

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

ENERGY SECURITY ADJUSTMENTS
2024 THIRD SPECIAL SESSION
STATE OF UTAH
Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill amends provisions related to the decommissioning or disposal of project entity assets and the associated permitting process.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the notice of decommissioning or disposal of project entity assets;
- ▶ removes the requirement for the Legislative Management Committee to make certain recommendations if a project entity does not provide notice of intent to file an application;
- ▶ requires the Decommissioned Asset Disposition Authority (authority) to submit a complete alternative air permit application to the Division of Air Quality (division) by December 31, 2024;
- ▶ requires the division to provide the results of an evaluation to the authority within 30 days of receipt of the application, unless additional time is needed;
- ▶ requires the study on the state implementation plan to focus on ensuring that the continued operation of the power plants under an alternative permit will not jeopardize the state's ability to meet federal air quality standards;
- ▶ repeals the project entity oversight committee; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

28 AMENDS:

29 **11-13-318 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
30 Chapter 512

31 **11-13-320 (Effective upon governor's approval)**, as enacted by Laws of Utah 2024,
32 Chapter 512

33 **19-2-109.4 (Effective upon governor's approval)**, as enacted by Laws of Utah 2024,
34 Chapter 512

35 **63I-1-211 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
36 Chapter 395

37 **63I-1-263 (Effective 07/01/24)**, as last amended by Laws of Utah 2024, Chapter 285

38 **79-6-401 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
39 Chapters 33, 88 and 493

40 **79-6-407 (Effective upon governor's approval)**, as enacted by Laws of Utah 2024,
41 Chapter 512

42 **79-6-408 (Effective upon governor's approval)**, as enacted by Laws of Utah 2024,
43 Chapter 512

44 REPEALS:

45 **11-13-317 (Effective upon governor's approval)**, as enacted by Laws of Utah 2022,
46 Chapter 322

47 **63C-26-101 (Effective upon governor's approval)**, as enacted by Laws of Utah 2022,
48 Chapter 322

49 **63C-26-201 (Effective upon governor's approval)**, as enacted by Laws of Utah 2022,
50 Chapter 322

51 **63C-26-202 (Effective upon governor's approval)**, as enacted by Laws of Utah 2022,
52 Chapter 322

53

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

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

56 **11-13-318 (Effective upon governor's approval). Notice of decommissioning or**
57 **disposal of project entity assets.**

58 (1) As used in this section:

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

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

- 62 (c) "Disposal" means the sale, transfer, dismantling, or other disposition of a project
63 entity's assets.
- 64 (d) "Division" means the Division of Air Quality created in Section 19-1-105.
- 65 (e) "Fair market value" means the same as that term is defined in Section 79-6-408.
- 66 (f)(i) "Project entity asset" means a project entity's:
- 67 (A) land;
- 68 (B) water;
- 69 ~~[(B)]~~ (C) buildings; or
- 70 ~~[(C)]~~ (D) essential equipment, including turbines, generators, transformers, and
71 transmission lines.
- 72 (ii) "Project entity asset" does not include an asset that is not essential for the
73 generation of electricity in the project entity's coal-powered electrical generation
74 facility.
- 75 (2) A project entity shall provide a notice of decommissioning or disposal to the Legislative
76 Management Committee at least 180 days before:
- 77 (a) the disposal of any project entity assets; or
- 78 (b) the decommissioning of the project entity's coal-powered electrical generation
79 facility.
- 80 (3) The notice of decommissioning or disposal described in Subsection (2) shall include:
- 81 (a) the date of the intended decommissioning or disposal;
- 82 (b) a description of the project entity's coal-powered electrical generation facility
83 intended for decommissioning or any project entity asset intended for disposal; and
- 84 (c) the reasons for the decommissioning or disposal.
- 85 (4) A project entity may not intentionally prevent the functionality of the project entity's
86 existing coal-powered electrical generation facility.
- 87 (5) Notwithstanding the requirements in Subsections (2) through (4), a project entity may
88 take any action necessary to transition to a new electrical generation facility powered by
89 natural gas, hydrogen, or a combination of natural gas and hydrogen, including any
90 action that has been approved by a permitting authority.
- 91 ~~[(6) If a project entity intends to submit an application for an alternative permit to the
92 division as described in Section 11-13-320, the project entity shall notify the Legislative
93 Management Committee that the project entity intends to submit an application before
94 July 1, 2024.]~~
- 95 ~~[(7) If a project does not notify the Legislative Management Committee of an intent to~~

