1	ENERGY SECURITY AMENDMENTS
2	2024 GENERAL SESSION
3	STATE OF UTAH
4	Chief Sponsor: Derrin R. Owens
5	House Sponsor:
6 7	LONG TITLE
8	General Description:
9	This bill modifies provisions related to the regulation of energy.
10	Highlighted Provisions:
11	This bill:
12	<ul><li>defines terms;</li></ul>
13	<ul> <li>requires a project entity to provide notice to the Public Service Commission</li> </ul>
14	(commission) before decommissioning an electrical generation facility;
15	<ul> <li>outlines a process for the commission to determine and provide the fair market</li> </ul>
16	value of an electrical generation facility intended for decommissioning;
17	<ul> <li>requires a project entity to offer an electrical generation facility intended for</li> </ul>
18	decommissioning for sale at fair market value before decommissioning;
19	<ul> <li>allows the state the option to purchase an electrical generation facility intended for</li> </ul>
20	decommissioning if no buyer purchases at full fair market value;
21	<ul> <li>amends provisions related to air quality permits for a project entity that owns an</li> </ul>
22	electrical generation facility with multiple generating units and is transitioning to a
23	new electrical generation facility;
24	<ul> <li>allows the project entity to apply for an alternative permit to keep one or more</li> </ul>
25	existing generating units in operation during the transition, if the project entity has a
26	transition permit requiring closure of all existing units; and

• outlines the review process for an alternative permit and conditions for either the



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28	alternative or transition permit to become effective.
29	Money Appropriated in this Bill:
30	None
31	Other Special Clauses:
32	None
33	<b>Utah Code Sections Affected:</b>
34	AMENDS:
35	11-13-304, as last amended by Laws of Utah 2016, Chapter 382
36	ENACTS:
37	11-13-320, Utah Code Annotated 1953
38	19-2-109.4, Utah Code Annotated 1953
39	54-1-14, Utah Code Annotated 1953
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41	Be it enacted by the Legislature of the state of Utah:
42	Section 1. Section 11-13-304 is amended to read:
43	11-13-304. Certificate of public convenience and necessity required Exceptions
44	Decommissioning of electrical generation facility by project entity.
45	(1) As used in this section:
46	(a) "Commission" means the Public Service Commission established in Section
47	<u>54-1-1.</u>
48	(b) "Decommissioning" means to remove an electrical generation facility from active
49	service.
50	(c) "Electrical generation facility" means a facility that generates electricity for
51	provision to customers.
52	(d) "Fair market value" means the value of an electrical generation facility considering
53	both the assets and liabilities of the facility, including the value of water rights necessary to
54	operate the existing electrical generation facility at full capacity.
55	(e) "Highest bidder" means the potential purchaser of the electrical generation facility
56	intended for decommissioning that submits the highest purchase offer amount to the project
57	entity, provided that the potential purchaser:
58	(i) agrees to operate the electrical generation facility using resources in the state to the

59	maximum extent feasible;
60	(ii) commits to acting in the interest of state residents and state ratepayers;
61	(iii) meets the approval of the commission in terms of possessing the technical and
62	financial capability to safely and responsibly operate the generation facility in the long term;
63	<u>and</u>
64	(iv) meets any other qualifications stipulated by the commission.
65	(f) "Project entity" means the same as that term is defined in Section 11-13-103.
66	(g) "Public hearing" means the public hearing to establish the fair market value of an
67	electrical generation facility intended for decommissioning described in Section 11-13-304.
68	[(1)] (2) Before proceeding with the construction of any electrical [generating plant]
69	generation facility or transmission line, each interlocal entity and each out-of-state public
70	agency shall first obtain from the public service commission a certificate, after hearing, that
71	public convenience and necessity requires such construction and in addition that such
72	construction will in no way impair the public convenience and necessity of electrical
73	consumers of the state of Utah at the present time or in the future.
74	[(2)] (3) The requirement to obtain a certificate of public convenience and necessity
75	applies to each project initiated after the section's effective date but does not apply to:
76	(a) a project for which a feasibility study was initiated prior to the effective date;
77	(b) any facilities providing additional project capacity;
78	(c) any facilities providing replacement project capacity; or
79	(d) transmission lines required for the delivery of electricity from a project described in
80	Subsection [(2)(a),] (3)(a), or facilities providing additional project capacity, or facilities
81	providing replacement project capacity within the corridor of a transmission line, with
82	reasonable deviation, of a project producing as of April 21, 1987.
83	(4) Before decommissioning an electrical generation facility, a project entity shall
84	provide notice to the commission, no less than 12 months prior to the date of
85	decommissioning.
86	(5) Within 60 days of providing the notice of intent to decommission to the
87	commission, the commission shall hold a public hearing for the purpose of establishing the fair
88	market value of the electrical generation facility that is intended for decommissioning.
89	(6) At the public hearing described in Subsection (5):

