

**ENERGY CHANGES**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Roger E. Barrus**

Senate Sponsor: Ralph Okerlund

---

**LONG TITLE**

**General Description:**

This bill modifies provisions relating to energy development and infrastructure.

**Highlighted Provisions:**

This bill:

▶ modifies the Loan Program for Energy Efficiency Projects, including substituting the Office of Energy Development for the Utah Geological Survey in provisions relating to authority for administering the loan program;

▶ substitutes the Office of Energy Development for the Utah Geological Survey in provisions relating to certain energy-related tax credits;

▶ modifies and renames the Utah Generated Renewable Energy Electricity Network Authority Act, including expanding the act to apply to energy infrastructure instead of transmission facilities for delivery of energy generated from a renewable source and modifying the makeup of the authority board; and

▶ modifies the Utah Energy Act, including provisions relating to the governor's energy advisor and the Office of Energy Development.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



28 AMENDS:

- 29 **11-45-102**, as last amended by Laws of Utah 2011, Chapter 14
- 30 **11-45-202**, as enacted by Laws of Utah 2010, Chapter 72
- 31 **11-45-203**, as enacted by Laws of Utah 2010, Chapter 72
- 32 **11-45-204**, as enacted by Laws of Utah 2010, Chapter 72
- 33 **11-45-205**, as enacted by Laws of Utah 2010, Chapter 72
- 34 **59-7-614**, as last amended by Laws of Utah 2011, Chapter 384
- 35 **59-10-1014**, as last amended by Laws of Utah 2011, Chapter 384
- 36 **59-10-1106**, as last amended by Laws of Utah 2011, Chapter 384
- 37 **63H-2-101**, as enacted by Laws of Utah 2009, Chapter 378
- 38 **63H-2-102**, as last amended by Laws of Utah 2010, Chapter 218
- 39 **63H-2-201**, as enacted by Laws of Utah 2009, Chapter 378
- 40 **63H-2-202**, as last amended by Laws of Utah 2010, Chapters 112 and 286
- 41 **63H-2-204**, as last amended by Laws of Utah 2010, Chapter 90
- 42 **63H-2-301**, as enacted by Laws of Utah 2009, Chapter 378
- 43 **63H-2-302**, as enacted by Laws of Utah 2009, Chapter 378
- 44 **63H-2-401**, as enacted by Laws of Utah 2009, Chapter 378
- 45 **63H-2-402**, as enacted by Laws of Utah 2009, Chapter 378
- 46 **63H-2-404**, as enacted by Laws of Utah 2009, Chapter 378
- 47 **63M-4-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 48 **63M-4-203**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 49 **63M-4-401**, as enacted by Laws of Utah 2011, Chapter 375



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

52 Section 1. Section **11-45-102** is amended to read:

53 **11-45-102. Definitions.**

54 As used in this section:

55 [~~(1) "Board" means the Board of the Utah Geological Survey.~~]

56 [~~(2)~~] (1) "Energy code" means the energy efficiency code adopted under Section  
57 15A-1-204.

58 [~~(3)~~] (2) (a) "Energy efficiency project" means:

59 (i) for an existing building, a retrofit to improve energy efficiency; or  
 60 (ii) for a new building, an enhancement to improve energy efficiency beyond the  
 61 minimum required by the energy code.

62 (b) "Energy efficiency projects" include the following expenses:

- 63 (i) construction;
- 64 (ii) engineering;
- 65 (iii) energy audit; or
- 66 (iv) inspection.

67 [~~(4)~~] (3) "Fund" means the Energy Efficiency Fund created in Part 2, Energy Efficiency  
 68 Fund.

69 (4) "Office" means the Office of Energy Development created in Section 63M-4-401.

70 (5) "Political subdivision" means a county, city, town, or school district.

71 Section 2. Section 11-45-202 is amended to read:

72 **11-45-202. Criteria for loans.**

73 (1) The [~~board~~] office shall make a loan from the fund to a political subdivision only to  
 74 finance an energy efficiency project.

75 (2) The [~~board~~] office may not make a loan from the fund:

- 76 (a) to finance a political subdivision's compliance with the energy code in the  
 77 construction of a new building; or
- 78 (b) with a term of less than two years or more than 12 years.

79 Section 3. Section 11-45-203 is amended to read:

80 **11-45-203. Applications.**

81 (1) A political subdivision shall submit an application to the [~~board~~] office in the form  
 82 and containing the information that the [~~board~~] office requires, which shall include the plans  
 83 and specifications for the proposed energy efficiency project.

84 (2) (a) In the application, a political subdivision may request a loan to cover all or part  
 85 of the cost of an energy efficiency project.

86 (b) If an application is rejected, the [~~board~~] office shall notify the applicant stating the  
 87 reasons for the rejection.

88 Section 4. Section 11-45-204 is amended to read:

89 **11-45-204. Energy advisor to make rules establishing criteria.**

90 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
91 ~~[board]~~ office shall make rules to determine:

- 92 (a) eligibility for a loan; and
- 93 (b) priorities among energy efficiency projects.

94 (2) When making a rule to determine priorities among energy efficiency projects, the  
95 ~~[board]~~ office may consider the following:

- 96 (a) possible additional sources of revenue;
- 97 (b) feasibility and practicality of an energy efficiency project;
- 98 (c) energy savings;
- 99 (d) annual energy cost savings;
- 100 (e) projected energy cost payback;
- 101 (f) financial need of the public facility owner;
- 102 (g) environmental and other benefits to the state and local community; and
- 103 (h) availability of federal funds.

104 Section 5. Section **11-45-205** is amended to read:

105 **11-45-205. Approval of loan by energy advisor.**

106 (1) In approving a loan, the ~~[board]~~ office shall:

- 107 (a) review the loan application, plans, and specifications for the project;
- 108 (b) determine whether or not to grant the loan by applying ~~[its]~~ the office's eligibility  
109 criteria; and

110 (c) if the loan is granted, prioritize the energy efficiency project by applying ~~[its]~~ the  
111 office's priority criteria.

112 (2) The ~~[board]~~ office may provide conditions on a loan to ensure that:

- 113 (a) the proceeds of the loan will be used to pay the cost of the project; and
- 114 (b) the project will be completed.

115 Section 6. Section **59-7-614** is amended to read:

116 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**  
117 **Certification -- Rulemaking authority.**

118 (1) As used in this section:

119 (a) "Active solar system":

120 (i) means a system of equipment capable of collecting and converting incident solar

121 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy  
122 by a separate apparatus to storage or to the point of use; and

123 (ii) includes water heating, space heating or cooling, and electrical or mechanical  
124 energy generation.

125 (b) "Biomass system" means any system of apparatus and equipment for use in  
126 converting material into biomass energy, as defined in Section 59-12-102, and transporting that  
127 energy by separate apparatus to the point of use or storage.

