

Brine Mining Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bridger Bolinder

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses the mining of brine within the state.

Highlighted Provisions:

This bill:

▸ enacts the Brine Conservation Act (act), including:

- defining terms;
- outlining the scope and application of the act;
- providing for the authority and jurisdiction of the Board of Oil, Gas, and Mining, including rulemaking authority;
- establishing civil and criminal penalties;
- providing for forfeiture of sureties;
- addressing the sale of equipment, installation, or material by the Division of Oil, Gas, and Mining;
- providing for the establishment and modification of brine production drilling units, pooling, or fields;
- requiring permits; and
- regulating the payment of proceeds;

▸ repeals outdated language; and

▸ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

29 **40-13-101**, Utah Code Annotated 1953

30 **40-13-102**, Utah Code Annotated 1953

31 **40-13-103**, Utah Code Annotated 1953

32 **40-13-201**, Utah Code Annotated 1953

33 **40-13-202**, Utah Code Annotated 1953

34 **40-13-203**, Utah Code Annotated 1953

35 **40-13-204**, Utah Code Annotated 1953

36 **40-13-205**, Utah Code Annotated 1953

37 **40-13-301**, Utah Code Annotated 1953

38 **40-13-302**, Utah Code Annotated 1953

39 **40-13-303**, Utah Code Annotated 1953

40 **40-13-401**, Utah Code Annotated 1953

41 **40-13-402**, Utah Code Annotated 1953

42 REPEALS:

43 **40-8-24**, as enacted by Laws of Utah 2024, Chapter 76

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

46 Section 1. Section **40-13-101** is enacted to read:

47 **CHAPTER 13. BRINE CONSERVATION ACT**

48 **Part 1. General Provisions**

49 **40-13-101 . Definitions.**

50 As used in this chapter:

51 (1) "Artificial brine" means mineralized water formed by dissolving rock salt, evaporites, or
52 other readily soluble rocks or minerals derived through artificial means.

53 (2) "Board" means the Board of Oil, Gas, and Mining.

54 (3)(a) Except as provided in Subsection (3)(c), "brine" means subterranean saltwater and
55 all of the saltwater's constituent parts and dissolved minerals contained in the
56 saltwater if the saltwater:

57 (i) has total dissolved solids in excess of 20,000 parts per million; and

58 (ii) is not reasonably suitable for domestic or agricultural use.

59 (b) "Brine" includes saltwater described in Subsection (3)(a) that has dissolved minerals
60 contained within or extracted from the saltwater, such as:

61 (i) bromine;

(ii) magnesium;

(iii) potassium;

(iv) lithium;

(v) boron;

(vi) chlorine;

(vii) iodine;

(viii) calcium;

(ix) strontium;

(x) sodium;

(xi) sulphur;

(xii) barium; or

(xiii) other marketable minerals, elements, or substances produced with or separated from the saltwater.

(c) "Brine" does not include produced water unless the produced water is saved, sold, or used for the purpose of extracting the dissolved minerals or other chemical substances contained in the produced water.

(4) "Brine field unit" means the formation by an order of the board of a unit of one or more brine reservoirs or parts of brine reservoirs in a field.

(5)(a) "Brine mining operation" means the exploration for, development of, or production of brine, including naturally occurring brine and artificial brine, using production wells in excess of 7,500 feet in depth.

(b) "Brine mining operation" does not include:

(i) operations at the surface to extract brine from the Great Salt Lake;

(ii) solution mining of salt for the primary purpose of creating subterranean caverns for the storage of liquids or gases;

(iii) in situ leaching for other minerals not defined as brine for the purposes of this chapter;

(iv) geothermal operations that do not include mineral extraction; and

(v) off-site operations and transportation.

(6)(a) "Brine proceeds" means a payment that:

(i) derives from production of brine from a brine well located in the state;

(ii) is expressed as a right to a specified interest in the:

(A) cash proceeds received from the sale of the brine; or

(B) the cash value of the brine; and

- 196 (iii) is subject to any tax withheld from the payment pursuant to law.
- 197 (b) "Brine proceeds" includes a:
- 198 (i) royalty interest;
- 199 (ii) overriding royalty interest;
- 200 (iii) production payment interest; or
- 201 (iv) working interest.
- 202 (c) "Brine proceeds" does not include a net profits interest or other interest the extent of
- 203 which cannot be determined with reference to a specified share of:
- 204 (i) the cash proceeds received from the sale of the brine; or
- 205 (ii) the cash value of the brine.
- 206 (7) "Brine production drilling unit" means each separate composite area of land designated
- 207 as a brine product drilling unit by order of the board for the production of brine and the
- 208 injection of effluent.
- 209 (8) "Brine well" means a well drilled or converted for the purpose of producing natural or
- 210 artificial brine.
- 211 (9) "Consenting owner" means an owner who, in the manner and within the time frame
- 212 established by the board in rule, consents to the drilling and operation of a brine well
- 213 and agrees to bear the owner's proportionate share of the costs of the drilling and
- 214 operation of the brine well.
- 215 (10) "Correlative rights" means the opportunity of each owner in a reservoir to produce the
- 216 owner's just and equitable share of the brine in the reservoir without waste.
- 217 (11) "Division" means the Division of Oil, Gas, and Mining.
- 218 (12) "Effluent" means the liquid and associated dissolved minerals remaining after
- 219 extraction of the marketable substances from brine.
- 220 (13) "Facility" means equipment or a structure used in the production, storage, treatment,
- 221 transportation, refining, or processing brine.
- 222 (14) "Field" means a general area underlaid by one or more brine reservoirs.
- 223 (15) "Leaching" means extracting a soluble metallic compound from an ore by selectively
- 224 dissolving it in a suitable solvent, such as sulfuric acid or hydrochloric acid.
- 225 (16) "Manufacture" means the complete process of drilling, completing, equipping, and
- 226 operating production and injection wells and of extracting and packaging brine.
- 227 (17) "Mineral" means a naturally occurring inorganic element or compound having an
- 228 orderly internal structure and characteristic chemical composition, crystal form, and
- 229 physical properties.