96 submit an application, the Legislative Management Committee shall make
97 recommendations to the governor regarding appropriate action, which may include
98 calling a special session to enact legislation reconstituting the board of the project entity.]
99 [(8)] (6) A project entity shall provide the state the option to purchase for fair market value a
100 project entity asset intended for decommissioning, with the option remaining open for at
101 least two years, beginning on July 2, 2025.

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

103 **11-13-320 (Effective upon governor's approval). Air quality permitting**
104 **transition process.**

105 (1) As used in this section:

106 (a) "Alternative permit" means an amendment to a transition permit that, for purposes of
107 transitioning an electrical generation facility to a new facility, allows one or more
108 existing generating units to continue operating while also providing for closure of
109 one but not all existing generating units.

110 (b) "Authority" means the Decommissioned Asset Disposition Authority established in
111 Section 79-6-407.

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

113 (d) "Pre-existing permit" means the air quality permit held by the operator of an existing
114 electrical generation facility prior to any amendments associated with transitioning to
115 a new facility.

116 (e) "Transition permit" means an amendment to the pre-existing permit, issued to the
117 operator of an existing electrical generation facility for the purpose of transitioning to
118 a new electrical generation facility, which authorizes construction of the new facility
119 but does not require closure of all existing generating units until after the new facility
120 commences operation.

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

125 [(3) If a project entity intends to submit an application under Subsection (2), the project
126 entity shall provide a binding notice of intent to the Legislative Management Committee
127 on or before July 1, 2024.]

128 [(4) If a project entity submits an application under Subsection (2), the project entity shall
129 submit the application on or before January 1, 2025.]

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

131 **19-2-109.4 (Effective upon governor's approval). Project entity transition permit.**

132 (1) As used in this section:

133 (a) "Alternative permit" means an amendment to a transition permit that, for purposes of
134 transitioning an electrical generation facility to a new facility, allows one or more
135 existing generating units to continue operating while also providing for closure of
136 one but not all existing generating units.

137 (b) "Authority" means the Decommissioned Asset Disposition Authority established in
138 Section 79-6-407.

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

140 (d) "Pre-existing permit" means the air quality permit held by the operator of an existing
141 electrical generation facility prior to any amendments associated with transitioning to
142 a new facility.

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

144 (f) "Transition permit" means an amendment to the pre-existing permit, issued to the
145 operator of an existing electrical generation facility for the purpose of transitioning to
146 a new electrical generation facility, which authorizes construction of the new facility
147 but does not require closure of all existing generating units until after the new facility
148 commences operation.

149 (2) The division shall accept an application for an alternative permit from a project entity
150 that has previously obtained a transition permit to authorize the same new electrical
151 generating capacity contemplated by the transition permit.

152 (3) If the application for an alternative permit meets the requirements established by the
153 board:

154 (a) the division shall issue an approval order for the alternative permit to the project
155 entity;

156 (b) the conditions of the transition permit shall cease to apply, including requirements to
157 reduce the capacity of existing generating units at the electrical generation facility;
158 and

159 (c) the project entity shall submit all documentation required to modify any federal
160 operating permit required to be maintained by the project entity, consistent with
161 deadlines established by the division.

162 (4) If an alternative permit is not approved under Subsection (3), the conditions of the
163 transition permit shall remain effective.

