

R. Neil Walter proposes the following substitute bill:

Decommissioned Asset Disposition Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Neil Walter

Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill makes changes to the requirements related to the decommissioning and disposal of electrical generation facilities and equipment by a project entity.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a project entity from:
 - altering facilities that provide power to station service;
 - disconnecting from or modifying existing interconnections and critical switchyard equipment; and
 - taking actions that would require a new plant owner to make an interconnection request; and
- ▶ creates the Utah Energy Council (council);
- ▶ establishes council membership and duties;
- ▶ provides authority for the council to manage decommissioned electrical generation facilities;
- ▶ requires the council to select facility operators through a competitive process;
- ▶ establishes minimum qualifications and criteria for facility operators;
- ▶ repeals provisions related to the Decommissioned Asset Disposition Authority; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

29 AMENDS:

30 **11-13-318 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
31 Third Special Session, Chapter 4

32 **11-13-320 (Effective upon governor's approval)**, as last amended by
33 Laws of Utah 2024, Third Special Session, Chapter 4

34 **19-2-109.4 (Effective upon governor's approval)**, as last amended
35 by Laws of Utah 2024, Third Special Session, Chapter 4

36 ENACTS:

37 **79-6-1101 (Effective upon governor's approval)**, Utah Code Annotated 1953

38 **79-6-1102 (Effective upon governor's approval)**, Utah Code Annotated 1953

39 **79-6-1103 (Effective upon governor's approval)**, Utah Code Annotated 1953

40 **79-6-1104 (Effective upon governor's approval)**, Utah Code Annotated 1953

41 REPEALS:

42 **79-6-407 (Effective upon governor's approval)**, as last amended by
43 Laws of Utah 2024, Third Special Session, Chapter 4

44 **79-6-408 (Effective upon governor's approval)**, as last amended by
45 Laws of Utah 2024, Third Special Session, Chapter 4

46

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

48 Section 1. Section **11-13-318** is amended to read:

49 **11-13-318 (Effective upon governor's approval). Notice of decommissioning or**
50 **disposal of project entity assets.**

51 (1) As used in this section:

52 [(a) "Alternative permit" means the same as that term is defined in Section 11-13-320.]

53 (a) "Critical switchyard equipment" means equipment located in a switchyard that is
54 necessary for the delivery of electricity to the transmission or distribution system,
55 including transformers, circuit breakers, disconnect switches, and other essential
56 interconnection equipment.

57 (b) "Decommissioning" means to remove an electrical generation facility from active
58 service.

59 (c) "Disposal" means the sale, transfer, dismantling, or other disposition of a project
60 entity's assets.

61 (d) "Division" means the Division of Air Quality created in Section 19-1-105.

62 (e) "Fair market value" means the same as that term is defined in Section 79-6-408.

- 63 (f) "Interconnection" means the physical system that connects an electrical generation
64 facility to the transmission or distribution system, including all switching stations,
65 transformers, and other equipment necessary to deliver electricity to customers.
- 66 [(f)] (g)(i) "Project entity asset" means a project entity's:
67 (A) land;
68 (B) water;
69 (C) buildings; or
70 (D) essential equipment, including turbines, generators, transformers, and
71 transmission lines.
- 72 (ii) "Project entity asset" does not include an asset that is not essential for the
73 generation of electricity in the project entity's coal-powered electrical generation
74 facility.
- 75 (h) "Project purchaser" means any entity that has the right to purchase power from the
76 project entity.
- 77 (i) "Station service" means the electric supply required for the operation of an electrical
78 generation facility and associated facilities, essential auxiliary equipment, and all
79 facilities necessary to maintain electrical output.
- 80 (2) A project entity shall provide a notice of decommissioning or disposal to the Legislative
81 Management Committee at least 180 days before:
82 (a) the disposal of any project entity assets; or
83 (b) the decommissioning of the project entity's coal-powered electrical generation
84 facility.
- 85 (3) The notice of decommissioning or disposal described in Subsection (2) shall include:
86 (a) the date of the intended decommissioning or disposal;
87 (b) a description of the project entity's coal-powered electrical generation facility
88 intended for decommissioning or any project entity asset intended for disposal; and
89 (c) the reasons for the decommissioning or disposal.
- 90 (4) A project entity may not intentionally prevent the functionality of the project entity's
91 existing coal-powered electrical generation facility.
- 92 (5) A project entity shall:
93 (a) maintain:
94 (i) facilities that provide power to station service so as to ensure continued
95 functionality;
96 (ii) at least one operational coal-powered electrical generation unit connected to

97 existing interconnection facilities; and
 98 (iii) existing interconnection and critical switchyard equipment in a manner that
 99 ensures the ability to reactivate any remaining coal-powered electrical generation
 100 units; and

101 (b) make available an interconnection with the switchyard for a project entity's
 102 coal-powered electrical generation facility that does not require a new
 103 interconnection request.