90	(a) the commission shall receive evidence and public comment regarding the fair
91	market value of the electrical generation facility that is intended for decommissioning; and
92	(b) the project entity shall disclose:
93	(i) all known assets and potential liabilities or risks related to the electrical generation
94	facility;
95	(ii) any encumbrances on the electrical generation facility; and
96	(iii) whether a sale of the electrical generation facility would transfer liabilities related
97	to the electrical generation.
98	(7) Within 30 days of the public hearing described in Subsection (5), the commission
99	shall issue a decision to the project entity establishing the fair market value of the electrical
100	generation facility that is intended for decommissioning.
101	(8) Within 90 days of receiving the decision described in Subsection (7), a project
102	entity shall offer the electrical generation facility that is intended for decommissioning for sale
103	to the public at fair market value.
104	(9) If a project entity fails to disclose information as required under Subsection (6)(b),
105	the project entity retains any liability related to the electrical generation facility regardless of
106	the sale.
107	(10) A project entity that receives an offer for the full fair market value of the electrical
108	generation facility prior to the scheduled decommissioning date shall sell the electrical
109	generation facility to the highest bidder.
110	(11) (a) The commission shall oversee the sale of an electrical generation facility that a
111	project entity offers for sale under Subsection (8).
112	(b) To oversee the sale as required by Subsection (11)(a), the commission shall:
113	(i) establish timelines and procedures for potential purchasers to follow in submitting
114	binding purchase offers;
115	(ii) evaluate all purchase offers submitted to the project entity to determine the highest
116	bidder; and
117	(iii) approve the selected purchase offer that meets the requirements of this section.
118	(12) (a) If the project entity does not receive an offer for the full fair market value of
119	the electrical generation facility within 60 days of the date the project entity offered the
120	electrical generation facility for sale under Subsection (8), the project entity shall offer the state

121	an option to purchase the electrical generation facility for fair market value.
122	(b) The project entity shall hold open the option described in Subsection (11)(a) for at
123	least one year.
124	Section 2. Section 11-13-320 is enacted to read:
125	11-13-320. Air quality permitting transition process.
126	(1) As used in this section:
127	(a) "Alternative permit" means an amendment to a transition permit that, for purposes
128	of transitioning an electrical generation facility to a new facility, allows one or more existing
129	generating units to continue operating while also providing for closure of one but not all
130	existing generating units.
131	(b) "Pre-existing permit" means the air quality permit held by the operator of an
132	existing electrical generation facility prior to any amendments associated with transitioning to a
133	new facility.
134	(c) "Transition permit" means an amendment to the pre-existing permit, issued to the
135	operator of an existing electrical generation facility for the purpose of transitioning to a new
136	electrical generation facility, which authorizes construction of the new facility but does not
137	require closure of all existing generating units until after the new facility commences operation.
138	(2) A project entity that holds a pre-existing permit for an existing electrical generation
139	facility with multiple generating units, and has been issued a transition permit for a new
140	electrical generation facility, shall submit an application to the Department of Environmental
141	Quality in accordance with Section 19-2-109.4 for issuance of an alternative permit.
142	(3) A project entity shall submit the application described in Subsection (2) on or
143	before July 1, 2024.
144	Section 3. Section 19-2-109.4 is enacted to read:
145	19-2-109.4. Project entity transition permit.
146	(1) As used in this section:
147	(a) "Alternative permit" means the same as that term is defined in Section 11-13-320.
148	(b) "Pre-existing permit" means the same as that term is defined in Section 11-13-320.
149	(c) "Project entity" means the same as that term is defined in Section 11-13-103.
150	(d) "Transition permit" means the same as that term is defined in Section 11-13-320.
151	(2) The division shall accept an application for an alternative permit from a project

