

**Brine Mining Amendments**  
 2025 GENERAL SESSION  
 STATE OF UTAH  
**Chief Sponsor: Bridger Bolinder**  
 Senate Sponsor: David P. Hinkins

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**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- repeals outdated language; and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:

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

**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

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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 includes dissolved
- 60 minerals such as:
  - 61 (i) bromine;
  - 62 (ii) magnesium;
  - 63 (iii) potassium;

- 64            (iv) lithium;  
65            (v) boron;  
66            (vi) chlorine;  
67            (vii) iodine;  
68            (viii) calcium;  
69            (ix) strontium;  
70            (x) sodium;  
71            (xi) sulphur;  
72            (xii) barium; or  
73            (xiii) other marketable minerals, elements, or substances produced with or separated  
74            from the saltwater.
- 75            (c) "Brine" does not include produced water unless the produced water is saved, sold, or  
76            used for the purpose of extracting the dissolved minerals or other chemical  
77            substances contained in the produced water.
- 78            (4) "Brine field unit" means the formation by an order of the board of a unit of one or more  
79            brine reservoirs or parts of brine reservoirs in a field.
- 80            (5)(a) "Brine mining operation" means the exploration for, development of, or  
81            production of brine, including naturally occurring brine and artificial brine, using  
82            production wells in excess of 3,000 feet in depth.
- 83            (b) "Brine mining operation" does not include:
- 84            (i) operations at the surface to extract brine from the Great Salt Lake;  
85            (ii) solution mining of salt for the primary purpose of creating subterranean caverns  
86            for the storage of liquids or gases;  
87            (iii) in situ leaching for other minerals not defined as brine for the purposes of this  
88            chapter;  
89            (iv) geothermal operations that do not include mineral extraction; and  
90            (v) off-site operations and transportation.
- 91            (6)(a) "Brine proceeds" means a payment that:
- 92            (i) derives from brine production from a brine well located in the state;  
93            (ii) is expressed as a right to a specified interest in the:  
94            (A) cash proceeds received from the sale of the brine; or  
95            (B) the cash value of the brine; and  
96            (iii) is subject to any tax withheld from the payment pursuant to law.
- 97            (b) "Brine proceeds" includes a:

- 98           (i) royalty interest;  
99           (ii) overriding royalty interest;  
100          (iii) production payment interest; or  
101          (iv) working interest.
- 102          (c) "Brine proceeds" does not include a net profits interest or other interest the extent of  
103             which cannot be determined with reference to a specified share of:  
104             (i) the cash proceeds received from the sale of the brine; or  
105             (ii) the cash value of the brine.
- 106          (7) "Brine production drilling unit" means each separate composite area of land designated  
107             as a brine product drilling unit by order of the board for the production of brine and the  
108             injection of effluent.
- 109          (8) "Brine well" means a well drilled or converted for the purpose of producing natural or  
110             artificial brine.
- 111          (9) "Consenting owner" means an owner who, in the manner and within the time frame  
112             established by the board in rule, consents to the drilling and operation of a brine well  
113             and agrees to bear the owner's proportionate share of the costs of the drilling and  
114             operation of the brine well.
- 115          (10) "Correlative rights" means the opportunity of each owner in a reservoir to produce the  
116             owner's just and equitable share of the brine in the reservoir without waste.
- 117          (11) "Division" means the Division of Oil, Gas, and Mining.
- 118          (12) "Effluent" means the liquid and associated dissolved minerals remaining after  
119             extraction of the marketable substances from brine.
- 120          (13) "Facility" means equipment or a structure used in the production, storage, treatment,  
121             transportation, refining, or processing brine.
- 122          (14) "Field" means a general area underlaid by one or more brine reservoirs.
- 123          (15) "Leaching" means extracting a soluble metallic compound from an ore by selectively  
124             dissolving it in a suitable solvent, such as sulfuric acid or hydrochloric acid.
- 125          (16) "Manufacture" means the complete process of drilling, completing, equipping, and  
126             operating production and injection wells and of extracting and packaging brine.
- 127          (17) "Mineral" means a naturally occurring inorganic element or compound having an  
128             orderly internal structure and characteristic chemical composition, crystal form, and  
129             physical properties.
- 130          (18) "Multiple mineral development area" means an area designated by the board involving  
131             the management and development of various concurrent surface and sub-surface

