

ENERGY SECURITY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: Derrin R. Owens

Cosponsors:	Matthew H. Gwynn	Jefferson Moss
Cheryl K. Acton	Katy Hall	Michael J. Petersen
Carl R. Albrecht	Jon Hawkins	Thomas W. Peterson
Melissa G. Ballard	Colin W. Jack	Candice B. Pierucci
Stewart E. Barlow	Tim Jimenez	Judy Weeks Rohner
Kera Birkeland	Dan N. Johnson	Mike Schultz
Bridger Bolinder	Marsha Judkins	Rex P. Shipp
Brady Brammer	Michael L. Kohler	Keven J. Stratton
Walt Brooks	Quinn Kotter	Mark A. Strong
Jefferson S. Burton	Trevor Lee	Jordan D. Teuscher
Scott H. Chew	Karianne Lisonbee	R. Neil Walter
Kay J. Christofferson	Anthony E. Loubet	Stephen L. Whyte
Tyler Clancy	Steven J. Lund	Brad R. Wilson
Joseph Elison	Phil Lyman	
Stephanie Gricius	A. Cory Maloy	

LONG TITLE**General Description:**

This bill modifies provisions related to the regulation of energy.

Highlighted Provisions:

This bill:

- defines terms;

- 28 ▶ requires a project entity to provide notice to the Legislative Management Committee
29 180 days prior to:
- 30 • the disposal or sale of any project entity asset; and
 - 31 • the decommissioning of a coal-powered electrical generation facility;
- 32 ▶ requires the Office of Energy Development to:
- 33 • conduct a study of a project entity; and
 - 34 • report the results of the study to the Public Utilities, Energy, and Technology
35 Interim Committee;
- 36 ▶ modifies the state energy policy to promote the state's energy independence by:
- 37 • promoting the use of energy resources generated within the state; and
 - 38 • promoting the use of clean energy sources by considering the emissions of an
39 energy resource throughout the entire life cycle of the energy resource;
- 40 ▶ provides legislative findings;
- 41 ▶ requires a qualified utility to inform the Office of the Attorney General when a
42 proposed federal regulation would result in the early retirement of an electrical
43 generation facility;
- 44 ▶ authorizes the Office of the Attorney General to take any action to defend the state's
45 interests with respect to electricity generation by a qualified utility facing a
46 proposed federal regulation that would result in the early retirement of an electrical
47 generation facility; and
- 48 ▶ makes technical changes.

49 Money Appropriated in this Bill:

50 None

51 Other Special Clauses:

52 None

53 Utah Code Sections Affected:

54 AMENDS:

55 **79-6-301**, as last amended by Laws of Utah 2021, Chapter 383 and renumbered and
56 amended by Laws of Utah 2021, Chapter 280

57 ENACTS:

58 **11-13-318**, Utah Code Annotated 1953

59 **11-13-319**, Utah Code Annotated 1953

60 **79-6-303**, Utah Code Annotated 1953

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

63 Section 1. Section **11-13-318** is enacted to read:

64 **11-13-318. Notice of decommissioning or disposal of project entity assets.**

65 (1) As used in this section:

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

67 (b) (i) "Project entity asset" means a project entity's:

68 (A) land;

69 (B) buildings; or

70 (C) essential equipment, including turbines, generators, transformers, and transmission
71 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 facility.

74 (2) A project entity shall provide a notice of decommissioning or disposal to the
75 Legislative Management Committee at least 180 days before:

76 (a) the disposal of any project entity assets; or

77 (b) the decommissioning of the project entity's coal-powered electrical generation
78 facility.

79 (3) The notice of decommissioning or disposal described in Subsection (2) shall
80 include:

81 (a) the date of the intended decommissioning or disposal;

(b) a description of the project entity's coal-powered electrical generation facility intended for decommissioning or any project entity asset intended for disposal; and

(c) the reasons for the decommissioning or disposal.

(4) A project entity may not intentionally prevent the functionality of the project entity's existing coal-powered electrical generation facility.