128 (c) "Business entity" means any sole proprietorship, estate, trust, partnership,  
129 association, corporation, cooperative, or other entity under which business is conducted or  
130 transacted.

131 (d) "Commercial energy system" means any active solar, passive solar, geothermal  
132 electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or  
133 biomass system used to supply energy to a commercial unit or as a commercial enterprise.

134 (e) "Commercial enterprise" means a business entity whose purpose is to produce  
135 electrical, mechanical, or thermal energy for sale from a commercial energy system.

136 (f) (i) "Commercial unit" means any building or structure that a business entity uses to  
137 transact its business.

138 (ii) Notwithstanding Subsection (1)(f)(i):

139 (A) in the case of an active solar system used for agricultural water pumping or a wind  
140 system, each individual energy generating device shall be a commercial unit; and

141 (B) if an energy system is the building or structure that a business entity uses to  
142 transact its business, a commercial unit is the complete energy system itself.

143 (g) "Direct-use geothermal system" means a system of apparatus and equipment  
144 enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit,  
145 that is contained in the earth to meet energy needs, including heating a building, an industrial  
146 process, and aquaculture.

147 (h) "Geothermal electricity" means energy contained in heat that continuously flows  
148 outward from the earth that is used as a sole source of energy to produce electricity.

149 (i) "Geothermal heat-pump system" means a system of apparatus and equipment  
150 enabling the use of thermal properties contained in the earth at temperatures well below 100  
151 degrees Fahrenheit to help meet heating and cooling needs of a structure.

152 (j) "Hydroenergy system" means a system of apparatus and equipment capable of  
153 intercepting and converting kinetic water energy into electrical or mechanical energy and  
154 transferring this form of energy by separate apparatus to the point of use or storage.

155 (k) "Individual taxpayer" means any person who is a taxpayer as defined in Section  
156 59-10-103 and an individual as defined in Section 59-10-103.

157 (l) "Office" means the Office of Energy Development created in Section 63M-4-401.

158 ~~(h)~~ (m) "Passive solar system":

159 (i) means a direct thermal system that utilizes the structure of a building and its  
160 operable components to provide for collection, storage, and distribution of heating or cooling  
161 during the appropriate times of the year by utilizing the climate resources available at the site;  
162 and

163 (ii) includes those portions and components of a building that are expressly designed  
164 and required for the collection, storage, and distribution of solar energy.

165 ~~(m)~~ (n) "Residential energy system" means any active solar, passive solar, biomass,  
166 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to  
167 supply energy to or for any residential unit.

168 ~~(n)~~ (o) "Residential unit" means any house, condominium, apartment, or similar  
169 dwelling unit that serves as a dwelling for a person, group of persons, or a family but does not  
170 include property subject to a fee under:

171 (i) Section 59-2-404;

172 (ii) Section 59-2-405;

173 (iii) Section 59-2-405.1;

174 (iv) Section 59-2-405.2; or

175 (v) Section 59-2-405.3.

176 ~~(o) "Utah Geological Survey" means the Utah Geological Survey established in~~  
177 ~~Section 79-3-201.]~~

178 (p) "Wind system" means a system of apparatus and equipment capable of intercepting  
179 and converting wind energy into mechanical or electrical energy and transferring these forms of  
180 energy by a separate apparatus to the point of use, sale, or storage.

181 (2) (a) (i) For taxable years beginning on or after January 1, 2007, a business entity that  
182 purchases and completes or participates in the financing of a residential energy system to

183 supply all or part of the energy required for a residential unit owned or used by the business  
184 entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this  
185 Subsection (2)(a).

186 (ii) (A) A business entity is entitled to a tax credit equal to 25% of the reasonable costs  
187 of each residential energy system installed with respect to each residential unit it owns or uses,  
188 including installation costs, against any tax due under this chapter for the taxable year in which  
189 the energy system is completed and placed in service.

190 (B) The total amount of each credit under this Subsection (2)(a) may not exceed \$2,000  
191 per residential unit.

192 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system  
193 completed and placed in service on or after January 1, 2007.

194 (iii) If a business entity sells a residential unit to an individual taxpayer before making  
195 a claim for the tax credit under this Subsection (2)(a), the business entity may:

196 (A) assign its right to this tax credit to the individual taxpayer; and

197 (B) if the business entity assigns its right to the tax credit to an individual taxpayer  
198 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the  
199 individual taxpayer had completed or participated in the costs of the residential energy system  
200 under Section 59-10-1014.

201 (b) (i) For taxable years beginning on or after January 1, 2007, a business entity that  
202 purchases or participates in the financing of a commercial energy system situated in Utah is  
203 entitled to a refundable tax credit as provided in this Subsection (2)(b) if the commercial  
204 energy system does not use wind, geothermal electricity, or biomass equipment capable of  
205 producing a total of 660 or more kilowatts of electricity, and:

206 (A) the commercial energy system supplies all or part of the energy required by  
207 commercial units owned or used by the business entity; or

208 (B) the business entity sells all or part of the energy produced by the commercial  
209 energy system as a commercial enterprise.

210 (ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs  
211 of any commercial energy system installed, including installation costs, against any tax due  
212 under this chapter for the taxable year in which the commercial energy system is completed and  
213 placed in service.

214 (B) Notwithstanding Subsection (2)(b)(ii)(A), the total amount of the credit under this  
215 Subsection (2)(b) may not exceed \$50,000 per commercial unit.

216 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy  
217 system completed and placed in service on or after January 1, 2007.

218 (iii) A business entity that leases a commercial energy system installed on a  
219 commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can  
220 confirm that the lessor irrevocably elects not to claim the credit.

221 (iv) Only the principal recovery portion of the lease payments, which is the cost  
222 incurred by a business entity in acquiring a commercial energy system, excluding interest  
223 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

224 (v) A business entity that leases a commercial energy system is eligible to use the tax  
225 credit under this Subsection (2)(b) for a period no greater than seven years from the initiation  
226 of the lease.

227 (vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or  
228 carried back.

229 (c) (i) For taxable years beginning on or after January 1, 2007, a business entity that  
230 owns a commercial energy system situated in Utah using wind, geothermal electricity, or  
231 biomass equipment capable of producing a total of 660 or more kilowatts of electricity is  
232 entitled to a refundable tax credit as provided in this Subsection (2)(c) if:

233 (A) the commercial energy system supplies all or part of the energy required by  
234 commercial units owned or used by the business entity; or

235 (B) the business entity sells all or part of the energy produced by the commercial  
236 energy system as a commercial enterprise.