- 132 resource extraction operations, including exploratory activities for the purpose of  
133 efficient and effective development of the concurrent marketable resources in the area  
134 without unreasonable interference occurring between the separate operations.
- 135 (19) "Nonconsenting owner" means an owner who does not, after written notice and in the  
136 manner and within the time frame established by the board in rule, consent to the drilling  
137 and operation of a brine well or agree to bear the owner's proportionate share of the costs.
- 138 (20) "Operating agreement" is a contract that outlines the rights and obligations of multiple  
139 parties involved in a project, including:
- 140 (a) establishing who will act as the operator;  
141 (b) identifying the parties' property interests;  
142 (c) allocating costs, benefits, liabilities, and obligations; and  
143 (d) providing a structure for handling disputes and other issues that may arise.
- 144 (21) "Operator" means a person who is designated by the owners or the board to operate a  
145 brine well or brine production drilling unit.
- 146 (22) "Owner" means a person owning an interest in the dissolved minerals and other  
147 chemical substances produced with or extracted from brine, or in the brine proceeds  
148 including having the right to:
- 149 (a) drill into and produce brine from a reservoir; and  
150 (b) appropriate the production for that person or for that person and others.
- 151 (23) "Payor" means the person who undertakes to distribute brine proceeds to the persons  
152 entitled to the brine proceeds, whether as the first purchaser of that production, as  
153 operator of the brine well from which the production is obtained, or as lessee under the  
154 lease on which royalty is due.
- 155 (24) "Permit" means a permit order issued by the division allowing a person to engage in  
156 brine mining operations in the state.
- 157 (25) "Permittee" means a person who:
- 158 (a) holds a permit issued under this chapter; or  
159 (b) is required by this chapter to hold a permit.
- 160 (26) "Pooling" means the bringing together of separately owned interests for the common  
161 development and operation of a brine production drilling unit.
- 162 (27) "Produced water" means the same as that term is defined in Section 40-12-101.
- 163 (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;

171 (c) the locating, drilling, equipping, operating, or producing of a brine well in a manner  
172 that causes:

173 (i) a significant reduction in the economic recoverability of brine from a reservoir or  
174 the dissolved minerals or chemical substances contained therein;

175 (ii) injecting effluent or other wastes in a manner as to cause unnecessary water  
176 channeling or undue forced migration of brine between brine production drilling  
177 units;

178 (iii) the unapproved intrusion of brine and effluent into an oil or gas reservoir;

179 (iv) unnecessary brine wells to be drilled; or

180 (v) the loss or destruction of brine either at the surface or subsurface.

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

182 **40-13-102 . Scope of chapter -- Political subdivisions.**

183 (1)(a) The board has jurisdiction over the drilling and production of brine wells.

184 (b) The board does not have jurisdiction over Class I, III, IV, or V wells regulated by the  
185 Department of Environmental Quality, pursuant to the federal Safe Drinking Water  
186 Act, 40 C.F.R. Parts 144 through 148, inclusive, and Title 19, Chapter 5, Water  
187 Quality Act.

188 (2) The legislative body of a political subdivision may enact, amend, or enforce a local  
189 ordinance, resolution, or rule consistent with the political subdivision's general land use  
190 authority that:

191 (a) regulates only surface activity that is incidental to brine mining operations;

192 (b) does not effectively or unduly limit, ban, or prohibit brine mining operations; and

193 (c) is not otherwise preempted by state or federal law.

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

195 **40-13-103 . Lands subject to chapter.**

196 This chapter applies to all lands in the state, lawfully subject to the state's police power,  
197 and includes lands of the United States or the lands subject to the jurisdiction of the United  
198 States.

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

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## 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