152	entity that has previously obtained a transition permit to authorize the same new electrical
153	generating capacity contemplated by the transition permit.
154	(3) An application for an alternative permit shall be evaluated independently from the
155	pre-existing permit or transition permit based on updated assumptions, modeling, and
156	requirements established in rule by the board and may rely upon the reduction of capacity of
157	the existing electrical generation facility only as necessary to ensure that emissions of the new
158	generating facility do not exceed thresholds established by federal law which would necessitate
159	new source review as a major modification.
160	(4) If the application for an alternative permit meets the requirements established by
161	the board:
162	(a) the division shall issue an approval order for the alternative permit to the project
163	entity;
164	(b) the conditions of the transition permit shall cease to apply, including requirements
165	to reduce the capacity of existing generating units at the electrical generation facility; and
166	(c) the project entity shall submit all documentation required to modify any federal
167	operating permit required to be maintained by the project entity, consistent with deadlines
168	established by the division.
169	(5) If an alternative permit is not approved under Subsection (4), the conditions of the
170	transition permit shall remain effective.
171	(6) (a) If a project entity fails to submit an application for an alternative permit by July
172	1, 2024, as required under Section 11-13-320, the division shall immediately begin an
173	evaluation of the feasibility of issuing an alternative permit to the project entity and provide the
174	division's determination on the feasibility of an alternative permit to the Public Utilities,
175	Energy, and Technology Interim Committee no later than the November 2024 interim meeting.
176	(b) If the division concludes in its determination that an alternative permit would likely
177	be issued if the project entity had submitted an application as required, the project entity shall,
178	within 30 days after the determination is provided to the Public Utilities, Energy, and
179	Technology Interim Committee, submit an application to the division for an alternative permit.
180	(c) If the project entity fails to submit an application within the 30 days under
181	Subsection (6)(b), the division shall revoke any transition permit previously issued to the
182	project entity.

183	Section 4. Section <b>54-1-14</b> is enacted to read:
184	54-1-14. Project entity sale of decommissioned assets.
185	(1) As used in this section:
186	(a) "Decommissioning" means the same as that term is defined in Section 11-13-304.
187	(b) "Electrical generation facility" means the same as that term is defined in Section
188	<u>11-13-304.</u>
189	(c) "Fair market value" means the same as that term is defined in Section 11-13-304.
190	(d) "Project entity" means the same as that term is defined in Section 11-13-103.
191	(e) "Public hearing" means the public hearing to establish the fair market value of an
192	electrical generation facility intended for decommissioning described in Section 11-13-304.
193	(2) The commission shall:
194	(a) within 60 days after receiving notice of intent to decommission an electrical
195	generation facility provided under Section 11-13-304, hold a public hearing to determine the
196	fair market value of the electrical generation facility intended for decommissioning;
197	(b) at the public hearing, receive evidence and public comment regarding the fair
198	market value of the electrical generation facility intended for decommissioning;
199	(c) within 30 days after the public hearing, issue a decision to the project entity
200	establishing the fair market value of the electrical generation facility intended for
201	decommissioning;
202	(d) monitor a project entity's compliance with Section 11-13-304 to offer an electrical
203	generation facility intended for decommissioning for sale to the public, including required
204	disclosures;
205	(e) consult with the project entity regarding offers received for the purchase of the
206	electrical generation facility intended for decommissioning;
207	(f) provide oversight regarding the final sale and transfer of ownership of the electrical
208	generation facility intended for decommissioning to a new buyer; and
209	(g) take any other action necessary to enforce and oversee the requirements related to
210	the sale and transfer of the electrical generation facility intended for decommissioning
211	described in Section 11-13-304.
212	Section 5. Effective date.
213	This bill takes effect on May 1, 2024.