- (18) "Multiple mineral development area" means an area designated by the board involving the management and development of various concurrent surface and sub-surface resource extraction operations, including exploratory activities for the purpose of efficient and effective development of the concurrent marketable resources in the area without unreasonable interference occurring between the separate operations.
- (19) "Nonconsenting owner" means an owner who does not, after written notice and in the manner and within the time frame established by the board in rule, consent to the drilling and operation of a brine well or agree to bear the owner's proportionate share of the costs.
- (20) "Operating agreement" is a contract that outlines the rights and obligations of multiple parties involved in a project, including:
- (a) establishing who will act as the operator;
 - (b) identifying the parties' property interests;
 - (c) allocating costs, benefits, liabilities, and obligations; and
 - (d) providing a structure for handling disputes and other issues that may arise.
- (21) "Operator" means a person who is designated by the owners or the board to operate a brine well or brine production drilling unit.
- (22) "Owner" means a person owning an interest in the dissolved minerals and other chemical substances produced with or extracted from brine, or in the brine proceeds including having the right to:
- (a) drill into and produce brine from a reservoir; and
 - (b) appropriate the production for that person or for that person and others.
- (23) "Payor" means the person who undertakes to distribute brine proceeds to the persons entitled to the brine proceeds, whether as the first purchaser of that production, as operator of the brine well from which the production is obtained, or as lessee under the lease on which royalty is due.
- (24) "Permit" means a permit order issued by the division allowing a person to engage in brine mining operations in the state.
- (25) "Permittee" means a person who:
- (a) holds a permit issued under this chapter; or
 - (b) is required by this chapter to hold a permit.
- (26) "Pooling" means the bringing together of separately owned interests for the common development and operation of a brine production drilling unit.
- (27) "Produced water" means the same as that term is defined in Section 40-12-101.
- (28) "Reservoir" means an underground natural container containing a common

164 accumulation of brine, with each zone of a general structure that is completely separated
165 from any other zone in the structure being a separate reservoir, and is a common source
166 of supply.

167 (29) "Waste" means:

- 168 (a) the inefficient, excessive, or improper use or the unnecessary dissipation of brine or
169 reservoir energy;
170 (b) the inefficient storing of brine, except for a solar evaporation pond permitted by the
171 division; or
172 (c) the locating, drilling, equipping, operating, or producing of a brine well in a manner
173 that causes:
174 (i) a significant reduction in the economic recoverability of brine from a reservoir or
175 the dissolved minerals or chemical substances contained therein;
176 (ii) injecting effluent or other wastes in a manner as to cause unnecessary water
177 channeling or undue forced migration of brine between brine production drilling
178 units;
179 (iii) the unapproved intrusion of brine and effluent into an oil or gas reservoir;
180 (iv) unnecessary brine wells to be drilled; or
181 (v) the loss or destruction of brine either at the surface or subsurface.

182 Section 2. Section **40-13-102** is enacted to read:

183 **40-13-102 . Scope of chapter -- Political subdivisions.**

- 184 (1)(a) The board has jurisdiction over the drilling and production of brine wells.
185 (b) The board does not have jurisdiction over Class I, III, IV, or V wells regulated by the
186 Department of Environmental Quality, pursuant to the federal Safe Drinking Water
187 Act, 40 C.F.R. Parts 144 through 148, inclusive, and Title 19, Chapter 5, Water
188 Quality Act.
189 (2) The legislative body of a political subdivision may enact, amend, or enforce a local
190 ordinance, resolution, or rule consistent with the political subdivision's general land use
191 authority that:
192 (a) regulates only surface activity that is incidental to brine mining operations;
193 (b) does not effectively or unduly limit, ban, or prohibit brine mining operations; and
194 (c) is not otherwise preempted by state or federal law.

195 Section 3. Section **40-13-103** is enacted to read:

196 **40-13-103 . Lands subject to chapter.**

197 This chapter applies to all lands in the state lawfully subject to the state's police power

and, to the extent allowed by law, includes lands and appurtenances of the United States or the lands or appurtenances subject to the jurisdiction of the United States.

Section 4. Section **40-13-201** is enacted to read:

Part 2. Administration and Enforcement

40-13-201 . Board authority -- Rulemaking.

(1) The board has jurisdiction and authority over:

- (a) a person or property necessary to administer and enforce this chapter; and
- (b) the drilling for and production of brine for the extraction of dissolved minerals or other chemical substances contained in the brine.

(2) The board shall establish fees in accordance with Section 63J-1-504, in an amount to pay the costs to the board and division of the permitting process.

(3) The board may:

- (a) adjudicate multiple mineral development conflicts resulting from brine mining operations;
- (b) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to mitigate multiple mineral development conflicts; and
- (c) enforce a board's multiple mineral development order as set forth in Subsection 40-13-202(4).

(4) An approval granted under this chapter does not relieve the necessity of obtaining an order, permit, license, consent, water right, or authorization required under any other statute.