104 ~~[(5)]~~ (6) Notwithstanding the requirements in Subsections (2) through (4), a project entity
 105 may take any action necessary to transition to a new electrical generation facility
 106 powered by natural gas, hydrogen, or a combination of natural gas and hydrogen,
 107 including any action that has been approved by a permitting authority[-], provided that
 108 such actions:

109 (a) do not violate the requirements in Subsection (5); or

110 (b) are specifically required by a permitting authority as an essential component of the
 111 transition, with no feasible alternative that would avoid violating Subsection (5).

112 ~~[(6)]~~ (7) A project entity shall provide the state the option to purchase for fair market value a
 113 project entity asset intended for decommissioning, with the option remaining open for at
 114 least two years, beginning on July 2, 2025.

115 ~~Ŝ→ [(8) Prior to the disposal of a project entity asset, the project entity shall provide a~~
 115a ~~notice to-] ←Ŝ~~

116 ~~Ŝ→ [the Legislative Management Committee that the project entity has satisfied all material~~
 117 ~~] ←Ŝ~~

117 ~~Ŝ→ [conditions, promises, and inducements made to any municipal or cooperative project~~
 118 ~~] ←Ŝ~~

118 ~~Ŝ→ [purchaser to obtain approval from the municipal or cooperative project purchaser for~~
 118a ~~the] ←Ŝ~~

119 ~~Ŝ→ [early decommissioning of a project entity asset.] ←Ŝ~~

120 Section 2. Section 11-13-320 is amended to read:

121 **11-13-320 (Effective upon governor's approval). Air quality**
 122 **permitting transition process.**

123 (1) As used in this section:

124 (a) "Alternative permit" means ~~[an amendment to a transition permit that, for purposes~~
 125 ~~of transitioning an electrical generation facility to a new facility, allows one or more~~

126 existing generating units to continue operating while also providing for closure of
 127 one but not all existing generating units] the same as that term is defined in Section
 128 19-2-109.4.

129 [(b) "Authority" means the Decommissioned Asset Disposition Authority established in
 130 Section 79-6-407.]

131 [(e)] (b) "Division" means the Division of Air Quality created in Section 19-1-105.

132 [(d)] (c) "Pre-existing permit" means the air quality permit held by the operator of an
 133 existing electrical generation facility prior to any amendments associated with
 134 transitioning to a new facility.

135 [(e)] (d) "Transition permit" [~~means an amendment to the pre-existing permit, issued to~~
 136 ~~the operator of an existing electrical generation facility for the purpose of~~
 137 ~~transitioning to a new electrical generation facility, which authorizes construction of~~
 138 ~~the new facility but does not require closure of all existing generating units until after~~
 139 ~~the new facility commences operation]~~ means the same as that term is defined in
 140 Section 19-2-109.4.

141 (2) A project entity that holds a pre-existing permit for an existing electrical generation
 142 facility with multiple generating units, and has been issued a transition permit for a new
 143 electrical generation facility, may submit an application to the division in accordance
 144 with Section 19-2-109.4 for issuance of an alternative permit.

145 Section 3. Section **19-2-109.4** is amended to read:

146 **19-2-109.4 (Effective upon governor's approval). Project**
 147 **entity transition permit.**

148 (1) As used in this section:

149 (a) "Alternative permit" means an amendment to a transition permit that~~[, for purposes~~
 150 ~~of transitioning an electrical generation facility to a new facility, allows one or more~~
 151 ~~existing generating units to continue operating while also providing for closure of~~
 152 ~~one but not all existing generating units.]~~ allows for multiple operating scenarios,
 153 including:

154 (i) the operating scenario set forth in the transition permit; and

155 (ii) at least one alternative operating scenario that allows:

156 (A) the operation of the new electrical generation facility at full capacity as
 157 contemplated by the transition permit; and

158 (B) continued operation of one or more existing generating units at or below the
 159 capacity factor and in compliance with the other conditions specified in the