237 (ii) (A) A business entity is entitled to a tax credit under this section equal to the  
238 product of:

239 (I) 0.35 cents; and

240 (II) the kilowatt hours of electricity produced and either used or sold during the taxable  
241 year.

242 (B) (I) The credit calculated under Subsection (2)(c)(ii)(A) may be claimed for  
243 production occurring during a period of 48 months beginning with the month in which the  
244 commercial energy system is placed in commercial service.



245 (II) The credit allowed by this Subsection (2)(c) for each year may not be carried  
246 forward or carried back.

247 (C) The credit under this Subsection (2)(c) is allowed for any commercial energy  
248 system completed and placed in service on or after January 1, 2007.

249 (iii) A business entity that leases a commercial energy system installed on a  
250 commercial unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can  
251 confirm that the lessor irrevocably elects not to claim the credit.

252 (d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year  
253 in which the energy system is completed and placed in service.

254 (ii) Additional energy systems or parts of energy systems may be claimed for  
255 subsequent years.

256 (iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's tax  
257 liability under this chapter for a taxable year, the amount of the credit exceeding the liability  
258 may be carried forward for a period which does not exceed the next four taxable years.

259 (3) (a) Except as provided in Subsection (3)(b), the tax credits provided for under  
260 Subsection (2) are in addition to any tax credits provided under the laws or rules and  
261 regulations of the United States.

262 (b) A purchaser of one or more solar units that claims a tax credit under Section  
263 59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this  
264 section for that purchase.

265 (c) (i) The [~~Utah Geological Survey~~] office may set standards for residential and  
266 commercial energy systems claiming a credit under Subsections (2)(a) and (b) that cover the  
267 safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the  
268 systems eligible for the tax credit use the state's renewable and nonrenewable energy resources  
269 in an appropriate and economic manner.

270 (ii) The [~~Utah Geological Survey~~] office may set standards for residential and  
271 commercial energy systems that establish the reasonable costs of an energy system, as used in  
272 Subsections (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production.

273 (iii) A tax credit may not be taken under Subsection (2) until the [~~Utah Geological~~  
274 ~~Survey~~] office has certified that the energy system has been completely installed and is a viable  
275 system for saving or production of energy from renewable resources.

276 (d) The [~~Utah Geological Survey~~] office and the commission may make rules in  
277 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary  
278 to implement this section.

279 (4) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and  
280 Taxation Interim Committee shall review each tax credit provided by this section and report its  
281 recommendations to the Legislative Management Committee concerning whether the credit  
282 should be continued, modified, or repealed.

283 (b) The Revenue and Taxation Interim Committee's report under Subsection (4)(a)  
284 shall include information concerning the cost of the credit, the purpose and effectiveness of the  
285 credit, and the state's benefit from the credit.

286 Section 7. Section **59-10-1014** is amended to read:

287 **59-10-1014. Renewable energy systems tax credit -- Definitions -- Limitations --**  
288 **Certification -- Rulemaking authority.**

289 (1) As used in this part:

290 (a) "Active solar system":

291 (i) means a system of equipment capable of collecting and converting incident solar  
292 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy  
293 by a separate apparatus to storage or to the point of use; and

294 (ii) includes water heating, space heating or cooling, and electrical or mechanical  
295 energy generation.

296 (b) "Biomass system" means any system of apparatus and equipment for use in  
297 converting material into biomass energy, as defined in Section 59-12-102, and transporting that  
298 energy by separate apparatus to the point of use or storage.

299 (c) "Business entity" means any entity under which business is conducted or transacted.

300 (d) "Direct-use geothermal system" means a system of apparatus and equipment  
301 enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit,  
302 that is contained in the earth to meet energy needs, including heating a building, an industrial  
303 process, and aquaculture.

304 (e) "Geothermal electricity" means energy contained in heat that continuously flows  
305 outward from the earth that is used as a sole source of energy to produce electricity.

306 (f) "Geothermal heat-pump system" means a system of apparatus and equipment

307 enabling the use of thermal properties contained in the earth at temperatures well below 100  
308 degrees Fahrenheit to help meet heating and cooling needs of a structure.

309 (g) "Hydroenergy system" means a system of apparatus and equipment capable of  
310 intercepting and converting kinetic water energy into electrical or mechanical energy and  
311 transferring this form of energy by separate apparatus to the point of use or storage.

312 (h) "Office" means the Office of Energy Development created in Section 63M-4-401.

313 ~~(h)~~ (i) "Passive solar system":

314 (i) means a direct thermal system that utilizes the structure of a building and its  
315 operable components to provide for collection, storage, and distribution of heating or cooling  
316 during the appropriate times of the year by utilizing the climate resources available at the site;  
317 and

318 (ii) includes those portions and components of a building that are expressly designed  
319 and required for the collection, storage, and distribution of solar energy.

320 ~~(j)~~ (j) "Residential energy system" means any active solar, passive solar, biomass,  
321 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to  
322 supply energy to or for any residential unit.

323 ~~(j)~~ (k) "Residential unit" means any house, condominium, apartment, or similar  
324 dwelling unit that serves as a dwelling for a person, group of persons, or a family but does not  
325 include property subject to a fee under:

326 (i) Section 59-2-404;

327 (ii) Section 59-2-405;

328 (iii) Section 59-2-405.1;

329 (iv) Section 59-2-405.2; or

330 (v) Section 59-2-405.3.

331 ~~(k) "Utah Geological Survey" means the Utah Geological Survey established in~~  
332 ~~Section 79-3-201.]~~

333 (l) "Wind system" means a system of apparatus and equipment capable of intercepting  
334 and converting wind energy into mechanical or electrical energy and transferring these forms of  
335 energy by a separate apparatus to the point of use or storage.

336 (2) For taxable years beginning on or after January 1, 2007, a claimant, estate, or trust  
337 may claim a nonrefundable tax credit as provided in this section if:

338 (a) a claimant, estate, or trust that is not a business entity purchases and completes or  
339 participates in the financing of a residential energy system to supply all or part of the energy for  
340 the claimant's, estate's, or trust's residential unit in the state; or

341 (b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to  
342 another claimant, estate, or trust that is not a business entity before making a claim for a tax  
343 credit under Subsection (6) or Section 59-7-614; and

344 (ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit  
345 to the claimant, estate, or trust that is not a business entity as provided in Subsection (6)(c) or  
346 Subsection 59-7-614(2)(a)(iii).

347 (3) (a) The tax credit described in Subsection (2) is equal to 25% of the reasonable  
348 costs of each residential energy system, including installation costs, against any income tax  
349 liability of the claimant, estate, or trust under this chapter for the taxable year in which the  
350 residential energy system is completed and placed in service.

351 (b) The total amount of each tax credit under this section may not exceed \$2,000 per  
352 residential unit.

353 (c) The tax credit under this section is allowed for any residential energy system  
354 completed and placed in service on or after January 1, 2007.