(5) Notwithstanding the requirements in Subsections (2) through (4), a project entity may take any action necessary to transition to a new electrical generation facility powered by natural gas, hydrogen, or a combination of natural gas and hydrogen, including any action that has been approved by a permitting authority.

Section 2. Section **11-13-319** is enacted to read:

11-13-319. Project entity continued operation study.

(1) The Office of Energy Development shall conduct a study to:

(a) evaluate all environmental regulations and permits to be filed to continue operation of a project entity's existing coal-powered electrical generation facility;

(b) identify best available technology to implement additional environmental controls for continued operation of a project entity's existing coal-powered electrical generation facility;

(c) identify the transmission capacity of the project entity;

(d) coordinate with state and local economic development agencies to evaluate economic opportunities for continued use of a project entity's existing coal-powered electrical generation facility;

(e) analyze the financial assets and liabilities of a project entity;

(f) identify the best interests of the local economies, local tax base, and the state in relation to a project entity;

(g) evaluate the viability of the continued operation of a project entity's existing coal-powered electrical generation facility;

(i) under ownership of the state; or

(ii) in a public private partnership; and

109 (h) identify the steps necessary for the state to obtain first right of refusal for ownership
110 of a project entity's existing coal-powered electrical generation facility.

111 (2) A project entity shall cooperate and provide timely assistance and information to
112 the Office of Energy Development in the preparation of the study described in Subsection (1).

113 (3) The Office of Energy Development shall report to the Public Utilities, Energy, and
114 Technology Interim Committee and the Legislative Management Committee on or before the
115 Public Utilities, Energy, and Technology Interim Committee's September 2023 interim
116 committee meeting.

117 (4) The report described in Subsection (3) shall include:

118 (a) the results of the study described in Subsection (1);

119 (b) recommendations for continued operation of a project entity's existing
120 coal-powered electrical generation facility;

121 (c) environmental controls that need to be implemented for the continued operation of
122 a project entity's existing coal-powered electrical generation facility;

123 (d) recommendations to increase local and state tax revenue through the continued
124 operation of a project entity's existing coal-powered electrical generation facility; and

125 (e) recommendations for legislation to be introduced in the 2024 General Session to
126 enable the continued operation of a project entity's existing coal-powered electrical generation
127 facility.

128 Section 3. Section **79-6-301** is amended to read:

129 **79-6-301. State energy policy.**

130 (1) It is the policy of the state that:

131 (a) Utah shall have adequate, reliable, affordable, sustainable, and clean energy
132 resources;

133 (b) Utah ~~[with]~~ shall promote the development of:

134 (i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and oil
135 sands;

(ii) renewable energy resources, including geothermal, solar, wind, biomass, biofuel, and hydroelectric;

(iii) nuclear power generation technologies certified for use by the United States Nuclear Regulatory Commission including molten salt reactors producing medical isotopes;

(iv) alternative transportation fuels and technologies;

(v) infrastructure to facilitate energy development, diversified modes of transportation, greater access to domestic and international markets for Utah's resources, and advanced transmission systems;

(vi) energy storage, pumped storage, and other advanced energy systems, including hydrogen from all sources;

(vii) electricity systems that can be controlled at the request of grid operators to meet system load demands, to ensure an adequate supply of dispatchable energy generation resources; and

(viii) increased refinery capacity;

(c) Utah ~~[with]~~ shall promote the development of resources and infrastructure sufficient to meet the state's growing demand, while contributing to the regional and national energy supply, thus reducing dependence on international energy sources;

(d) Utah ~~[with]~~ shall promote the development of resources, tools, and infrastructure to enhance the state's ability to:

(i) respond effectively to significant disruptions to the state's energy generation, energy delivery systems, or fuel supplies; ~~[and]~~

(ii) maintain adequate supply, including reserves of proven and cost-effective dispatchable electricity reserves to meet grid demand; and

(iii) ensure the state's energy independence by promoting the use of energy resources generated within the state;