- 164 (5)(a) Upon receipt of an alternative air permit application prepared and submitted by
 165 the authority in accordance with Subsection 79-6-407(4)(c), the division shall
 166 conduct a full evaluation as if the application had been prepared and submitted by a
 167 project entity to determine whether the alternative air permit would be issued if
 168 applied for by the project entity.
- 169 (b) The division shall provide the results of any evaluation conducted under Subsection
 170 (5)(a) to the authority [~~no later than January 30, 2025.~~] within 30 days after the date
 171 that the division receives the application described in Subsection (5)(a), unless the
 172 division provides written notice to the authority that additional time is needed to
 173 complete the evaluation.
- 174 (c) If the division concludes after evaluation that an alternative permit would likely be
 175 issued to a project entity, the authority shall, within 30 days after the authority
 176 receives the results of the evaluation, submit recommendations to the Legislative
 177 Management Committee regarding options for the state to continue to authorize
 178 construction of the project entity's new electrical generation facility that do not
 179 require the closure of all of the project entity's existing electrical generating facilities.
- 180 (6) The division shall evaluate an application for an alternative permit independently from
 181 any pre-existing permit or transition permit based on updated assumptions, modeling,
 182 and requirements established in rule by the division and may rely upon the reduction of
 183 capacity of the existing electrical generation facility only as necessary to ensure that
 184 emissions of the new generating facility do not exceed thresholds established by federal
 185 law which would necessitate new source review as a major modification.

186 Section 4. Section **63I-1-211** is amended to read:

187 **63I-1-211 (Effective upon governor's approval). Repeal dates: Title 11.**

188 [(1) Section 11-13-317, related to the Project Entity Oversight Committee, is repealed July
 189 1, 2027.]

190 [(2)] Title 11, Chapter 59, Point of the Mountain State Land Authority Act, is repealed
 191 January 1, 2029.

192 Section 5. Section **63I-1-263** is amended to read:

193 **63I-1-263 (Effective 07/01/24). Repeal dates: Titles 63A to 63N.**

194 (1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement
 195 funding, is repealed July 1, 2024.

196 (2) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1,
 197 2028.

- 198 (3) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.
- 199 (4) Title 63C, Chapter 18, Behavioral Health Crisis Response Committee, is repealed
200 December 31, 2026.
- 201 (5) Title 63C, Chapter 23, Education and Mental Health Coordinating Committee, is
202 repealed December 31, 2024.
- 203 (6) Title 63C, Chapter 25, State Finance Review Commission, is repealed July 1, 2027.
- 204 [~~(7) Title 63C, Chapter 26, Project Entity Oversight Committee, is repealed July 1, 2027.~~]
- 205 [~~(8)~~ (7) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.
- 206 [~~(9)~~ (8) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.
- 207 [~~(10)~~ (9) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is
208 repealed on July 1, 2028.
- 209 [~~(11)~~ (10) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities
210 Advisory Board, is repealed July 1, 2026.
- 211 [~~(12)~~ (11) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
212 2028.
- 213 [~~(13)~~ (12) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July
214 1, 2029.
- 215 [~~(14)~~ (13) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.
- 216 [~~(15)~~ (14) Subsection 63J-1-602.2(16), related to the Communication Habits to reduce
217 Adolescent Threats (CHAT) Pilot Program, is repealed July 1, 2029.
- 218 [~~(16)~~ (15) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is
219 repealed January 1, 2025.
- 220 [~~(17)~~ (16) Section 63L-11-204, creating a canyon resource management plan to Provo
221 Canyon, is repealed July 1, 2025.
- 222 [~~(18)~~ (17) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee,
223 is repealed July 1, 2027.
- 224 [~~(19)~~ (18) Title 63M, Chapter 7, Part 7, Domestic Violence Offender Treatment Board, is
225 repealed July 1, 2027.
- 226 [~~(20)~~ (19) Section 63M-7-902, Creation -- Membership -- Terms -- Vacancies -- Expenses,
227 is repealed July 1, 2029.
- 228 [~~(21)~~ (20) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.
- 229 [~~(22)~~ (21) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is
230 repealed January 1, 2030.
- 231 [~~(23)~~ (22) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