- 160 application for the amendment to the transition permit.
- 161 ~~[(b) "Authority" means the Decommissioned Asset Disposition Authority~~
162 ~~established in Section 79-6-407.]~~
- 163 ~~[(e)] (b) "Division" means the Division of Air Quality created in Section 19-1-105.~~
- 164 (c) "Existing generating unit" means an electric generating unit that is part of an existing
165 electrical generation facility owned at any time by a project entity.
- 166 (d) "New electrical generation facility" means an electrical generation facility powered
167 by natural gas, hydrogen, or any combination of natural gas and hydrogen.
- 168 ~~[(d)] (e) "Pre-existing permit" means the air quality permit held by the operator of an~~
169 ~~existing electrical generation facility prior to any amendments associated with~~
170 ~~transitioning to a new facility.~~
- 171 ~~[(e)] (f) "Project entity" means the same as that term is defined in Section 11-13-103.~~
- 172 ~~[(f)] (g) "Transition permit" means an amendment to the pre-existing permit, issued to~~
173 ~~the operator of an existing electrical generation facility for the purpose of~~
174 ~~transitioning to a new electrical generation facility, which authorizes construction of~~
175 ~~the new electrical generation facility but does not require closure of all existing~~
176 ~~generating units until after the new electrical generation facility commences~~
177 ~~operation.~~
- 178 (2) The division shall accept an application for an alternative permit from a project entity
179 that has previously obtained a ~~[transition permit to authorize the same new electrical~~
180 ~~generating capacity contemplated by the]~~transition permit.
- 181 (3) If the application for an alternative permit meets the requirements established by the
182 board:
- 183 (a) the division shall issue an approval order for the alternative permit to the project
184 entity;
- 185 (b) ~~[the conditions of the transition permit shall cease to apply, including requirements~~
186 ~~to reduce the capacity of existing generating units at the electrical generation facility]~~
187 if the division approves the alternative permit, the conditions of the transition permit,
188 including those requiring an existing generating unit to cease operation and to be
189 placed in maintenance status shall remain in effect until:
- 190 (i) the project entity's sale of the existing generating units; or
191 (ii) both the resolution of all administrative and judicial challenges to the alternative
192 permit and the expiration of the applicable limitations period to file such
193 challenges; and

- 194 (c) the project entity shall submit all documentation required to modify any federal
195 operating permit required to be maintained by the project entity, consistent with
196 deadlines established by the division.
- 197 (4) If an alternative permit is not approved under Subsection (3), the conditions of the
198 transition permit shall remain effective.
- 199 ~~[(5)(a) Upon receipt of an alternative air permit application prepared and submitted by
200 the authority in accordance with Subsection 79-6-407(4)(c), the division shall
201 conduct a full evaluation as if the application had been prepared and submitted by a
202 project entity to determine whether the alternative air permit would be issued if
203 applied for by the project entity.]~~
- 204 ~~[(b) The division shall provide the results of any evaluation conducted under Subsection
205 (5)(a) to the authority within 30 days after the date that the division receives the
206 application described in Subsection (5)(a), unless the division provides written notice
207 to the authority that additional time is needed to complete the evaluation.]~~
- 208 ~~[(c) If the division concludes after evaluation that an alternative permit would likely be
209 issued to a project entity, the authority shall, within 30 days after the authority
210 receives the results of the evaluation, submit recommendations to the Legislative
211 Management Committee regarding options for the state to continue to authorize
212 construction of the project entity's new electrical generation facility that do not
213 require the closure of all of the project entity's existing electrical generating facilities.]~~
- 214 ~~[(6)]~~ (5) The division shall evaluate an application for an alternative permit independently
215 from any pre-existing permit or transition permit based on updated assumptions,
216 modeling, and requirements established in rule by the division and may rely upon the
217 reduction of capacity of the existing electrical generation facility only as necessary to
218 ensure that emissions of the new ~~[generating]~~ electrical generation facility do not exceed
219 thresholds established by federal law which would necessitate new source review as a
220 major modification.
- 221 (6) If an administrative or judicial challenge to the alternative permit succeeds in
222 invalidating:
- 223 (a) a portion of the alternative permit, the remaining conditions of the alternative permit
224 shall remain valid and in force; or
- 225 (b) the primary operating scenario of the alternative permit or the entire alternative
226 permit, the transition permit shall remain in force with respect to the conditions
227 governing the construction and operation of the new electrical generation facility.