355 (4) (a) The tax credit provided for in this section shall be claimed in the return for the  
356 taxable year in which the residential energy system is completed and placed in service.

357 (b) Additional residential energy systems or parts of residential energy systems may be  
358 similarly claimed in returns for subsequent taxable years as long as the total amount claimed  
359 does not exceed \$2,000 per residential unit.

360 (c) If the amount of the tax credit under this section exceeds the income tax liability of  
361 the claimant, estate, or trust claiming the tax credit under this section for that taxable year, then  
362 the amount not used may be carried over for a period that does not exceed the next four taxable  
363 years.

364 (5) (a) A claimant, estate, or trust that is not a business entity that leases a residential  
365 energy system installed on a residential unit is eligible for the residential energy tax credit if  
366 that claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax  
367 credit.

368 (b) Only the principal recovery portion of the lease payments, which is the cost

369 incurred by the claimant, estate, or trust in acquiring the residential energy system excluding  
370 interest charges and maintenance expenses, is eligible for the tax credits.

371 (c) A claimant, estate, or trust described in this Subsection (5) may use the tax credits  
372 for a period that does not exceed seven years from the initiation of the lease.

373 (6) (a) A claimant, estate, or trust that is a business entity that purchases and completes  
374 or participates in the financing of a residential energy system to supply all or part of the energy  
375 required for a residential unit owned or used by the claimant, estate, or trust that is a business  
376 entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this  
377 Subsection (6).

378 (b) (i) For taxable years beginning on or after January 1, 2007, a claimant, estate, or  
379 trust that is a business entity is entitled to a nonrefundable tax credit equal to 25% of the  
380 reasonable costs of a residential energy system installed with respect to each residential unit it  
381 owns or uses, including installation costs, against any tax due under this chapter for the taxable  
382 year in which the energy system is completed and placed in service.

383 (ii) The total amount of the tax credit under this Subsection (6) may not exceed \$2,000  
384 per residential unit.

385 (iii) The tax credit under this Subsection (6) is allowed for any residential energy  
386 system completed and placed in service on or after January 1, 2007.

387 (c) If a claimant, estate, or trust that is a business entity sells a residential unit to a  
388 claimant, estate, or trust that is not a business entity before making a claim for the tax credit  
389 under this Subsection (6), the claimant, estate, or trust that is a business entity may:

390 (i) assign its right to this tax credit to the claimant, estate, or trust that is not a business  
391 entity; and

392 (ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax  
393 credit to a claimant, estate, or trust that is not a business entity under Subsection (6)(c)(i), the  
394 claimant, estate, or trust that is not a business entity may claim the tax credit as if that claimant,  
395 estate, or trust that is not a business entity had completed or participated in the costs of the  
396 residential energy system under this section.

397 (7) (a) A tax credit under this section may be claimed for the taxable year in which the  
398 residential energy system is completed and placed in service.

399 (b) Additional residential energy systems or parts of residential energy systems may be

400 claimed for subsequent years.

401 (c) If the amount of a tax credit under this section exceeds the tax liability of the  
402 claimant, estate, or trust claiming the tax credit under this section for a taxable year, the amount  
403 of the tax credit exceeding the tax liability may be carried over for a period which does not  
404 exceed the next four taxable years.

405 (8) (a) Except as provided in Subsection (8)(b), tax credits provided for under this  
406 section are in addition to any tax credits provided under the laws or rules and regulations of the  
407 United States.

408 (b) A purchaser of one or more solar units that claims a tax credit under Section  
409 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this  
410 section for that purchase.

411 (9) (a) The [~~Utah Geological Survey~~] office may set standards for residential energy  
412 systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of the  
413 systems to ensure that the systems eligible for the tax credit use the state's renewable and  
414 nonrenewable energy resources in an appropriate and economic manner.

415 (b) The [~~Utah Geological Survey~~] office may set standards for residential and  
416 commercial energy systems that establish the reasonable costs of an energy system, as used in  
417 Subsections (3)(a) and (6)(b)(i), as an amount per unit of energy production.

418 (c) A tax credit may not be taken under this section until the [~~Utah Geological Survey~~]  
419 office has certified that the energy system has been completely installed and is a viable system  
420 for saving or production of energy from renewable resources.

421 (10) The [~~Utah Geological Survey~~] office and the commission may make rules in  
422 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary  
423 to implement this section.

424 (11) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and  
425 Taxation Interim Committee shall review each tax credit provided by this section and report its  
426 recommendations to the Legislative Management Committee concerning whether the credit  
427 should be continued, modified, or repealed.

428 (b) The Revenue and Taxation Interim Committee's report under Subsection (11)(a)  
429 shall include information concerning the cost of the credit, the purpose and effectiveness of the  
430 credit, and the state's benefit from the credit.

431 Section 8. Section **59-10-1106** is amended to read:

432 **59-10-1106. Refundable renewable energy tax credit.**

433 (1) As used in this section:

434 (a) "Active solar system" is as defined in Section 59-10-1014.

435 (b) "Biomass system" is as defined in Section 59-10-1014.

436 (c) "Business entity" is as defined in Section 59-10-1014.

437 (d) "Commercial energy system" means any active solar, passive solar, geothermal

438 electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or

439 biomass system used to supply energy to a commercial unit or as a commercial enterprise.

440 (e) "Commercial enterprise" means a business entity that:

441 (i) is a claimant, estate, or trust; and

442 (ii) has the purpose of producing electrical, mechanical, or thermal energy for sale from

443 a commercial energy system.

444 (f) (i) "Commercial unit" means any building or structure that a business entity that is a

445 claimant, estate, or trust uses to transact its business.

446 (ii) Notwithstanding Subsection (1)(f)(i):

447 (A) in the case of an active solar system used for agricultural water pumping or a wind

448 system, each individual energy generating device shall be a commercial unit; and

449 (B) if an energy system is the building or structure that a business entity that is a

450 claimant, estate, or trust uses to transact its business, a commercial unit is the complete energy

451 system itself.

452 (g) "Direct-use geothermal system" is as defined in Section 59-10-1014.

453 (h) "Geothermal electricity" is as defined in Section 59-10-1014.

454 (i) "Geothermal heat-pump system" is as defined in Section 59-10-1014.

455 (j) "Hydroenergy system" is as defined in Section 59-10-1014.

456 (k) "Office" means the Office of Energy Development created in Section 63M-4-401.

457 ~~[(k)]~~ (l) "Passive solar system" is as defined in Section 59-10-1014.

458 ~~[(l) "Utah Geological Survey" means the Utah Geological Survey established in~~

459 ~~Section 79-3-201.]~~

460 (m) "Wind system" is as defined in Section 59-10-1014.