(5) The board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and issue orders to:

- (a) regulate activities relating to brine mining operations;
- (b) protect correlative rights and prevent waste;
- (c) form and modify brine production drilling units and brine field units;
- (d) regulate the spacing of brine wells for the production of brine and injection wells for the introduction of effluent into a reservoir;
- (e) ensure that the drilling, casing, and plugging of a brine well is done in such a manner as to prevent:
 - (i) the unauthorized escape of brine or effluent from one formation to another;
 - (ii) the unapproved intrusion of brine and effluent into an oil or gas reservoir;
 - (iii) the pollution of fresh water supplies throughout the state; and
 - (iv) blowouts, caving, or seepage;

- (f) subject to Subsection (6), prevent brine well construction and related regulated activities without an adequate and approved supply of water for the drilling and completion of the brine well and authorization of the state engineer in the Division of Water Rights for brine production from the brine well as required by Title 73, Chapter 3, Appropriation;
- (g) regulate the storage, refining, or processing of brine and effluent;
- (h) require the making of reports showing:
- (i) the location of brine wells used for production;
 - (ii) the location of injection wells used for disposal; and
 - (iii) the filing of well logs, production reports, and drilling records for the wells described in this Subsection (5)(h);
- (i) require the return of effluent to the same formation from which the brine was produced unless the board authorizes the disposal of effluent into one or more other formations upon finding that neither underground damage nor waste results from the disposal;
- (j) identify the ownership of:
- (i) a brine well;
 - (ii) an injection well;
 - (iii) pipelines; and
 - (iv) a facility for the production, storage, treatment, transportation, refining, or processing of brine;
- (k) regulate the introduction or injection of effluent and other substances into a reservoir;
- (l) require the furnishing of reasonable surety to guarantee that the operator shall:
- (i) plug each abandoned brine well;
 - (ii) repair each brine well leaking or causing waste; and
 - (iii) maintain and reclaim the site;
- (m) exercise continuing jurisdiction:
- (i) over brine mining operations;
 - (ii) to amend a permit; or
 - (iii) to revoke a permit after notice and hearing;
- (n) require operators to keep and maintain complete and accurate records of the quantities of brine produced, sold, purchased, acquired, stored, transported, refined, and processed, and effluent injected for a period of at least six years;
- (o) formulate rules for the proper transportation of brine from the producing brine wells

to the plant and from the plant to the injection wells and for the maintenance and surveillance of the transportation facilities; and

(p) when brine mining uses produced water, resolve issues related to conflicting correlative rights between the correlative rights established under Chapter 6, Board and Division of Oil, Gas, and Mining, and the correlative rights established under Part 3, Brine Production Drilling Units, Pooling, or Fields, by:

(i) subordinating conflicting correlative rights under this chapter to the correlative rights established under Chapter 6, Board and Division of Oil, Gas, and Mining; and

(ii) establishing a procedure before the board for addressing and resolving conflicts related to conflicting correlative rights.

(6)(a) Subsection (5)(f) does not impose additional legal requirements but is enacted to ensure that legal requirements concerning the use of water have been met before the commencement of drilling.

(b) This chapter does not:

(i) override, substitute, or modify a water right within the state; or

(ii) modify the statutory enforcement and other duties of the state engineer under Title 73, Water and Irrigation.

Section 5. Section **40-13-202** is enacted to read:

40-13-202 . Inspections -- Cessation orders -- Civil penalties.

(1)(a) If, on the basis of information available, the division has reason to believe that a person is in violation of this chapter, an order issued under this chapter, a rule made under this chapter, or a permit condition required by this chapter, the division shall immediately order inspection of the brine mining operation at which the alleged violation is occurring, unless the information available to the division is a result of a previous inspection of the brine mining operation.

(b)(i) If, on the basis of an inspection, the division determines that a condition or practice exists, or that a permittee is in violation of this chapter, an order issued under this chapter, a rule made under this chapter, or a permit condition required by this chapter, and the condition, practice, or violation creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the division shall immediately order cessation of brine mining operations or the portion of brine mining operations relevant to the condition,

practice, or violation.

(ii) The cessation order shall remain in effect until the division determines that the condition, practice, or violation is abated, or until the division modifies, vacates, or terminates the order.

(iii) If the division finds that the ordered cessation of brine mining operations, or a portion of the brine mining operations, does not completely abate the imminent danger to the health or safety of the public or the significant imminent environmental harm to land, air, or water resources, the division shall, in addition to the cessation order, impose affirmative obligations on the operator requiring the operator to take whatever steps the division considers necessary to abate the imminent danger or the significant environmental harm.

(c)(i) If, on the basis of an inspection, the division determines that a permittee is in violation of this chapter, an order issued under this chapter, a rule made under this chapter, or a permit condition required by this chapter, but the violation does not create an imminent danger to the health or safety of the public or cannot be reasonably expected to cause significant, imminent environmental harm to land, air, or water resources, the division shall issue a notice to the permittee or the permittee's agent specifying a reasonable time, but not more than 90 days, for the abatement of the violation and providing an opportunity for an informal conference with the division.

(ii) If, upon expiration of the period of time as originally fixed or subsequently extended, for good cause shown, and upon the written finding of the division, the division finds that the violation has not been abated, the division shall immediately order a cessation of brine mining operations or the portion of the brine mining operation relevant to the violation.

(iii) A cessation order issued under this Subsection (1)(c) remains in effect until the division determines that the violation is abated or until the division modifies, vacates, or terminates the order.

(iv) In a cessation order issued by the division under this Subsection (1)(c), the division shall determine the steps necessary to abate the violation in the most expeditious manner possible and shall include the necessary measures in the order.