228 Section 4. Section **79-6-1101** is enacted to read:

229 **Part 11. Utah Energy Council**

230 **79-6-1101 (Effective upon governor's approval). Utah Energy Council --**

231 **Creation and purpose.**

232 (1) As used in this part:

233 (a) "Council" means the Utah Energy Council created in Section 79-6-1101.

234 (b) "Decommissioned asset" means a project entity asset that:

235 (i) has been removed from active service by a project entity;

236 (ii) has been transferred to the council, including:

237 (A) transfer of legal title; and

238 (B) transfer of operational responsibility; and

239 (iii) will be operated and managed under the direction of the council.

240 (c) "Operator" means an entity that:

241 (i) manages and maintains the daily operations of an electrical generation facility;

242 (ii) employs the workforce necessary to run the facility;

243 (iii) procures fuel and other necessary supplies;

244 (iv) ensures compliance with all applicable regulations; and

245 (v) maintains the reliability of power generation.

246 (d) "Project entity" means the same as that term is defined in Section 11-13-103.

247 (e) "Project entity asset" means the same as that term is defined in Section 11-13-318.

248 (2) There is created within the office the Utah Energy Council.

249 (3) The purpose of the council is to facilitate the development of electrical energy

250 generation and transmission projects within the state, including:

251 (a) power plants;

252 (b) transmission lines;

253 (c) energy storage facilities; and

254 (d) related infrastructure.

255 Section 5. Section **79-6-1102** is enacted to read:

256 **79-6-1102 (Effective upon governor's approval). Council composition --**

257 **Appointment -- Terms -- Staffing.**

258 (1) The council shall be composed of:

259 (a) the director or the director's designee, who shall serve as chair of the council;

260 (b) two individuals appointed by the governor;

261 (c) one individual appointed by the president of the Senate; and

- 262 (d) one individual appointed by the speaker of the House of Representatives.
- 263 (2)(a) Except as provided in Subsection (2)(b), a council member appointed under
- 264 Subsection (1):
- 265 (i) shall serve a four-year term;
- 266 (ii) may be removed by the appointing authority;
- 267 (iii) may be reappointed; and
- 268 (iv) continues to serve until the member's successor is appointed and qualified.
- 269 (b) Initial terms for the appointed council members shall be staggered as follows:
- 270 (i) one member appointed by the governor under Subsection (1)(b) shall serve a
- 271 two-year term;
- 272 (ii) one member appointed by the governor under Subsection (1)(b) shall serve a
- 273 three-year term;
- 274 (iii) the member appointed by the president of the Senate under Subsection (1)(c)
- 275 shall serve a four-year term; and
- 276 (iv) the member appointed by the speaker of the House of Representatives under
- 277 Subsection (1)(d) shall serve a two-year term.
- 278 (3) When a vacancy occurs in the membership for any reason, the replacement shall be
- 279 appointed by the relevant appointing authority for the unexpired term.
- 280 (4)(a) A majority of council members constitutes a quorum for conducting council
- 281 business.
- 282 (b) A majority vote of the quorum present is required for any action taken by the council.
- 283 (5) The council shall meet:
- 284 (a) at least quarterly; and
- 285 (b) at the call of the chair or a majority of the council members.
- 286 (6)(a) A council member who is not a legislator may not receive compensation or
- 287 benefits for the member's service but may receive per diem and travel expenses in
- 288 accordance with:
- 289 (i) Section 63A-3-106;
- 290 (ii) Section 63A-3-107; and
- 291 (iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 292 (b) Compensation and expenses of a council member who is a legislator are governed by
- 293 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and
- 294 Expenses.
- 295 (7) The office shall provide staff support to the council.

296 Section 6. Section **79-6-1103** is enacted to read:

297 **79-6-1103 (Effective upon governor's approval). Council powers and duties.**

298 (1) The council shall:

299 (a) create and implement a strategic plan for a decommissioned asset, taking into
300 consideration:

301 (i) the state energy policy, as provided in Section 79-6-301;

302 (ii) reliability of electrical generation; and

303 (iii) economic viability;

304 (b) make recommendations regarding electrical energy policy to state and local
305 governments;

306 (c) identify and recommend solutions to barriers affecting electrical energy development;

307 (d) assess and address potential public health impacts of electrical energy development
308 zones;