461 (2) (a) (i) A business entity that is a claimant, estate, or trust that purchases or

462 participates in the financing of a commercial energy system situated in Utah is entitled to a  
463 refundable tax credit as provided in this Subsection (2)(a) if the commercial energy system  
464 does not use wind, geothermal electricity, or biomass equipment capable of producing a total of  
465 660 or more kilowatts of electricity and:

466 (A) the commercial energy system supplies all or part of the energy required by  
467 commercial units owned or used by the business entity that is a claimant, estate, or trust; or

468 (B) the business entity that is a claimant, estate, or trust sells all or part of the energy  
469 produced by the commercial energy system as a commercial enterprise.

470 (ii) (A) A business entity that is a claimant, estate, or trust is entitled to a tax credit of  
471 up to 10% of the reasonable costs of any commercial energy system installed, including  
472 installation costs, against any tax due under this chapter for the taxable year in which the  
473 commercial energy system is completed and placed in service.

474 (B) Notwithstanding Subsection (2)(a)(ii)(A), the total amount of the credit under this  
475 Subsection (2)(a) may not exceed \$50,000 per commercial unit.

476 (C) The credit under this Subsection (2)(a) is allowed for any commercial energy  
477 system completed and placed in service on or after January 1, 2007.

478 (iii) A business entity that is a claimant, estate, or trust that leases a commercial energy  
479 system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(a)  
480 if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

481 (iv) Only the principal recovery portion of the lease payments, which is the cost  
482 incurred by a business entity that is a claimant, estate, or trust in acquiring a commercial energy  
483 system, excluding interest charges and maintenance expenses, is eligible for the tax credit  
484 under this Subsection (2)(a).

485 (v) A business entity that is a claimant, estate, or trust that leases a commercial energy  
486 system is eligible to use the tax credit under this Subsection (2)(a) for a period no greater than  
487 seven years from the initiation of the lease.

488 (b) (i) A business entity that is a claimant, estate, or trust that owns a commercial  
489 energy system situated in Utah using wind, geothermal electricity, or biomass equipment  
490 capable of producing a total of 660 or more kilowatts of electricity is entitled to a refundable  
491 tax credit as provided in this section if:

492 (A) the commercial energy system supplies all or part of the energy required by



493 commercial units owned or used by the business entity that is a claimant, estate, or trust; or

494 (B) the business entity that is a claimant, estate, or trust sells all or part of the energy  
495 produced by the commercial energy system as a commercial enterprise.

496 (ii) A business entity that is a claimant, estate, or trust is entitled to a tax credit under  
497 this Subsection (2)(b) equal to the product of:

498 (A) 0.35 cents; and

499 (B) the kilowatt hours of electricity produced and either used or sold during the taxable  
500 year.

501 (iii) The credit allowed by this Subsection (2)(b):

502 (A) may be claimed for production occurring during a period of 48 months beginning  
503 with the month in which the commercial energy system is placed in service; and

504 (B) may not be carried forward or back.

505 (iv) A business entity that is a claimant, estate, or trust that leases a commercial energy  
506 system installed on a commercial unit is eligible for the tax credit under this section if the  
507 lessee can confirm that the lessor irrevocably elects not to claim the credit.

508 (3) The tax credits provided for under this section are in addition to any tax credits  
509 provided under the laws or rules and regulations of the United States.

510 (4) (a) The [~~Utah Geological Survey~~] office may set standards for commercial energy  
511 systems claiming a tax credit under Subsection (2)(a) that cover the safety, reliability,  
512 efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible  
513 for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate  
514 and economic manner.

515 (b) A tax credit may not be taken under this section until the [~~Utah Geological Survey~~]  
516 office has certified that the commercial energy system has been completely installed and is a  
517 viable system for saving or production of energy from renewable resources.

518 (5) The [~~Utah Geological Survey~~] office and the commission may make rules in  
519 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary  
520 to implement this section.

521 (6) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and  
522 Taxation Interim Committee shall review each tax credit provided by this section and report its  
523 recommendations to the Legislative Management Committee concerning whether the credit

524 should be continued, modified, or repealed.

525 (b) The Revenue and Taxation Interim Committee's report under Subsection (6)(a)  
526 shall include information concerning the cost of the credit, the purpose and effectiveness of the  
527 credit, and the state's benefit from the credit.

528 Section 9. Section **63H-2-101** is amended to read:

529 **CHAPTER 2. UTAH ENERGY INFRASTRUCTURE AUTHORITY ACT**

530 **63H-2-101. Title.**

531 This chapter is known as the "Utah [~~Generated Renewable Energy Electricity Network~~]  
532 Energy Infrastructure Authority Act."

533 Section 10. Section **63H-2-102** is amended to read:

534 **63H-2-102. Definitions.**

535 As used in this chapter:

536 (1) "Authority" means the Utah [~~Generated Renewable Energy Electricity Network~~]  
537 Energy Infrastructure Authority created in Section 63H-2-201.

538 (2) "Authority bond" means a bond issued by the authority in accordance with Part 4,  
539 Bonding.

540 (3) "Board" means the board created under Section 63H-2-202.

541 (4) "Community" means the county, city, or town in which is located a qualifying  
542 [~~transmission~~] energy delivery project financed by an authority bond.

543 (5) "Electric interlocal entity" [~~means an interlocal entity~~] has the same meaning as  
544 defined in Section 11-13-103.

545 (6) "Energy advisor" means the governor's energy advisor appointed under Section  
546 63M-4-201.

547 (7) "Energy delivery project" means a project that is designed to:

548 (a) increase the capacity for the delivery of energy to a user of energy inside or outside  
549 the state; or

550 (b) increase the capability of an existing energy delivery system or related facility to  
551 deliver energy to a user of energy inside or outside the state.

552 [~~(6)~~] (8) "Independent state agency" is as defined in Section 63E-1-102.

553 [~~(7)~~] (9) "Public entity" means:

554 (a) the United States or an agency of the United States;

555 (b) the state or an agency of the state;

556 (c) a political subdivision of the state or an agency of a political subdivision of the  
557 state;

558 (d) another state or an agency of that state; or

559 (e) a political subdivision of another state or an agency of that political subdivision.

560 ~~[(8)]~~ (10) "Qualifying ~~[transmission]~~ energy delivery project" means a ~~[transmission]~~  
561 project approved by the board in accordance with Part 3, Qualifying ~~[Transmission]~~ Energy  
562 Delivery Projects.

563 ~~[(9)]~~ (11) "Record" means information that is:

564 (a) inscribed on a tangible medium; or

565 (b) (i) stored in an electronic or other medium; and

566 (ii) retrievable in perceivable form.