- 232 [~~(24)~~] (23) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July
 233 1, 2028.
- 234 [~~(25)~~] (24) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is
 235 repealed July 1, 2027.
- 236 [~~(26)~~] (25) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is
 237 repealed July 1, 2025.
- 238 [~~(27)~~] (26) In relation to the Rural Employment Expansion Program, on July 1, 2028:
- 239 (a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and
 240 (b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program,
 241 is repealed.
- 242 [~~(28)~~] (27) Section 63N-4-804, which creates the Rural Opportunity Advisory Committee, is
 243 repealed July 1, 2027.
- 244 [~~(29)~~] (28) In relation to the Board of Tourism Development, on July 1, 2025:
- 245 (a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;
 246 (b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is
 247 repealed and replaced with "Utah Office of Tourism";
 248 (c) Subsection 63N-7-101(1), which defines "board," is repealed;
 249 (d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive
 250 approval from the Board of Tourism Development, is repealed; and
 251 (e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.
- 252 Section 6. Section **79-6-401** is amended to read:
- 253 **79-6-401 (Effective upon governor's approval). Office of Energy Development --**
 254 **Creation -- Director -- Purpose -- Rulemaking regarding confidential**
 255 **information -- Fees -- Transition for employees.**
- 256 (1) There is created an Office of Energy Development within the Department of Natural
 257 Resources to be administered by a director.
- 258 (2)(a) The executive director shall appoint the director and the director shall serve at the
 259 pleasure of the executive director.
- 260 (b) The director shall have demonstrated the necessary administrative and professional
 261 ability through education and experience to efficiently and effectively manage the
 262 office's affairs.
- 263 (3) The purposes of the office are to:
- 264 (a) serve as the primary resource for advancing energy and mineral development in the
 265 state;

- 266 (b) implement:
- 267 (i) the state energy policy under Section 79-6-301; and
- 268 (ii) the governor's energy and mineral development goals and objectives;
- 269 (c) advance energy education, outreach, and research, including the creation of
- 270 elementary, higher education, and technical college energy education programs;
- 271 (d) promote energy and mineral development workforce initiatives;
- 272 (e) support collaborative research initiatives targeted at Utah-specific energy and
- 273 mineral development;
- 274 (f) in coordination with the Department of Environmental Quality and other relevant
- 275 state agencies:
- 276 (i) develop effective policy strategies to advocate for and protect the state's interests
- 277 relating to federal energy and environmental entities, programs, and regulations;
- 278 (ii) participate in the federal environmental rulemaking process by:
- 279 (A) advocating for positive reform of federal energy and environmental
- 280 regulations and permitting;
- 281 (B) coordinating with other states to develop joint advocacy strategies; and
- 282 (C) conducting other government relations efforts; and
- 283 (iii) direct the funding of legal efforts to combat federal overreach and unreasonable
- 284 delays regarding energy and environmental permitting; and
- 285 (g) fund the development of detailed and accurate forecasts of the state's long-term
- 286 energy supply and demand, including a baseline projection of expected supply and
- 287 demand and analysis of potential alternative scenarios.
- 288 (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds
- 289 Procedures Act, the office may:
- 290 (a) seek federal grants or loans;
- 291 (b) seek to participate in federal programs; and
- 292 (c) in accordance with applicable federal program guidelines, administer federally
- 293 funded state energy programs.
- 294 (5) The office shall perform the duties required by Sections 11-42a-106, 59-5-102,
- 295 59-7-614.7, 59-10-1029, [~~63C-26-202,~~] Part 5, Alternative Energy Development Tax
- 296 Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.
- 297 (6)(a) For purposes of administering this section, the office may make rules, by
- 298 following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as
- 299 confidential, and not as a public record, information that the office receives from any