- 234 Water Rights for brine production from the brine well as required by Title 73,  
235 Chapter 3, Appropriation;
- 236 (g) regulate the storage, refining, or processing of brine and effluent;  
237 (h) require the making of reports showing:  
238 (i) the location of brine wells used for production;  
239 (ii) the location of injection wells used for disposal; and  
240 (iii) the filing of well logs, production reports, and drilling records for the wells  
241 described in this Subsection (5)(h);
- 242 (i) require the return of effluent to the same formation from which the brine was  
243 produced unless the board authorizes the disposal of effluent into one or more other  
244 formations upon finding that neither underground damage nor waste results from the  
245 disposal;
- 246 (j) identify the ownership of:  
247 (i) a brine well;  
248 (ii) an injection well;  
249 (iii) pipelines; and  
250 (iv) a facility for the production, storage, treatment, transportation, refining, or  
251 processing of brine;
- 252 (k) regulate the introduction or injection of effluent and other substances into a reservoir;
- 253 (l) require the furnishing of reasonable surety to guarantee that the operator shall:  
254 (i) plug each abandoned brine well;  
255 (ii) repair each brine well leaking or causing waste; and  
256 (iii) maintain and reclaim the site;
- 257 (m) exercise continuing jurisdiction:  
258 (i) over brine mining operations;  
259 (ii) to amend a permit; or  
260 (iii) to revoke a permit after notice and hearing;
- 261 (n) require operators to keep and maintain complete and accurate records of the  
262 quantities of brine produced, sold, purchased, acquired, stored, transported, refined,  
263 and processed, and effluent injected for a period of at least six years;
- 264 (o) formulate rules for the proper transportation of brine from the producing brine wells  
265 to the plant and from the plant to the injection wells and for the maintenance and  
266 surveillance of the transportation facilities; and
- 267 (p) when brine mining uses produced water, resolve issues related to conflicting



268 correlative rights between the correlative rights established under Chapter 6, Board  
269 and Division of Oil, Gas, and Mining, and the correlative rights established under  
270 Part 3, Brine Production Drilling Units, Pooling, or Fields, by:

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

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

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

279 (b) This chapter does not:

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

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

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

284 **40-13-202 . Inspections -- Cessation orders -- Civil penalties.**

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

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

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

- 302           or terminates the order.
- 303           (iii) If the division finds that the ordered cessation of brine mining operations, or a  
304           portion of the brine mining operations, does not completely abate the imminent  
305           danger to the health or safety of the public or the significant imminent  
306           environmental harm to land, air, or water resources, the division shall, in addition  
307           to the cessation order, impose affirmative obligations on the operator requiring the  
308           operator to take whatever steps the division considers necessary to abate the  
309           imminent danger or the significant environmental harm.
- 310           (c)(i) If, on the basis of an inspection, the division determines that a permittee is in  
311           violation of this chapter, an order issued under this chapter, a rule made under this  
312           chapter, or a permit condition required by this chapter, but the violation does not  
313           create an imminent danger to the health or safety of the public or cannot be  
314           reasonably expected to cause significant, imminent environmental harm to land,  
315           air, or water resources, the division shall issue a notice to the permittee or the  
316           permittee's agent specifying a reasonable time, but not more than 90 days, for the  
317           abatement of the violation and providing an opportunity for an informal  
318           conference with the division.
- 319           (ii) If, upon expiration of the period of time as originally fixed or subsequently  
320           extended, for good cause shown, and upon the written finding of the division, the  
321           division finds that the violation has not been abated, the division shall  
322           immediately order a cessation of brine mining operations or the portion of the  
323           brine mining operation relevant to the violation.
- 324           (iii) A cessation order issued under this Subsection (1)(c) remains in effect until the  
325           division determines that the violation is abated or until the division modifies,  
326           vacates, or terminates the order.
- 327           (iv) In an cessation order issued by the division under this Subsection (1)(c), the  
328           division shall determine the steps necessary to abate the violation in the most  
329           expeditious manner possible and shall include the necessary measures in the order.
- 330           (d)(i) A notice or order issued under this section shall set forth with reasonable  
331           specificity:
- 332           (A) the nature of the violation and the remedial action required;  
333           (B) the period of time established for abatement; and  
334           (C) a reasonable description of the portion of the mining and reclamation  
335           operation to which the notice or order applies.

- 336           (ii) The division shall promptly give a notice or order issued under this section to the  
337           permittee or the permittee's agent.
- 338           (iii) The division shall give a notice or order in a writing signed by the director or the  
339           director's authorized representative who issues the notice or order.
- 340           (iv) The division may modify, vacate, or terminate a notice or order issued under this  
341           section.
- 342 (2)(a) The division may request the attorney general to institute a civil action for relief,  
343           including a permanent or temporary injunction, restraining order, or any other  
344           appropriate order in a court with jurisdiction under Title 78A, Judiciary and Judicial  
345           Administration, if the permittee or the permittee's agent:
- 346           (i) violates or fails or refuses to comply with an order or decision issued by the  
347           division under this chapter;
- 348           (ii) interferes with, hinders, or delays the division, or the division's authorized  
349           representative, in carrying out this chapter;
- 350           (iii) refuses to admit an authorized representative to the brine well;
- 351           (iv) refuses to permit inspection of the brine well by an authorized representative; or  
352           (v) refuses to furnish information or a report requested by the division in furtherance  
353           of this chapter.
- 354 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney  
355           general brings the action described in Subsection (2)(a) in court, the attorney general  
356           shall bring the action in the county in which:
- 357           (i) the brine mining operation and reclamation operation is located; or
- 358           (ii) the permittee of the brine mining operation or reclamation operation has the  
359           permittee's principal office.
- 360 (c)(i) The court has jurisdiction to provide the relief requested in accordance with this  
361           Subsection (2).
- 362           (ii) Relief granted by the court to enforce an order under Subsection (2)(a)(i) shall  
363           continue in effect until the completion or final termination of all proceedings for  
364           review of that order under this chapter, unless, before completion or termination,  
365           the court granting the relief sets the order aside or modifies the order.
- 366 (3)(a)(i) A permittee issued a notice or order by the division, pursuant to Subsection  
367           (1)(b) or (c), or a person having an interest that may be adversely affected by the  
368           notice or order, may apply to the board for review of the notice or order by no  
369           later than 30 days of receipt of the notice or order, or no later than 30 days of a