567 ~~[(10) "Related facility" means a facility related to the effective operation of a~~  
568 ~~transmission line although the facility is not directly a part of a transmission line, including:]~~

569 ~~[(a) a substation; or]~~

570 ~~[(b) an access road.]~~

571 ~~[(11) "Renewable energy source" is as defined in Section 10-19-102.]~~

572 ~~[(12) "Transmission project" means a project that is designed to:]~~

573 ~~[(a) increase capacity for transmission of electric power or energy to an electric load:]~~

574 ~~[(i) within this state; or]~~

575 ~~[(ii) outside of the state; or]~~

576 ~~[(b) otherwise increase the capability of an existing electric transmission line or related~~  
577 ~~facility to transmit electric power and energy from a renewable energy source to an electric~~  
578 ~~load:]~~

579 ~~[(i) within this state; or]~~

580 ~~[(ii) outside of the state.]~~

581 ~~[(13) "Wholesale electrical cooperative" is as defined in Section 54-2-1.]~~

582 Section 11. Section **63H-2-201** is amended to read:

583 **63H-2-201. Creation of Utah Energy Infrastructure Authority.**

584 (1) There is created an independent state agency known as the "Utah ~~[Generated~~  
585 ~~Renewable Energy Electricity Network]~~ Energy Infrastructure Authority."

- 586 (2) Subject to Section 63H-2-203, the authority may:
- 587 (a) sue and be sued;
- 588 (b) enter into contracts generally;
- 589 (c) (i) accept financial or other assistance from a public or private source for the  
590 authority's activities, powers, and duties; and
- 591 (ii) expend money received under Subsection (2)(c)(i) for [~~a qualifying transmission~~  
592 project] the purpose of building or enhancing the state's energy delivery infrastructure;
- 593 (d) (i) for the purpose of studying a qualifying transmission project, borrow money or  
594 accept financial or other assistance from:
- 595 (A) a public entity; or
- 596 (B) any other source; and
- 597 (ii) comply with a condition of a loan or assistance described in Subsection (2)(d)(i);
- 598 (e) in accordance with Part 4, Bonding, issue one or more bonds to finance a qualifying  
599 [~~transmission~~] energy delivery project;
- 600 (f) hire one or more employees, including:
- 601 (i) a contract employee; and
- 602 (ii) legal counsel;
- 603 (g) enter into a partnership agreement with a business entity related to a qualifying  
604 [~~transmission~~] energy delivery project;
- 605 (h) enter into an agreement with a public entity related to a qualifying [~~transmission~~]  
606 energy delivery project;
- 607 (i) if none of the authority's net earnings inure to the benefit of a private entity, use  
608 money available to the authority:
- 609 (i) for administrative, overhead, legal, or other operating expenses of the authority; and
- 610 (ii) to pay the principal and interest on an authority bond;
- 611 (j) create one or more subsidiaries to engage in an activity that the authority may  
612 engage in under this chapter;
- 613 (k) transact other business related to a qualifying [~~transmission~~] energy delivery  
614 project;
- 615 (l) acquire, own, lease, or sell real property or personal property related to a qualifying  
616 [~~transmission~~] energy delivery project; or

617 (m) exercise a power provided for in this chapter.

618 (3) Unless expressly provided in this chapter, the state is not liable for an obligation,  
619 expense, debt, or liability of the authority.

620 Section 12. Section **63H-2-202** is amended to read:

621 **63H-2-202. Authority board.**

622 (1) There is created the Utah [~~Generated Renewable Energy Electricity Network~~  
623 Energy Infrastructure Authority Board that consists of [~~seven~~] nine members, appointed by the  
624 governor as follows:

625 (a) the energy advisor, who shall serve as chair of the board;

626 [~~(a)~~] (b) one member from the Governor's Office of Economic Development;

627 [~~(b)~~] (c) three members from a public utility or electric interlocal entity that operates  
628 electric transmission facilities within the state as follows:

629 (i) one member selected by the governor from recommendations from an  
630 investor-owned electric corporation that operates in this state;

631 (ii) one member selected by the governor from recommendations from a wholesale  
632 electrical cooperative, as defined in Section 54-2-1, in the state; and

633 (iii) one member selected by the governor from recommendations from an electric  
634 interlocal entity;

635 [~~(c)~~] (d) the director of the School and Institutional Trust Lands Administration created  
636 in Section 53C-1-201;

637 [~~(d) one representative of a business entity that produces a renewable energy source;~~  
638 and]

639 (e) two representatives of business entities that produce energy; and

640 [~~(e)~~] (f) one member of the general public who has experience with public finance and  
641 bonding.

642 (2) (a) The term of a board member is four years.

643 (b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment  
644 or reappointment, adjust the length of terms to ensure that the terms of board members are  
645 staggered so that approximately half of the board is appointed every two years.

646 (c) The governor may remove a member of the board for cause.

647 (d) The governor shall fill a vacancy in the board in the same manner under this section

648 as the appointment of the member whose vacancy is being filled.

649 (e) An individual appointed to fill a vacancy shall serve the remaining unexpired term  
650 of the member whose vacancy the individual is filling.

651 (f) A board member shall serve until a successor is appointed and qualified.

652 [~~3~~] ~~The board member appointed under Subsection (1)(a) shall serve as chair of the~~  
653 ~~board.]~~

654 [~~4~~] (3) (a) [~~Four~~] Five members of the board [~~is~~] constitute a quorum for conducting  
655 board business.

656 (b) A majority vote of the quorum present is required for an action to be taken by the  
657 board.

658 [~~5~~] (4) (a) The board shall meet at least quarterly on a date the board sets.

659 (b) The chair of the board or any two members of the board may call additional  
660 meetings.

661 [~~6~~] (5) A member may not receive compensation or benefits for the member's service,  
662 but may receive per diem and travel expenses in accordance with:

663 (a) Section 63A-3-106;

664 (b) Section 63A-3-107; and

665 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
666 63A-3-107.

667 Section 13. Section **63H-2-204** is amended to read:

668 **63H-2-204. Dissolution of authority.**

669 (1) Subject to the other provisions of this section, the board may dissolve the authority:

670 (a) if the board determines that the authority can no longer comply with the  
671 requirements of this chapter; and

672 (b) by a vote of at least five members of the board.

673 (2) The authority may not be dissolved if the authority has any of the following:

674 (a) an outstanding bonded indebtedness;

675 (b) an unpaid loan, indebtedness, or advance; or

676 (c) a legally binding contractual obligation with a person other than the state.

677 (3) Upon the dissolution of the authority:

678 (a) the Governor's Office of Economic Development shall publish a notice of

679 dissolution:

680 (i) in a newspaper of general circulation in each county in which a qualifying

681 [~~transmission~~] energy delivery project is located; and

682 (ii) electronically, in accordance with Section 45-1-101;

683 (b) the authority shall deposit its records with the state auditor, to be retained for the  
684 time period determined by the state auditor; and

685 (c) the assets of the authority shall revert to the state.