- 300 source.
- 301 (b) The office shall maintain information the office receives from any source at the level
302 of confidentiality assigned by the source.
- 303 (7) The office may charge application, filing, and processing fees in amounts determined by
304 the office in accordance with Section 63J-1-504 as dedicated credits for performing
305 office duties described in this part.
- 306 (8)(a) An employee of the office on April 30, 2024, is an at-will employee.
- 307 (b) For an employee described in Subsection (8)(a) who was employed by the office on
308 April 30, 2024, the employee shall have the same salary and benefit options an
309 employee had when the office was part of the office of the governor.
- 310 (c) An employee of the office hired on or after May 1, 2024, shall receive compensation
311 as provided in Title 63A, Chapter 17, Utah State Personnel Management Act.
- 312 (9)(a) The office shall prepare a strategic energy plan to achieve the state's energy
313 policy, including:
- 314 (i) technological and infrastructure innovation needed to meet future energy demand
315 including:
- 316 (A) energy production technologies;
- 317 (B) battery and storage technologies;
- 318 (C) smart grid technologies;
- 319 (D) energy efficiency technologies; and
- 320 (E) any other developing energy technology, energy infrastructure planning, or
321 investments that will assist the state in meeting energy demand;
- 322 (ii) the state's efficient use and development of:
- 323 (A) energy resources, including natural gas, coal, clean coal, hydrogen, oil, oil
324 shale, and oil sands;
- 325 (B) renewable energy resources, including geothermal, solar, hydrogen, wind,
326 biomass, biofuel, and hydroelectric;
- 327 (C) nuclear power; and
- 328 (D) earth minerals;
- 329 (iii) areas of energy-related academic research;
- 330 (iv) specific areas of workforce development necessary for an evolving energy
331 industry;
- 332 (v) the development of partnerships with national laboratories; and
- 333 (vi) a proposed state budget for economic development and investment.

- 334 (b) In preparing the strategic energy plan, the office shall:
- 335 (i) consult with stakeholders, including representatives from:
- 336 (A) energy companies in the state;
- 337 (B) private and public institutions of higher education within the state conducting
- 338 energy-related research; and
- 339 (C) other state agencies; and
- 340 (ii) use modeling and industry standard data to:
- 341 (A) define the energy services required by a growing economy;
- 342 (B) calculate energy needs;
- 343 (C) develop state strategy for energy transportation, including transmission lines,
- 344 pipelines, and other infrastructure needs;
- 345 (D) optimize investments to meet energy needs at the least cost and least risk
- 346 while meeting the policy outlined in this section;
- 347 (E) address state needs and investments through a prospective 30-year period,
- 348 divided into five-year working plans; and
- 349 (F) update the plan at least every two years.
- 350 (c) The office shall report annually to the Public Utilities, Energy, and Technology
- 351 Interim Committee on or before the October interim meeting describing:
- 352 (i) progress towards creation and implementation of the strategic energy plan;
- 353 (ii) the plan's compliance with the state energy policy; and
- 354 (iii) a proposed budget for the office to continue development of the strategic energy
- 355 plan.
- 356 (10) The director shall:
- 357 (a) annually review and propose updates to the state's energy policy, as contained in
- 358 Section 79-6-301;
- 359 (b) promote as the governor considers necessary:
- 360 (i) the development of cost-effective energy resources both renewable and
- 361 nonrenewable; and
- 362 (ii) educational programs, including programs supporting conservation and energy
- 363 efficiency measures;
- 364 (c) coordinate across state agencies to assure consistency with state energy policy,
- 365 including:
- 366 (i) working with the State Energy Program to promote access to federal assistance for
- 367 energy-related projects for state agencies and members of the public;