(d)(i) A notice or order issued under this section shall set forth with reasonable specificity:

(A) the nature of the violation and the remedial action required;

- 334 (B) the period of time established for abatement; and
335 (C) a reasonable description of the portion of the mining and reclamation
336 operation to which the notice or order applies.
- 337 (ii) The division shall promptly give a notice or order issued under this section to the
338 permittee or the permittee's agent.
- 339 (iii) The division shall give a notice or order in a writing signed by the director or the
340 director's authorized representative who issues the notice or order.
- 341 (iv) The division may modify, vacate, or terminate a notice or order issued under this
342 section.
- 343 (2)(a) The division may request the attorney general to institute a civil action for relief,
344 including a permanent or temporary injunction, restraining order, or any other
345 appropriate order in a court with jurisdiction under Title 78A, Judiciary and Judicial
346 Administration, if the permittee or the permittee's agent:
- 347 (i) violates or fails or refuses to comply with an order or decision issued by the
348 division under this chapter;
- 349 (ii) interferes with, hinders, or delays the division, or the division's authorized
350 representative, in carrying out this chapter;
- 351 (iii) refuses to admit an authorized representative to the brine well;
- 352 (iv) refuses to permit inspection of the brine well by an authorized representative; or
- 353 (v) refuses to furnish information or a report requested by the division in furtherance
354 of this chapter.
- 355 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney
356 general brings the action described in Subsection (2)(a) in court, the attorney general
357 shall bring the action in the county in which:
- 358 (i) the brine mining operation and reclamation operation is located; or
- 359 (ii) the permittee of the brine mining operation or reclamation operation has the
360 permittee's principal office.
- 361 (c)(i) The court has jurisdiction to provide the relief requested in accordance with this
362 Subsection (2).
- 363 (ii) Relief granted by the court to enforce an order under Subsection (2)(a)(i) shall
364 continue in effect until the completion or final termination of all proceedings for
365 review of that order under this chapter, unless, before completion or termination,
366 the court granting the relief sets the order aside or modifies the order.
- 367 (3)(a)(i) A permittee issued a notice or order by the division, pursuant to Subsection

(1)(b) or (c), or a person having an interest that may be adversely affected by the notice or order, may apply to the board for review of the notice or order by no later than 30 days of receipt of the notice or order, or no later than 30 days of a modification, vacation, or termination of the notice or order.

(ii) On receipt of an application under Subsection (3)(a)(i), the board shall pursue an investigation as the board considers appropriate.

(iii) An investigation pursued by the board shall provide an opportunity for a public hearing at the request of the applicant or the person having an interest that is or may be adversely affected, to enable the applicant or that person to present information relating to the issuance and continuance of the notice or order or the modification, vacation, or termination of the notice or order.

(iv) The filing of an application for review under this Subsection (3)(a) does not operate as a stay of an order or notice.

(b) The board shall give a permittee or other interested person written notice of the time and place of the hearing at least five days before the hearing.

(c)(i) Pending completion of the investigation and hearing required by this section, the applicant may file with the board a written request that the board grant temporary relief from any notice or order issued under this section, with a detailed statement giving the reasons for granting this relief.

(ii) The board shall issue an order or decision granting or denying this relief expeditiously.

(d)(i) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to this section, the board shall hold a public hearing, after giving written notice of the time, place, and date of the hearing.

(ii) By no later than 60 days following the public hearing, the board shall issue and give the permittee and all other parties to the hearing, a written decision, and the reasons for the decision, regarding suspension or revocation of the permit.

(iii) If the board revokes a permit, the permittee shall immediately cease brine mining operations on the permit area and shall complete reclamation within a period specified by the board, or the board shall declare the surety forfeited for the brine mining operation.

(e) An action taken by the board under this section, or any other provision of this chapter, is subject to judicial review by a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

- 402 (4)(a)(i) The division may assess a permittee a civil penalty if the permittee violates a
403 permit condition, this chapter, an order issued under this chapter, or a rule made
404 under this chapter.
- 405 (ii) If a violation leads to the issuance of a cessation order under Subsection (1), the
406 division shall assess a civil penalty.
- 407 (b)(i) A civil penalty under this Subsection (4) may not exceed \$5,000 for each
408 violation.
- 409 (ii) Each day of a continuing violation may be considered to be a separate violation
410 for purposes of the civil penalty assessments.
- 411 (c) In determining the amount of the civil penalty, the division shall consider:
- 412 (i) the permittee's history of previous violations at the particular brine mining
413 operation;
- 414 (ii) the seriousness of the violation, including any irreparable harm to the
415 environment or hazard to the health or safety of the public;
- 416 (iii) whether the permittee was negligent; and
- 417 (iv) the demonstrated good faith of the permittee in attempting to achieve rapid
418 compliance after notification of the violation.
- 419 (5)(a) By no later than 30 days after the issuance of a notice or order charging a
420 violation has occurred, the division shall inform the permittee of a proposed
421 assessment under Subsection (4).
- 422 (b) A person charged with the civil penalty has 30 days after issuance of a notice or
423 order to:
- 424 (i) pay the proposed assessment in full; or
- 425 (ii) request an informal conference with the division.
- 426 (c) An informal conference held by the division may address either the amount of the
427 proposed assessment, the fact of the violation, or both.
- 428 (d) If a permittee who requests an informal conference and participates in the
429 proceedings is not in agreement with the results of the informal conference, the
430 permittee may, within 30 days of receipt of the decision made by the division in the
431 informal conference, request a hearing before the board.
- 432 (e)(i) Before review of the division's decision under Subsection (5)(d) by the board,
433 and by no later than 30 days of receipt of the division's decision, the permittee
434 shall forward to the division the amount of the proposed assessment for placement
435 in an escrow account.