686 (4) The authority shall pay the expenses of dissolution and winding up the affairs of the  
687 authority.

688 (5) If a dissolution under this section is part of a privatization of the authority, the  
689 dissolution is subject to Title 63E, Chapter 1, Part 4, Privatization of Independent Entities.

690 Section 14. Section **63H-2-301** is amended to read:

691 **Part 3. Qualifying Energy Delivery Projects**

692 **63H-2-301. Prioritization of energy delivery projects.**

693 (1) The board shall review the location and availability of [~~renewable~~] energy sources  
694 [~~serving electric loads~~] in the state.

695 (2) The board shall:

696 (a) determine if there is adequate [~~transmission~~] infrastructure and capacity to bring  
697 [~~renewable~~] energy sources to market;

698 (b) prioritize [~~transmission~~] projects on the basis of:

699 (i) location;

700 (ii) supporting [~~potential renewable~~] responsible energy [~~source~~] development;

701 (iii) feasibility of development; and

702 (iv) economic development factors; and

703 (c) provide available funding to develop energy resource plans to provide for  
704 [~~connecting to transmission lines a renewable~~] energy [~~source~~] infrastructure development,  
705 including development of an integrated resource plan.

706 Section 15. Section **63H-2-302** is amended to read:

707 **63H-2-302. Approval of qualifying energy delivery project.**

708 (1) To approve a qualifying [~~transmission~~] energy delivery project, the board shall  
709 determine that the [~~transmission~~] project:

710 (a) contributes to the economy of the state and the one or more communities where the  
711 [~~transmission~~] project is located;

712 (b) is strategically situated to maximize connections to [~~a renewable~~] an energy source  
713 project located in the state that is:

714 (i) existing;

715 (ii) under construction;

716 (iii) planned; or

717 (iv) foreseeable;

718 (c) is supported by a business case for providing the revenue necessary to:

719 (i) service an authority bond issued to finance the [~~transmission~~] project; and

720 (ii) finance the construction and operation of a [~~transmission~~] project;

721 (d) is supported by a [~~transmission~~] project plan related to:

722 (i) engineering;

723 (ii) environmental issues;

724 (iii) energy production;

725 (iv) load or other capacity; and

726 (v) any other issue related to the building and operation of [~~a transmission line; and~~]  
727 energy delivery infrastructure;

728 (e) complies with the regulations of the following regarding the building of [~~a~~  
729 ~~transmission line or connection~~] energy delivery infrastructure:

730 (i) the Federal Energy Regulatory Commission;

731 (ii) the North American Electric Reliability Council; and

732 (iii) the Public Service Commission of Utah[-]; and

733 (f) promotes responsible energy development.

734 (2) This chapter may not be used to compel interconnection to or use of a transmission  
735 or interconnection line or facility that belongs to another person.

736 Section 16. Section **63H-2-401** is amended to read:

737 **63H-2-401. Resolution authorizing issuance of authority bond -- Characteristics**  
738 **of bond.**

739 (1) (a) The authority may issue a bond subject to the requirements of this part to  
740 finance, in whole or in part, a qualifying [~~transmission~~] energy delivery project.



741 (b) The authority may not issue a bond under this part unless before the issuance of the  
742 bond, the board adopts a resolution authorizing the issuance of the bond.

743 (2) (a) If provided in a resolution authorizing the issuance of an authority bond or in  
744 the trust indenture under which the authority bond is issued, an authority bond may be:

745 (i) issued in one or more series; and

746 (ii) sold:

747 (A) at a public or private sale; and

748 (B) in the manner provided in the resolution or indenture.

749 (b) An authority bond shall:

750 (i) bear the date provided in the resolution authorizing the issuance of the authority  
751 bond or the trust indenture under which the authority bond is issued;

752 (ii) be payable at the time provided in the resolution authorizing the issuance of the  
753 authority bond or the trust indenture under which the authority bond is issued;

754 (iii) bear interest at the rate provided in the resolution authorizing the issuance of the  
755 authority bond or the trust indenture under which the authority bond is issued;

756 (iv) be in the denomination and in the form provided in the resolution authorizing the  
757 issuance of the authority bond or the trust indenture under which the authority bond is issued;

758 (v) carry the conversion or registration privileges provided in the resolution authorizing  
759 the issuance of the authority bond or the trust indenture under which the authority bond is  
760 issued;

761 (vi) have the rank or priority as provided in the resolution authorizing the issuance of  
762 the authority bond or the trust indenture under which the authority bond is issued;

763 (vii) be executed in the manner as provided in the resolution authorizing the issuance  
764 of the authority bond or the trust indenture under which the authority bond is issued;

765 (viii) be subject to the terms of redemption or tender, with or without premium, as  
766 provided in the resolution authorizing the issuance of the authority bond or the trust indenture  
767 under which the authority bond is issued;

768 (ix) be payable in the medium of payment and at the place as provided in the resolution  
769 authorizing the issuance of the authority bond or the trust indenture under which the authority  
770 bond is issued; and

771 (x) have other characteristics as provided in the resolution authorizing the issuance of

772 the authority bond or the trust indenture under which the authority bond is issued.

773 Section 17. Section **63H-2-402** is amended to read:

774 **63H-2-402. Sources from which an authority bond may be made payable --**

775 **Authority powers regarding authority bond.**

776 (1) The principal and interest on an authority bond may be made payable from:

777 (a) the income and revenues related to a qualifying [~~transmission~~] energy delivery  
778 project financed with the proceeds of the authority bond;

779 (b) the income and revenues from a public or private source under Subsection  
780 63H-2-201(2)(c);

781 (c) a contribution, loan, grant, or other financial assistance from a public entity or other  
782 source under Subsection 63H-2-201(2)(d);

783 (d) authority revenues generally; or

784 (e) money derived from a combination of the methods listed in Subsections (1)(a)  
785 through (d).

786 (2) In connection with the issuance of an authority bond, the authority may:

787 (a) pledge all or any part of the authority's gross or net revenues to which the authority:

788 (i) has a right that exists at issuance of the authority bond; or

789 (ii) may have a right that comes into existence after issuance of the authority bond; and

790 (b) even if a covenant or action is not specifically enumerated in this chapter, make a  
791 covenant or take an action that:

792 (i) may be necessary, convenient, or desirable to secure the authority bond; or

793 (ii) except as otherwise provided in this chapter, will tend to make the authority bond  
794 more marketable.

795 (3) A member of the board or other person executing an authority bond is not liable  
796 personally on the authority bond.