- 368 (ii) working with the Division of Emergency Management to assist the governor in
369 carrying out the governor's energy emergency powers under Title 53, Chapter 2a,
370 Part 10, Energy Emergency Powers of the Governor Act;
- 371 (iii) participating in the annual review of the energy emergency plan and the
372 maintenance of the energy emergency plan and a current list of contact persons
373 required by Section 53-2a-902; and
- 374 (iv) identifying and proposing measures necessary to facilitate low-income
375 consumers' access to energy services;
- 376 (d) coordinate with the Division of Emergency Management ongoing activities designed
377 to test an energy emergency plan to ensure coordination and information sharing
378 among state agencies and political subdivisions in the state, public utilities and other
379 energy suppliers, and other relevant public sector persons as required by Sections
380 53-2a-902, 53-2a-1004, 53-2a-1008, and 53-2a-1010;
- 381 (e) coordinate with requisite state agencies to study:
- 382 (i) the creation of a centralized state repository for energy-related information;
- 383 (ii) methods for streamlining state review and approval processes for energy-related
384 projects; and
- 385 (iii) the development of multistate energy transmission and transportation
386 infrastructure;
- 387 (f) coordinate energy-related regulatory processes within the state;
- 388 (g) compile, and make available to the public, information about federal, state, and local
389 approval requirements for energy-related projects;
- 390 (h) act as the state's advocate before federal and local authorities for energy-related
391 infrastructure projects or coordinate with the appropriate state agency; and
- 392 (i) help promote the Division of Facilities Construction and Management's measures to
393 improve energy efficiency in state buildings.
- 394 (11) The director has standing to testify on behalf of the governor at the Public Service
395 Commission created in Section 54-1-1.
- 396 (12) The office shall include best practices in developing actionable goals and
397 recommendations as part of preparing and updating every two years the strategic energy
398 plan required under Subsection (9).
- 399 (13) The office shall maintain and regularly update a public website that provides an
400 accessible dashboard of relevant metrics and reports and makes available the data used
401 to create the strategic energy plan.

402 Section 7. Section **79-6-407** is amended to read:

403 **79-6-407 (Effective upon governor's approval). Decommissioned Asset**

404 **Disposition Authority.**

405 (1) As used in this section:

406 (a) "Asset intended for decommissioning" means an electrical generation facility owned
407 by a project entity that is intended to be removed from active service.

408 (b) "Authority" means the Decommissioned Asset Disposition Authority created in this
409 section.

410 (c) "Fair market value" means the value of an electrical generation facility considering
411 both the assets and liabilities of the facility, including the value of water rights
412 necessary to operate the existing electrical generation facility at full capacity.

413 (d) "Highest and best purchase offer" means the purchase offer for the asset intended for
414 decommissioning that the authority determines to be in the overall best interest of the
415 state, considering:

416 (i) the purchase price offer amount;

417 (ii) the potential purchaser's:

418 (A) commitment to utilize the best available control technology;

419 (B) intent to use state resources to the maximum extent feasible;

420 (C) commitment to provide jobs and other economic benefits to the state;

421 (D) intent to promote the interests of state residents and ratepayers; and

422 (E) financial capability; and

423 (iii) any other factors the authority considers relevant.

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

425 (2) There is established within the office the Decommissioned Asset Disposition Authority.

426 (3)(a) The authority shall be composed of:

427 (i) the executive director of the office;

428 (ii) two members appointed by the governor;

429 (iii) two members appointed by the president of the Senate; and

430 (iv) two members appointed by the speaker of the House of Representatives.

431 (b) The office shall provide staff and support to the authority.

432 (4) The authority shall:

433 (a) provide recommendations to the governor and Legislature regarding the state
434 exercising an option to purchase an asset intended for decommissioning;

435 (b) if the state exercises an option to purchase the asset intended for decommissioning