(ii) If the permittee fails to forward the amount of the civil penalty to the division by no later than 30 days of receipt of the results of the informal conference, the operator waives the opportunity for further review of the fact of the violation or to contest the amount of the civil penalty assessed for the violation.

(iii) If the board or a court determines that no violation occurred or that the amount of the civil penalty should be reduced, the division shall, within 30 days, remit the appropriate amount to the operator with interest accumulated.

(6)(a) A civil penalty assessed by the division is final only after the person charged with a violation described under Subsection (4) has been given an opportunity for a public hearing.

(b) If a public hearing is held, the board shall make findings of fact and shall issue a written decision as to the occurrence of the violation and the amount of the civil penalty which is warranted, incorporating, when appropriate, an order requiring that the civil penalty be paid.

(c) When appropriate, the board shall consolidate a hearing with other proceedings under Section 40-13-201.

(d) If a person charged with a violation does not attend the public hearing, the division may assess a civil penalty after the division:

(i) determines:

(A) that a violation occurred; and

(B) the amount of the civil penalty that is warranted; and

(ii) issues an order requiring that the civil penalty be paid.

(7) At the request of the board, the attorney general may bring a civil action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil penalty owed under this chapter.

(8)(a) The division shall assess an operator who fails to correct a violation for which a notice or cessation order has been issued under Subsection (1)(b) within the period permitted for a correction of the violation a civil penalty of not less than \$750 for each day during which the failure or violation continues.

(b) The period permitted for correction of a violation for which a notice of cessation order has been issued under Subsection (1)(b) may not end until:

(i) the entry of a final order by the board, in a review proceeding initiated by the operator, in which the board orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will

470 suffer irreparable loss or damage from the application of those requirements; or
471 (ii) the entry of an order of the court after a review proceeding initiated by the
472 operator, in which the court orders the suspension of the abatement requirements
473 of the citation.

474 (9) The division shall deposit money received by the state from civil penalties collected
475 from actions resulting from this chapter into the Abandoned Mine Reclamation Fund
476 established under Section 40-10-25.1 and shall use the money for the reclamation of
477 mined land impacts not covered by reclamation surety.

478 (10) The division may not commence or maintain a suit, action, or other proceeding based
479 upon a violation of this chapter, an order issued under this chapter, a rule made under
480 this chapter, or a permit condition under this chapter, unless the suit, action, or
481 proceeding is commenced within five years from the date of the alleged violation.

482 Section 6. Section **40-13-203** is enacted to read:

483 **40-13-203 . Criminal penalties.**

484 (1) It is unlawful for a person to intentionally or knowingly:

485 (a) for the purpose of evading this chapter or an order issued under this chapter, make or
486 cause to be made a false statement, representation, or certification in a report, record,
487 account, or memorandum required by this chapter or by the order;

488 (b) omit or cause to be omitted from a report, record, account, or memorandum, a full,
489 true, and correct entry as required by this chapter or by an order;

490 (c) fail to make a statement, representation, or certification in an application, record,
491 report, plan, or other document filed or required to be maintained pursuant to this
492 chapter or an order issued under this chapter;

493 (d) remove from this state or destroy, mutilate, alter, or falsify a record, account, or
494 memorandum; or

495 (e) fail or refuse to comply with:

496 (i) an order issued under Section 40-13-201; or

497 (ii) an order incorporated in a final decision issued by the board under this chapter,
498 except an order incorporated in a decision under Subsection 40-13-202(6).

499 (2) A person who violates Subsection (1) is guilty of a class B misdemeanor, and upon
500 conviction, for each violation, is subject to:

501 (a) a fine of not to exceed \$1,000 as provided in Section 76-3-301;

502 (b) imprisonment for a term not to exceed six months as provided in Section 76-3-204; or

503 (c) both a fine and imprisonment.

- (3) If a permittee violates Subsection (1), a director, officer, or agent of the permittee may be held criminally responsible in accordance with Section 76-2-205.
- (4) A criminal proceeding for a violation described in Subsection (1) shall be commenced, as provided in Section 76-1-302, by no later than two years from the date of the alleged violation.
- (5) The division or board may impose a civil penalty under Section 40-13-202 in addition to prosecution under this section.

Section 7. Section **40-13-204** is enacted to read:

40-13-204 . Forfeiture of surety.

- (1) Subsection (2) applies if the board determines that an operator has neglected, failed, or refused to:
- (a) plug and abandon a brine well;
 - (b) close any surface impoundment;
 - (c) repair a brine well leaking or causing waste; or
 - (d) maintain and reclaim a site.
- (2) A person who violates Subsection (1) shall forfeit from the person's surety or shall pay to this state a sum equal to the cost of:
- (a) plugging a brine well;
 - (b) closure of the surface impoundment;
 - (c) repair of the brine well leaking or causing waste; or
 - (d) reclamation of the site.

Section 8. Section **40-13-205** is enacted to read:

40-13-205 . Sale of equipment, installation, or material.