309 (e) enter into contracts necessary to fulfill the council's duties; and

310 (f) report annually by October 31 to the Public Utilities, Energy, and Technology
311 Interim Committee and the Natural Resources, Agriculture, and Environment Interim
312 Committee regarding:

313 (i) the council's activities;

314 (ii) energy development opportunities;

315 (iii) infrastructure needs;

316 (iv) the status of designated electrical energy development zones;

317 (v) investment decisions made by the council;

318 (vi) recommended policy changes; and

319 (vii) approve budgets and expenditures;

320 (g) establish policies and procedures for the management of a decommissioned asset;

321 (h) ~~§~~ → **[oversee] administer contracts for** ← ~~§~~ the management and operations of a
321a decommissioned asset;

322 (i) enter into contracts necessary for the operation and management of a
323 decommissioned asset;

324 (j) acquire, hold, and dispose of property related to a decommissioned asset;

325 (k) select an operator for a decommissioned asset as provided in Section 79-6-1104; and

326 (l) report annually to the Legislative Management Committee regarding:

327 (i) the status and progress of the asset transfer;

328 (ii) operational and financial status of the asset under council control;

- 329 (iii) status of the operator contract;
330 (iv) environmental compliance status; and
331 (v) recommendations for legislation.
- 332 (2) The council may:
- 333 (a) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
334 Rulemaking Act, to fulfill the council's duties under this part; and
335 (b) take other actions necessary to fulfill the council's purposes and duties as provided in
336 this part.
- 337 (3) If the council acquires a project entity asset under Section 11-13-318, the council shall
338 enter into an agreement with the project entity that:
- 339 (a) provides for the transfer, disposition, and future operation of the asset; and
340 (b) ensures the transfer, disposition, and future operation does not interfere with the
341 project entity's ownership or operation of electrical generation facilities powered by
342 natural gas, hydrogen, or a combination of natural gas and hydrogen.
- 343 Section 7. Section **79-6-1104** is enacted to read:
- 344 **79-6-1104 (Effective upon governor's approval). Selection of facility operator.**
- 345 (1) The council shall initiate the selection of an operator for a decommissioned asset by:
- 346 (a) issuing a request for proposals; and
347 (b) publishing the request for proposals on the Utah Public Notice Website created under
348 Section 63A-16-601.
- 349 (2) The request for proposals shall specify that an entity must demonstrate:
- 350 (a) at least 10 years of experience operating coal-fired electrical generation facilities;
351 (b) a commitment to maintaining substantial operations within the state;
352 (c) financial capability to operate and maintain the facility;
353 (d) experience with similar coal types and specifications;
354 (e) proven capability to comply with state and federal environmental requirements;
355 (f) existing relationships with regional transmission organizations;
356 (g) ability to maintain reliable baseload power generation;
357 (h) experience with western coal markets and transportation;
358 (i) capability to retain the existing skilled workforce; and
359 (j) ability to integrate operations with existing transmission infrastructure.
- 360 (3) The council shall:
- 361 (a) allow at least 60 days for the submission of proposals; and
362 (b) establish or contract with a technical review committee to evaluate proposals.

- 363 (4) In evaluating proposals, the council shall consider:
- 364 (a) operational efficiency metrics from similar facilities;
- 365 (b) proposed operational cost structure;
- 366 (c) economic considerations;
- 367 (d) reliability and availability guarantees;
- 368 (e) environmental compliance history and plans;
- 369 (f) workplace safety record and plans;
- 370 (g) local economic benefit commitments; and
- 371 (h) proposed timeline for assuming operations.

- 372 (5) Nothing in this section:
- 373 (a) requires the council to select any proposal; or
- 374 (b) prevents the council from:
- 375 (i) rejecting all proposals; or
- 376 (ii) terminating the request for proposals process.

377 Section 8. **Repealer.**

378 This bill repeals:

379 Section **79-6-407, (Effective upon governor's approval)Decommissioned Asset**
379a **Disposition Authority.**

380 Section **79-6-408, (Effective upon governor's approval)Study of project entity asset**
380a **intended for**
381 **decommissioning.**

382 Section 9. **Effective Date.**

383 This bill takes effect:

- 384 (1) except as provided in Subsection (2), May 7, 2025; or
- 385 (2) if approved by two-thirds of all members elected to each house:
- 386 (a) upon approval by the governor;
- 387 (b) without the governor's signature, the day following the constitutional time limit of
388 Utah Constitution, Article VII, Section 8; or
- 389 (c) in the case of a veto, the date of veto override.