(e) Utah ~~[with]~~ shall allow market forces to drive prudent use of energy resources, although incentives and other methods may be used to ensure the state's optimal development

and use of energy resources in the short- and long-term;

(f) Utah ~~[will]~~ shall pursue energy conservation, energy efficiency, and environmental quality;

(g) Utah shall promote the development of a secure supply chain from resource extraction to energy production and consumption;

~~[(g)]~~ (h) (i) state regulatory processes should be streamlined to balance economic costs with the level of review necessary to ensure protection of the state's various interests; and

(ii) where federal action is required, Utah will encourage expedited federal action and will collaborate with federal agencies to expedite review;

~~[(h)]~~ (i) Utah ~~[will]~~ shall maintain an environment that provides for stable consumer prices that are as low as possible while providing producers and suppliers a fair return on investment, recognizing that:

(i) economic prosperity is linked to the availability, reliability, and affordability of consumer energy supplies; and

(ii) investment will occur only when adequate financial returns can be realized; ~~[and]~~

~~[(i)]~~ (j) Utah ~~[will]~~ shall promote training and education programs focused on developing a comprehensive understanding of energy, including:

(i) programs addressing:

(A) energy conservation;

(B) energy efficiency;

(C) supply and demand; and

(D) energy related workforce development; and

(ii) energy education programs in grades ~~[K-12:]~~ kindergarten through grade 12; and

(k) Utah shall promote the use of clean energy sources by considering the emissions of an energy resource throughout the entire life cycle of the energy resource.

(2) State agencies are encouraged to conduct agency activities consistent with Subsection (1).

(3) A person may not file suit to challenge a state agency's action that is inconsistent with Subsection (1).

Section 4. Section **79-6-303** is enacted to read:

79-6-303. Legislative findings -- Forced retirement of electrical generation facilities.

(1) As used in this section:

(a) "Dispatchable" means available for use on demand and generally available to be delivered at a time and quantity of the operator's choosing.

(b) "Electrical generation facility" means a facility that generates electricity for provision to customers.

(c) "Forced retirement" means the closure of an electrical generation facility as a result of a federal regulation that either directly mandates the closure of an electrical generation facility or where the costs of compliance are so high as to effectively force the closure of an electrical generation facility.

(d) "Qualified utility" means the same as that term is defined in Section [54-17-801](#).

(e) "Reliable" means supporting a system generally able to provide a continuous supply of electricity at the proper voltage and frequency and the resiliency to withstand sudden or unexpected disturbances.

(f) "Secure" means protected against disruption, tampering, and external interference.

(2) The Legislature finds that:

(a) affordable, reliable, dispatchable, and secure energy resources are important to the health, safety, and welfare of the state's citizens;

(b) the state has invested substantial resources in the development of affordable, reliable, dispatchable, and secure energy resources within the state;

(c) the early retirement of an electrical generation facility that provides affordable, reliable, dispatchable, and secure energy is a threat to the health, safety, and welfare of the state's citizens;

217 (d) the state's police powers, reserved to the state by the United States Constitution,
218 provide the state with sovereign authority to make and enforce laws for the protection of the
219 health, safety, and welfare of the state's citizens;

220 (e) the state has a duty to defend the production and supply of affordable, reliable,
221 dispatchable, and secure energy from external regulatory interference; and

222 (f) the state's sovereign authority with respect to the retirement of an electrical
223 generation facility for the protection of the health, safety, and welfare of the state's citizens is
224 primary and takes precedence over any attempt from an external regulatory body to mandate,
225 restrict, or influence the early retirement of an electrical generation facility in the state.

226 (3) A qualified utility that receives notice of any federal regulation that may result in
227 the forced retirement of the qualified utility's electrical generation facility shall inform the
228 Office of the Attorney General of the regulation within 30 days after the receipt of notice.

229 (4) After being informed as described in Subsection (3), the Office of the Attorney
230 General may take any action necessary to defend the interest of the state with respect to
231 electricity generation by the qualified utility, including filing an action in court or participating
232 in administrative proceedings.