- (1) After the board determines a brine well or facility is to be abandoned, as part of the plugging and reclamation process, the division may sell or dispose of in a manner the division sees fit the following found on the site or taken from the brine well or facility:
- (a) drilling, producing, or operating equipment;
 - (b) installations; or
 - (c) material.
- (2) A person to whom any equipment, installations, or material is sold under Subsection (1) receives the title to the equipment, installation, or material, free of any claim.
- (3) When the division receives money on the sale or disposal of equipment, installation, or material under Subsection (1), the division shall:
- (a) apply the money to the payment of any unpaid costs and civil penalty determined by

the division; and

- (b) if money remains after applying the money under Subsection (3)(a), the division shall return the unused money to the operator or a person who has established a legal right to the money.

Section 9. Section **40-13-301** is enacted to read:

Part 3. Brine Production Drilling Units, Pooling, or Fields

40-13-301 . Establishment or modification of a brine production drilling unit.

- (1) Upon the petition of an owner or operator of a brine well, the board may order the establishment of a brine production drilling unit.
- (2) Within a brine production drilling unit, only one brine well may be drilled for production from the reservoir, except as provided in Subsections (6) and (7).
- (3) A brine production drilling unit may not be smaller than the maximum area that can be efficiently and economically drained by one brine well.
- (4)(a) Each brine production drilling unit within a reservoir shall be of uniform size and shape, unless the board finds that the board is required to make an exception due to geologic, geographic, or other factors.
- (b) If the board finds it necessary to divide a reservoir into zones and establish a brine production drilling unit for each zone, brine production drilling units may differ in size and shape for each zone.
- (5) An order of the board that establishes a brine production drilling unit for a reservoir shall:
- (a) be made upon terms and conditions that are just and reasonable;
- (b) include the lands determined by the board to overlay the reservoir;
- (c) specify the acreage and shape of each brine production drilling unit as determined by the board; and
- (d) specify the location of the brine well in terms of distance from brine production drilling unit boundaries and other brine wells.
- (6) The board may establish a brine production drilling unit and concurrently authorize the drilling of more than one brine well in a brine production drilling unit if the board finds that:
- (a) engineering or geologic characteristics justify the drilling of more than one brine well in that brine production drilling unit; and
- (b) the drilling of more than one brine well in the brine production drilling unit will not result in waste or unreasonably interfere with correlative rights.

- 572 (7) The board may modify an order that establishes a brine production drilling unit for a
573 reservoir to provide for:
- 574 (a) an exception to the authorized location of a brine well;
575 (b) the inclusion of additional areas which the board determines overlays the reservoir;
576 (c) the increase or decrease of the size of the brine production drilling units; or
577 (d) the drilling of additional brine wells within brine production drilling units.
- 578 (8) After an order establishing a brine production drilling unit is entered by the board, the
579 drilling of a brine well into the reservoir at a location other than that authorized by the
580 order is prohibited.

581 Section 10. Section **40-13-302** is enacted to read:

582 **40-13-302 . Pooling of interests for the development and operation of a brine**
583 **production drilling unit.**

- 584 (1) Two or more owners within a brine production drilling unit may bring together their
585 interests for the development and operation of the brine production drilling unit.
- 586 (2)(a) In the absence of a written agreement for pooling, including an operating
587 agreement, the board may enter an order pooling all interests in the brine production
588 drilling unit for the development and operation of the brine production drilling unit.
- 589 (b) The board shall make the order upon terms and conditions that are just and
590 reasonable.
- 591 (c) The board may adopt terms appearing in an operating agreement:
- 592 (i) for the brine production drilling unit that is in effect between the consenting
593 owners;
- 594 (ii) submitted by any party to the proceeding; or
- 595 (iii) submitted by the board's own motion.
- 596 (3)(a) Operations incident to the drilling of a brine well upon any portion of a brine
597 production drilling unit covered by a pooling order are considered for all purposes to
598 be the conduct of the brine mining operations upon each separately owned tract in the
599 brine production drilling unit by the several owners.
- 600 (b) The portion of the production allocated or applicable to a separately owned tract
601 included in a brine production drilling unit covered by a pooling order shall, when
602 produced, be considered for all purposes to have been produced from that tract by a
603 brine well drilled on the tract.
- 604 (4)(a)(i) A pooling order shall provide for the payment of just and reasonable costs
605 incurred in the drilling and operating of the brine production drilling unit,

606 including:

607 (A) the costs of drilling, completing, equipping, producing, gathering,
608 transporting, processing, marketing, and storage facilities;

609 (B) reasonable charges for the administration and supervision of brine mining
610 operations; and

611 (C) other costs customarily incurred in the industry.

612 (ii) An owner is not liable under a pooling order for costs or losses resulting from the
613 gross negligence or willful misconduct of the operator.

614 (b) A pooling order shall provide for reimbursement to the consenting owners for any
615 nonconsenting owner's share of the costs out of production from the brine production
616 drilling unit attributable to the nonconsenting owner's tract.

617 (c) A pooling order shall provide that each consenting owner shall own and is entitled to
618 receive, subject to royalty or similar obligations:

619 (i) the share of the production of the brine well applicable to the consenting owner's
620 interest in the brine production drilling unit; and

621 (ii) unless the consenting owner has agreed otherwise, the consenting owner's
622 proportionate part of the nonconsenting owner's share of the production until costs
623 are recovered as provided in Subsection (4)(d).

