the Cape Fear
16 Steam Station owned and operated by Duke Energy Progress, and located in
17 Chatham County, December 31, 2035.
- 18 (3) Coal combustion residuals surface impoundments located at the Allen Steam
19 Station owned and operated by Duke Energy Carolinas, and located in Gaston
20 County, December 31, 2038.
- 21 (4) Coal combustion residuals surface impoundments located at the Belews Creek
22 Steam Station owned and operated by Duke Energy Carolinas, and located in
23 Stokes County, December 31, 2034.
- 24 (5) Coal combustion residuals surface impoundments located at the Buck Steam
25 Station owned and operated by Duke Energy Carolinas, and located in Rowan
26 County, December 31, 2035.
- 27 (6) Coal combustion residuals surface impoundments located at the Rogers
28 Energy Complex (formerly Cliffside Steam Station) owned and operated by
29 Duke Energy Carolinas, and located in Cleveland County and Rutherford
30 County, December 31, 2029.
- 31 (7) Coal combustion residuals surface impoundments located at the Marshall
32 Steam Station owned and operated by Duke Energy Carolinas, and located in
33 Catawba County, December 31, 2035.
- 34 (8) Coal combustion residuals surface impoundments located at the Mayo Steam
35 Station owned and operated by Duke Energy Progress, and located in Person
36 County, December 31, 2029.
- 37 (9) Coal combustion residuals surface impoundments located at the Roxboro
38 Steam Station owned and operated by Duke Energy Progress, and located in
39 Person County, December 31, 2036.

40 **SECTION 3.(c)** The Environmental Management Commission may adopt
41 permanent rules governing permitting for closure and post-closure of coal combustion residuals
42 surface impoundments and landfills in accordance with the provisions of Chapter 150B of the
43 General Statutes, except the Commission is exempt from the fiscal note requirement of
44 G.S. 150B-21.4 and from the Rules Review Commission review under Part 3 of Article 2A of
45 Chapter 150B of the General Statutes in adopting rules to implement this section.

46 **PART III. DAM SAFETY FEE**

47 **SECTION 4.** G.S. 143-215.28A reads as rewritten:

48 **"§ 143-215.28A. Application fees.**

49 (a) ~~In accordance with G.S. 143-215.3(a)(1a), the Commission may establish a fee~~
50 ~~schedule for processing applications for approvals of construction or removal of dams issued~~
51

1 under this Part. In establishing the fee schedule, the Commission shall consider the administrative
2 and personnel costs incurred by the Department for processing the applications and for related
3 compliance activities. The total amount of fees collected in any fiscal year may not exceed
4 one third of the total personnel and administrative costs incurred by the Department for
5 processing the applications and for related compliance activities in the prior fiscal year. An
6 approval fee may not exceed the larger of two hundred dollars (\$200.00) or two percent (2%) of
7 the actual cost of construction or removal of the applicable dam. The fee for notification of a
8 professionally supervised dam removal under G.S. 143-215.27(c)(1) shall be five hundred dollars
9 (\$500.00) and shall be paid to the Department. The provisions of G.S. 143-215.3(a)(1b) do not
10 apply to these fees.

11 (a1) A nonrefundable application processing and compliance fee in the amount of two and
12 one-quarter percent (2.25%) of the actual cost of construction, repair, alteration, breach, or
13 removal of the applicable dam shall be paid for the processing of applications for approvals of
14 construction, repair, or removal of dams issued under this Part as follows: (i) an initial fee of five
15 hundred dollars (\$500.00) or one-half of the processing and compliance fee based on the
16 engineer's estimated cost of construction, repair, alteration, or removal of the dam, whichever
17 amount is greater, shall be submitted with the application and (ii) the remainder of the processing
18 and compliance fee based on the engineer's estimated cost of construction, repair, alteration, or
19 removal of the dam, whichever amount is greater, shall be paid when the as-built plans are
20 submitted to the Department. The maximum fee shall not exceed fifty thousand dollars (\$50,000)
21 for the construction, repair, alteration, or removal of a dam. In addition, the following provisions
22 shall apply:

23 (1) Each application for construction, repair, alteration, or removal of a dam shall
24 be deemed incomplete and shall not be reviewed until the initial fee of five
25 hundred dollars (\$500.00) or one-half of the processing and compliance fee is
26 paid.