- 436 under Section 11-13-318:
- 437 (i) enter into contracts and agreements related to the decommissioned asset;
- 438 (ii) govern the disposition of assets intended for decommissioning as outlined in
- 439 Subsection ~~[(5)];~~ (6); and
- 440 (iii) take any other action necessary for governance of a decommissioned asset
- 441 purchased by the state;~~[-and]~~
- 442 (c) contract with independent professionals that have expertise in emissions modeling,
- 443 air quality impact assessments, regulatory compliance, and any other discipline
- 444 necessary for the preparation and submission of a complete alternative air permit
- 445 application, including:
- 446 (i) conducting emissions modeling, air quality impact assessments, and gathering any
- 447 other information necessary for inclusion in a complete alternative air permit
- 448 application;
- 449 (ii) preparing the full application with all necessary information included, as would
- 450 be required for an application submitted by the owner of the electrical generation
- 451 facility; and
- 452 (iii) submitting the full permit application to the Division of Air Quality~~[-]~~; and
- 453 (d) submit a complete alternative air permit application to the division on or before
- 454 December 31, 2024, unless the authority determines that it is not feasible to submit a
- 455 complete application on or before that date.
- 456 (5) If the authority determines under Subsection (4)(d) that it is not feasible to submit a
- 457 complete application on or before December 31, 2024, the authority shall:
- 458 (a) submit a written report to the Legislative Management Committee on or before
- 459 December 15, 2024, explaining the reasons for the delay and providing an estimated
- 460 time line for submitting the complete application; and
- 461 (b) submit the complete application to the division as soon as practicable after December
- 462 31, 2024.
- 463 ~~[(5)]~~ (6) If the state exercises an option to purchase or otherwise take control of the asset
- 464 intended for decommissioning under Section 11-13-318, the authority may, no sooner
- 465 than July 2, 2025:
- 466 (a) hold a public hearing to receive comment and evidence regarding:
- 467 (i) the fair market value of the asset, including the valuation study conducted by the
- 468 authority under Section 79-6-408; and
- 469 (ii) the proposed disposition of the decommissioned asset;

- 470 (b) establish procedures and timelines for potential purchasers to submit binding
 471 purchase offers;
- 472 (c) evaluate all purchase offers to determine the highest and best purchase offer;
- 473 (d) approve the sale of the decommissioned asset to the purchaser that has submitted the
 474 highest and best purchase offer; and
- 475 (e) take any other action necessary to govern the disposition of the decommissioned
 476 asset in accordance with this section.

477 [(6)] (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 478 authority shall make rules that establish:

- 479 (a) procedures and associated timelines for potential purchasers to submit binding
 480 purchase offers for a decommissioned asset;
- 481 (b) objective criteria and a process to evaluate all purchase offers submitted for a
 482 decommissioned asset and determine which purchase offer is the highest and best
 483 offer; and
- 484 (c) a process for the authority to approve the sale of a decommissioned asset to the
 485 purchaser that has submitted the highest and best purchase offer.

486 Section 8. Section **79-6-408** is amended to read:

487 **79-6-408 (Effective upon governor's approval). Study of project entity asset**
 488 **intended for decommissioning.**

489 (1) As used in this section:

- 490 (a) "Authority" means the Decommissioned Asset Disposition Authority, created in
 491 Section 79-6-407.
- 492 (b) "Fair market value" means the same as that term is defined in Section 79-6-407.

493 (2) The authority, in consultation with the office, shall conduct a study to:

- 494 (a) evaluate issues in regards to a state implementation plan as a result of issuing an
 495 alternative permit under Section 19-2-109.4;
- 496 (b) establish the fair market value of an electrical generation facility that a project entity
 497 intends to decommission; and
- 498 (c) evaluate the potential sale of the facility to new owners.

499 (3) In conducting the study described in this section, the authority shall contract or consult
 500 with independent professionals with expertise in:

- 501 (a) areas relevant to environmental regulatory compliance and clean air act state
 502 implementation plan development, including:
- 503 (i) related electric generation capacity;