624 (d)(i) A pooling order shall provide that each nonconsenting owner is entitled to
625 receive, subject to royalty or similar obligations, the share of the production of the
626 brine well applicable to the nonconsenting owner's interest in the brine production
627 drilling unit after the consenting owners have recovered from the nonconsenting
628 owner's share of production the following amounts less any cash contributions
629 made by the nonconsenting owner:

630 (A) 100% of the nonconsenting owner's share of the cost of surface equipment
631 beyond the wellhead connections, including stock tanks, separators, treaters,
632 pumping equipment, and piping;

633 (B) 100% of the nonconsenting owner's share of the estimated cost to plug and
634 abandon the brine well as determined by the board;

635 (C) 100% of the nonconsenting owner's share of the cost of brine mining
636 operations of the brine well commencing with first production and continuing
637 until the consenting owners have recovered all costs; and

638 (D) 300% on the first brine well and 150% for each subsequent brine well of the
639 nonconsenting owner's share of the costs of staking the location, wellsite

- 640 preparation, rights-of-way, rigging up, drilling, reworking, recompleting,
641 deepening or plugging back, testing, and completing, and the cost of equipment
642 in the brine well to and including the wellhead connections.
- 643 (ii) The nonconsenting owner's share of the costs specified in Subsection (4)(d)(i) is
644 that interest that would have been chargeable to the nonconsenting owner had the
645 nonconsenting owner initially agreed to pay the nonconsenting owner's share of
646 the costs of the brine well from commencement of the brine mining operation.
- 647 (iii) A reasonable interest charge may be included if the board finds the interest
648 charge appropriate.
- 649 (e) If there is a dispute about costs, the board shall determine the proper costs.
- 650 (5) If a nonconsenting owner's tract in the brine production drilling unit is subject to a lease,
651 mining claim, or contract for the development of minerals within the brine, the pooling
652 order shall provide that the consenting owners shall pay any royalty interest or other
653 interest in the tract not subject to the deduction of the costs of production from the
654 production attributable to that tract.
- 655 (6)(a) If a nonconsenting owner's tract in the brine production drilling unit is not subject
656 to a lease, mining claim, or contract for the development of minerals within the brine
657 production drilling unit, the pooling order shall provide that the nonconsenting owner
658 shall receive as a royalty:
- 659 (i) the acreage weighted average royalty based on each leased fee and privately
660 owned tract within the brine production drilling unit, proportionately reduced by
661 the percentage of the nonconsenting owner's interest in the brine production
662 drilling unit; or
- 663 (ii) if there is no leased fee or privately owned tract within the brine production
664 drilling unit other than the one owned by the nonconsenting owner, 7-1/2%
665 proportionately reduced by the percentage of the nonconsenting owner's interest in
666 the brine production drilling unit.
- 667 (b) The royalty shall be:
- 668 (i) determined as of the day drilling is commenced; and
- 669 (ii) paid from production attributable to each tract until the consenting owners have
670 recovered the costs specified in Subsection (4)(d).
- 671 (7) Once the consenting owners have recovered the costs, as described in Subsection
672 (6)(b)(ii), the royalty is merged back into the nonconsenting owner's working interest
673 and is terminated.

- (8) The operator of a brine well under a pooling order in which there is a nonconsenting owner shall furnish the nonconsenting owner with monthly statements specifying:
- (a) costs incurred;
 - (b) the total volume of production of brine and the volumes extracted therefrom; and
 - (c) the amount of brine proceeds realized from the sale of the production during the preceding month.
- (9) A pooling order shall provide that when the consenting owners recover from a nonconsenting owner's relinquished interest the amounts provided for in Subsection (4)(d):
- (a) the relinquished interest of the nonconsenting owner shall automatically revert to the nonconsenting owner;
 - (b) the nonconsenting owner shall from that time:
 - (i) own the same interest in the brine well and the production from the brine well; and
 - (ii) be liable for the further costs of the brine mining operation as if the nonconsenting owner had participated in the initial drilling and operation; and
 - (c) costs are payable out of production unless otherwise agreed between the nonconsenting owner and the operator.
- (10) A pooling order shall provide that in any circumstance where the nonconsenting owner has relinquished the nonconsenting owner's share of production to consenting owners or at any time fails to take the nonconsenting owner's share of production in-kind when the nonconsenting owner is entitled to do so, the nonconsenting owner is entitled to:
- (a) an accounting of the brine proceeds applicable to the nonconsenting owner's relinquished share of production; and
 - (b) payment of the brine proceeds applicable to that share of production not taken in-kind, net of costs.
- Section 11. Section **40-13-303** is enacted to read:
- 40-13-303 . Order establishing brine field unit.**
- (1)(a) The board may hold a hearing to consider the need for the operation as a unit of one or more brine reservoirs or parts of brine reservoirs in a field.
- (b) The board shall consider including any state lands within a brine field unit that would not otherwise be protected from drainage because of the inability to develop the state lands due to geography or other factors.
- (2) The board shall make an order providing for the unit operation of a reservoir or part of a reservoir, if the board finds that:

- 708 (a) the operation is reasonably necessary for the purposes of this chapter; and
709 (b) the value of the estimated additional recovery of brine substantially exceeds the
710 estimated additional cost incident to conducting the operations.

711 (3)(a) An order by the board establishing or modifying a brine field or brine field unit
712 shall prescribe a plan for unit operations that shall include:

- 713 (i) a description of the lands and of the reservoir that is established as the brine field
714 or brine field unit;
715 (ii) subject to Subsection (3)(b), an allocation of the brine produced in the brine field
716 unit to the separately-owned tracts in the brine field or brine field unit;
717 (iii) the method for apportioning costs of development and operation between the
718 separately owned tracts and how these costs are paid including a provision
719 providing a procedure for the unit production allocated to an owner who does not
720 pay the share of the cost of unit operations charged to such owner, or the interest
721 of that owner, to be sold and the brine proceeds applied to the payment of the
722 costs;
723 (iv) a provision, if necessary, for carrying or otherwise financing a person who elects
724 to be carried or otherwise financed, allowing a reasonable interest charge for this
725 service payable out of that person's share of the production;
726 (v) the method and circumstances under which brine or effluent from the brine field
727 unit may be injected into the reservoir or other formations;
728 (vi) the time when the unit operations shall commence, and the manner in which and
729 the circumstances under which, the unit operations shall terminate;
730 (vii) the additional provisions that the board finds appropriate for carrying out the
731 unit operations, and for the protection of correlative rights; and
732 (viii) the designation of a unit operator.