27 (2) For purposes of determining the actual cost of construction, repair, alteration,
28 or removal, the cost shall (i) include all labor and materials costs associated
29 with the project for the applicable dam and (ii) not include the costs associated
30 with acquisition of land or right-of-way, design, quality control, electrical
31 generating machinery, or constructing a roadway across the dam.

32 (3) Immediately upon completion of construction, repair, alteration, or removal
33 of a dam, the owner shall file a certification with the Director, on a form
34 prescribed by the Department, and accompanying documentation, which
35 shows actual cost incurred by the owner for construction, repair, alteration, or
36 removal of the applicable dam.

37 a. The owner's certification and accompanying documentation shall be
38 filed with the as-built plans and the engineer's certification.

39 b. If the Director finds that the owner's certification and accompanying
40 documentation contain inaccurate cost information, the Director shall
41 either withhold final impoundment approval, if applicable, or revoke
42 final impoundment approval, if applicable, until the owner provides
43 accurate documentation and that documentation has been verified by
44 the Department.

45 (4) Final approval to impound shall not be granted until the owner's certification
46 and the accompanying documentation are filed in accordance with subdivision
47 (3) of this subsection and the remainder of the application processing and
48 compliance fee has been paid as provided by this subsection.

49 (5) Payment of the application processing and compliance fee shall be by check
50 or money order made payable to the Department and reference the applicable
51 dam.

1 (b) The Dam Safety Account is established as a nonreverting account within the
2 Department. Fees collected under this section shall be credited to the Account and shall be
3 applied to the costs of administering this Part."
4

5 **PART IV. INCREASE THE ROOFTOP SOLAR LEASING CAP**

6 **SECTION 5.(a)** G.S. 62-126.5 reads as rewritten:

7 "**§ 62-126.5. Scope of leasing program in offering utilities' service areas.**

8 ...

9 (d) The total installed capacity of all solar energy facilities on an offering utility's system
10 that are leased pursuant to this section shall not exceed ~~one percent (1%)~~ ten percent (10%) of
11 the previous five-year average of the North Carolina retail contribution to the offering utility's
12 coincident retail peak demand. The offering utility may refuse to interconnect customers that
13 would result in this limitation being exceeded. Each offering utility shall establish a program for
14 new installations of leased equipment to permit the reservation of capacity by customer generator
15 lessees, whether participating in a public utility or nonutility lessor's leasing program, on its
16 system, including provisions to prevent or discourage abuse of such programs. Such programs
17 must provide that only prospective individual customer generator lessees may apply for, receive,
18 and hold reservations to participate in the offering utility's leasing program. Each reservation
19 shall be for a single customer premises only and may not be sold, exchanged, traded, or assigned
20 except as part of the sale of the underlying premises.

21 (d1) A solar energy facility leased to an individual customer generator lessee pursuant to
22 this section is limited to a capacity of (i) not more than the lesser of 1,000 kilowatts (kW) or one
23 hundred percent (100%) of contract demand if a nonresidential customer or (ii) not more than 20
24 kilowatts (kW) or one hundred percent (100%) of estimated electrical demand if a residential
25 customer.

26 (e) To comply with the terms of this section, each customer generator lessor's solar
27 energy facility shall serve only one premises and shall not serve multiple customer generator
28 lessees or multiple premises. The customer generator lessee must enroll in the applicable rate
29 schedule made available by the interconnecting offering utility, subject to the participation
30 limitations set forth in subsection (a) of this section."

31 **SECTION 5.(b)** This section becomes effective August 1, 2023, and applies to solar
32 energy facility leases executed on or after that date.

33 **PART V. EFFECTIVE DATE**

34 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes
35 law.
36