797 (4) (a) An authority bond:

798 (i) is not a general obligation or liability of the state or any of the state's political  
799 subdivisions; and

800 (ii) does not constitute a charge against the general credit or taxing powers of the state  
801 or any of the state's political subdivisions.

802 (b) An authority bond is not payable out of money or properties other than those of the

803 authority pledged for the payment of the bond.

804 (c) A community, the state, or a political subdivision of the state may not be liable on  
805 an authority bond.

806 (d) An authority bond does not constitute indebtedness within the meaning of a  
807 constitutional or statutory debt limitation.

808 (5) An authority bond is fully negotiable.

809 (6) An authority bond is:

810 (a) issued for an essential public and governmental purpose; and

811 (b) together with interest on the authority bond and income from the authority bond,  
812 exempt from state taxes except the corporate franchise tax.

813 (7) Nothing in this section may be construed to limit the right of an obligee to pursue a  
814 remedy for the enforcement of a pledge or lien given under this part by the authority on the  
815 authority's rents, fees, grants, properties, or revenues.

816 Section 18. Section **63H-2-404** is amended to read:

817 **63H-2-404. Obligee rights -- Board may confer other rights.**

818 (1) In addition to a right that is conferred on an obligee of an authority bond under this  
819 chapter and subject to contractual restrictions binding on the obligee, an obligee may:

820 (a) by mandamus, suit, action, or other proceeding:

821 (i) compel the authority and its board, officers, agents, or employees to perform every  
822 term, provision, and covenant contained in a contract of the authority with or for the benefit of  
823 the obligee; and

824 (ii) require the authority to carry out the covenants and agreements of the authority and  
825 to fulfill the duties imposed on the authority by this part; and

826 (b) by suit, action, or proceeding in equity, enjoin an act or things that may be unlawful  
827 or violate the rights of the obligee.

828 (2) (a) In a resolution authorizing the issuance of an authority bond or in a trust  
829 indenture, mortgage, lease, or other contract, the board may confer upon an obligee holding or  
830 representing a specified amount in an authority bond, a right described in Subsection (2)(b):

831 (i) to accrue upon the happening of an event or default prescribed in the resolution,  
832 indenture, mortgage, lease, or other contract; and

833 (ii) to be exercised by suit, action, or proceeding in a court of competent jurisdiction.

- 834 (b) (i) A right that the board may confer under Subsection (2)(a) is a right to:
- 835 (A) cause possession of all or part of a qualifying [~~transmission~~] energy delivery
- 836 project to be surrendered to an obligee;
- 837 (B) obtain the appointment of a receiver of all or part of:
- 838 (I) a qualifying [~~transmission~~] energy delivery project; and
- 839 (II) the rents and profits from a qualifying [~~transmission~~] energy delivery project; and
- 840 (C) require the authority, its board, and its employees to account as if the authority,
- 841 board, and employees were the trustees of an express trust.
- 842 (ii) If a receiver is appointed through the exercise of a right granted under Subsection
- 843 (2)(b)(i)(B), the receiver:
- 844 (A) may:
- 845 (I) enter and take possession of a qualifying [~~transmission~~] energy delivery project or
- 846 any part of the qualifying [~~transmission~~] energy delivery project;
- 847 (II) operate and maintain the qualifying [~~transmission~~] energy delivery project; and
- 848 (III) collect and receive the fees, rents, revenues, or other charges arising from the
- 849 qualifying [~~transmission~~] energy delivery project after the receiver's appointment; and
- 850 (B) shall:
- 851 (I) keep money collected as receiver for the authority in one or more separate accounts;
- 852 and
- 853 (II) apply the money collected as receiver pursuant to the authority obligations as the
- 854 court directs.

855 Section 19. Section **63M-4-102** is amended to read:

856 **63M-4-102. Definitions.**

857 As used in this chapter[, "state"]:

- 858 (1) "Energy advisor" means the governor's energy advisor appointed under Section
- 859 63M-4-401.
- 860 (2) "Office" means the Office of Energy Development created in Section 63M-4-401.
- 861 (3) "State agency" means an executive branch:
- 862 [~~(1)~~] (a) department;
- 863 [~~(2)~~] (b) agency;
- 864 [~~(3)~~] (c) board;

865           ~~[(4)]~~ (d) commission;  
 866           ~~[(5)]~~ (e) division; or  
 867           ~~[(6)]~~ (f) state educational institution.

868           Section 20. Section **63M-4-203** is amended to read:

869           **63M-4-203. Reports.**

870           (1) The governor's energy advisor shall report annually to:

- 871           (a) the governor; and
- 872           (b) the Natural Resources, Agriculture, and Environment Interim Committee~~[-and].~~

873           ~~[(c) the Public Utilities and Technology Interim Committee.]~~

874           (2) The report required in Subsection (1) shall:

- 875           (a) summarize the status and development of the state's energy resources;
  - 876           (b) address the governor's energy advisor's activities under this part; and
  - 877           (c) recommend any energy-related executive or legislative action the governor's energy
- 878           advisor considers beneficial to the state, including updates to the state energy policy under
- 879           Section 63M-4-301.

880           Section 21. Section **63M-4-401** is amended to read:

881           **63M-4-401. Creation of Office of Energy Development -- Director -- Purpose --**  
 882           **Rulemaking regarding confidential information.**

883           ~~[(1) As used in this section, "office" means the Office of Energy Development created~~  
 884           ~~in Subsection (2).]~~

885           ~~[(2)]~~ (1) There is created an Office of Energy Development.

886           ~~[(3)]~~ (2) (a) The governor's energy advisor shall appoint a director of the office.

887           (b) The director shall report to the governor's energy advisor and may appoint staff as  
 888           funding within existing budgets allows.

889           (c) The office may consolidate energy staff and functions existing in the State Energy  
 890           Program.

891           ~~[(4)]~~ (3) The ~~[purpose]~~ purposes of the office ~~[is]~~ are to:

- 892           (a) serve as the primary resource for advancing energy development in the state; and
- 893           (b) implement:

894           ~~[(a)]~~ (i) the state energy policy under Section 63M-4-301; and

895           ~~[(b)]~~ (ii) the governor's energy goals and objectives.

896            [~~5~~] (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal  
897 Funds Procedures Act, the office may:

- 898            (a) seek federal grants or loans;
- 899            (b) seek to participate in federal programs; and
- 900            (c) in accordance with applicable federal program guidelines, administer federally  
901 funded state energy programs.

902            [~~6~~] (5) (a) For purposes of administering this section, the office may make rules, by  
903 following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative  
904 Rulemaking Act, to maintain as confidential, and not as a public record, information that the  
905 office receives from any source.

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

---

---

**Legislative Review Note**  
**as of 2-2-12 12:41 PM**

**Office of Legislative Research and General Counsel**