733 (b)(i) The allocation under Subsection (3)(a)(ii) shall be in accord with the
734 agreement, if any, of the interested parties.

- 735 (ii) If there is no agreement, the board shall determine the relative value, from
736 evidence introduced at the hearing, of the separately owned tracts in the brine field
737 unit area and the production allocated to each tract shall be the proportion that the
738 relative value of each tract so determined bears to the relative value of all tracts in
739 the brine field unit area.

740 (4)(a) An order of the board providing for unit operations of a reservoir may not become
741 effective unless and until:

- 742 (i) the plan for unit operations prescribed by the order has been approved in writing
743 by:
744 (A) those owners who, under the board's order, will be required to pay 70% of the
745 costs of the unit operation; and
746 (B) the owners of 70% of the production or brine proceeds that will be credited to
747 interests that are free of costs, such as royalties, overriding royalties, and
748 production payments; and
749 (ii) the board makes a finding, either in the order providing for unit operations or in a
750 supplemental order, that the plan for unit operations has been so approved.
751 (b) If the persons owning required percentage of interest in a brine field unit area do not
752 approve the plan for unit operations within six months from the date on which the
753 order providing for unit operations is made, the order is ineffective and the board
754 shall revoke the order unless good cause exists to extend the time.
755 (5) An order providing for unit operations may be amended by an order made by the board
756 in the same manner and subject to the same conditions as an original order providing for
757 unit operations.
758 (6)(a) Operations, including the commencement, drilling, or operation of a brine well
759 upon any portion of the brine field unit area is considered for all purposes the conduct
760 of operations upon each separately owned tract in the brine field unit area by the
761 several owners.
762 (b) The portions of the unit production allocated to a separately owned tract in a brine
763 field unit area shall, when produced, be considered, for all purposes, to have been
764 actually produced from the tract by a brine well drilled.
765 (7) Operations carried on under the plan of unitization shall constitute a fulfillment of all of
766 the provisions of the brine leases or other contracts upon lands included within the brine
767 field unit area insofar as the leases or contracts may relate to the reservoir or portion of
768 the reservoir included within the brine field unit.

769 Section 12. Section **40-13-401** is enacted to read:

770 **Part 4. Brine Mining Operations**

771 **40-13-401 . Permits required.**

- 772 (1) A person may not engage in brine mining operations in the state without a permit.
773 (2) A person may only transfer a permit to another person with permission of the division.
774 (3) The division may issue a permit:
775 (a) authorizing construction, operation, maintenance, and cessation of processing and

refining facilities and brine wells; and

(b) approving, as part of that permit, post-cessation reclamation of the site.

(4) As a condition for approval of a permit, the owner and operator shall furnish surety in an amount determined by the division to cover reclamation costs for the facility and any associated brine wells.

(5) Approval of a permit is conditioned upon compliance with the laws, rules, and orders of the board.

(6) The board may order the closure of a facility and any associated brine wells:

(a) if adequate surety is not posted;

(b) if a violation of the laws, rules, and orders of the board exists and is not abated; or

(c) for a significant violation of federal or state law not described in Subsection (6)(b) or substantial cause related to a natural disaster or imminent property destruction.

Section 13. Section ~~40-13-402~~ is enacted to read:

40-13-402 . Payment of brine proceeds.

(1)(a) A payor shall pay the brine proceeds derived from the sale of the minerals extracted from the brine to persons legally entitled to payment of the brine proceeds not later than 180 days after the date of first sale, and thereafter not later than 60 days after the end of the calendar month within which brine proceeds are received for subsequent production.

(b) A payor shall make a payment directly to the person entitled to the payment by the payor.

(c) A payor shall include the following information with each payment made to a person entitled to payment of brine proceeds from the sale of the mined minerals:

(i) unit identification;

(ii) month and year of sales included in the payment;

(iii) total volume of production from the unit of brine and volumes of minerals extracted;

(iv) owner's interest, expressed as a decimal, in production from the unit;

(v) total value of extracted dissolved minerals and chemical substances, including the price per unit of measurement at which the products were sold;

(vi) owner's share of the total value of sales prior to any deductions;

(vii) owner's share of the total value of sales after any deductions; and

(viii) a detailed listing of the amount and purpose of any deductions.

(2)(a) A delay in determining whether a person is legally entitled to an interest in the

810 brine proceeds does not affect payments to other persons entitled to payment.
811 (b) If accrued payments cannot be made within the time limits specified in Subsection (1),
812 the payor shall deposit the brine proceeds credited to the eventual brine proceeds
813 owner to an escrow account in a federally insured bank or savings and loan
814 institution using a standard escrow document form.
815 (c) An escrow agent shall pay the principal and accrued interest from the escrow account
816 to the person legally entitled to the principal and interest within 30 days from the date
817 of receipt by the escrow agent of final legal determination of entitlement to the
818 payment.
819 Section 14. **Repealer.**
820 This bill repeals:
821 Section **40-8-24, Brine mining.**
822 Section 15. **Effective Date.**
823 This bill takes effect on May 7, 2025.