- 504 (ii) resource adequacy; and
505 (iii) economic development considerations; and
506 (b) areas relevant to the valuation and disposition of electrical generation facilities,
507 including:
508 (i) engineering;
509 (ii) environmental assessments;
510 (iii) energy economics;
511 (iv) water rights;
512 (v) mineral rights;
513 (vi) regulatory analysis;
514 (vii) financial analysis;
515 (viii) real estate valuation; and
516 (ix) legal analysis.
- 517 (4) The study described in Subsection (2) shall:
518 (a) for the evaluation of issues in regards to a state implementation plan as a result of
519 issuing an alternative permit under Section 19-2-109.4, based on input from the
520 Division of Air Quality and independent modeling, legal analysis, and economic
521 analysis, evaluate:
522 (i) any technical deficiencies that could occur in a state implementation plan as a
523 result of issuing an alternative permit; and
524 (ii) options for revising the state implementation plan to [~~maximize flexibility for the~~
525 ~~state to utilize an alternative permit and preserve electric generating capacity~~
526 ~~sufficient to support economic growth in the state while ensuring the state~~
527 ~~implementation plan meets federal air quality standards;]~~ ensure that the continued
528 operation of the power plants under an alternative permit will not jeopardize the
529 state's ability to meet federal air quality standards;
- 530 (b) for the valuation of the project entity asset that a project entity intends to
531 decommission, include:
532 (i) an assessment of all assets associated with the electrical generation facility,
533 including real property, equipment, water rights, mineral rights, and any other
534 associated assets;
535 (ii) an assessment of all financial assets and potential financial liabilities or risks
536 related to the electrical generation facility intended for decommissioning;
537 (iii) an analysis of any encumbrances on the electrical generation facility;

- 538 (iv) the impact on valuation of an electrical generation facility related to the issuance
539 of an alternative air quality permit under Section 19-2-109.4;
- 540 (v) a review of any potential effect a sale of the electrical generation facility would
541 have on liabilities related to the electrical generation facility;
- 542 (vi) incorporation of any relevant local, regional, or national economic and market
543 factors that may impact the fair market value; and
- 544 (vii) any other factors the authority considers relevant in establishing a fair market
545 value for the electrical generation facility; and
- 546 (c) to evaluate the issues surrounding a potential sale of the facility, include:
- 547 (i) potential purchase and sale agreement terms;
- 548 (ii) the necessary financial capability of a potential purchaser, including experience
549 raising capital, access to capital, financial stability, and ability to provide security
550 for obligations related to decommissioning, remediation, and other liabilities;
- 551 (iii) operational experience and capability of a potential purchaser, including
552 experience operating electrical generation facilities, contracting history, and
553 historical operating metrics;
- 554 (iv) permitting, regulatory compliance, and construction issues for continued
555 operation of the facility;
- 556 (v) the likelihood that continued operation of the facility would impact other
557 electrical generation facilities in the state;
- 558 (vi) the potential for continued operation of the facility to infringe on existing utility
559 service territories;
- 560 (vii) the viability of alternative business models for continued operation of the
561 facility;
- 562 (viii) potential community and regional impacts resulting from continued operation
563 or the retirement of the facility; and
- 564 (ix) the potential for continued operation of the facility to interfere with the rights and
565 interests of the project entity, the project entity's members, power purchasers,
566 bondholders, creditors, or other entities.
- 567 (5) In conducting the study described in Subsection (2), the project entity shall timely
568 provide to the authority information related to the assets and potential liabilities of the
569 electrical generation facility intended for decommissioning.
- 570 (6) The authority shall report the progress and results of the study to the Public Utilities,
571 Energy, and Technology Interim Committee on or before November 30, 2024.

572 Section 9. **Repealer.**

573 This bill repeals:

574 Section **11-13-317, (Effective upon governor's approval)Submitting to the Project**
575 **Entity Oversight Committee.**

576 Section **63C-26-101, (Effective upon governor's approval)Definitions.**

577 Section **63C-26-201, (Effective upon governor's approval)Project Entity Oversight**
578 **Committee created.**

579 Section **63C-26-202, (Effective upon governor's approval)Committee duties -- Office of**
580 **Energy Development duties.**

581 Section 10. **Effective date.**

582 (1) Except as provided in Subsections (2) and (3), if approved by two-thirds of all the
583 members elected to each house, this bill takes effect upon approval by the governor, or
584 the day following the constitutional time limit of Utah Constitution, Article VII, Section
585 8, without the governor's signature, or in the case of a veto, the date of veto override.

586 (2) If this bill is not approved by two-thirds of all members elected to each house, this bill
587 takes effect on August 19, 2024.

588 (3) The actions affecting Section 63I-1-263 (Effective 07/01/2024) take effect on July 1,
589 2024.