- 370 modification, vacation, or termination of the notice or order.
- 371 (ii) On receipt of an application under Subsection (3)(a)(i), the board shall pursue an  
372 investigation as the board considers appropriate.
- 373 (iii) An investigation pursued by the board shall provide an opportunity for a public  
374 hearing at the request of the applicant or the person having an interest that is or  
375 may be adversely affected, to enable the applicant or that person to present  
376 information relating to the issuance and continuance of the notice or order or the  
377 modification, vacation, or termination of the notice or order.
- 378 (iv) The filing of an application for review under this Subsection (3)(a) does not  
379 operate as a stay of an order or notice.
- 380 (b) The board shall give a permittee or other interested person written notice of the time  
381 and place of the hearing at least five days before the hearing.
- 382 (c)(i) Pending completion of the investigation and hearing required by this section,  
383 the applicant may file with the board a written request that the board grant  
384 temporary relief from any notice or order issued under this section, with a detailed  
385 statement giving the reasons for granting this relief.
- 386 (ii) The board shall issue an order or decision granting or denying this relief  
387 expeditiously.
- 388 (d)(i) Following the issuance of an order to show cause as to why a permit should not  
389 be suspended or revoked pursuant to this section, the board shall hold a public  
390 hearing, after giving written notice of the time, place, and date of the hearing.
- 391 (ii) By no later than 60 days following the public hearing, the board shall issue and  
392 give the permittee and all other parties to the hearing, a written decision, and the  
393 reasons for the decision, regarding suspension or revocation of the permit.
- 394 (iii) If the board revokes a permit, the permittee shall immediately cease brine mining  
395 operations on the permit area and shall complete reclamation within a period  
396 specified by the board, or the board shall declare the surety forfeited for the brine  
397 mining operation.
- 398 (e) An action taken by the board under this section, or any other provision of this  
399 chapter, is subject to judicial review by a court with jurisdiction under Title 78A,  
400 Judiciary and Judicial Administration.
- 401 (4)(a)(i) The division may assess a permittee a civil penalty if the permittee violates a  
402 permit condition, this chapter, an order issued under this chapter, or a rule made  
403 under this chapter.

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

- 438 contest the amount of the civil penalty assessed for the violation.
- 439 (iii) If the board or a court determines that no violation occurred or that the amount of  
440 the civil penalty should be reduced, the division shall, within 30 days, remit the  
441 appropriate amount to the operator with interest accumulated.
- 442 (6)(a) A civil penalty assessed by the division is final only after the person charged with  
443 a violation described under Subsection (4) has been given an opportunity for a public  
444 hearing.
- 445 (b) If a public hearing is held, the board shall make findings of fact and shall issue a  
446 written decision as to the occurrence of the violation and the amount of the civil  
447 penalty which is warranted, incorporating, when appropriate, an order requiring that  
448 the civil penalty be paid.
- 449 (c) When appropriate, the board shall consolidate a hearing with other proceedings  
450 under Section 40-13-201.
- 451 (d) If a person charged with a violation does not attend the public hearing, the division  
452 may assess a civil penalty after the division:
- 453 (i) determines:
- 454 (A) that a violation occurred; and  
455 (B) the amount of the civil penalty that is warranted; and
- 456 (ii) issues an order requiring that the civil penalty be paid.
- 457 (7) At the request of the board, the attorney general may bring a civil action in a court with  
458 jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil  
459 penalty owed under this chapter.
- 460 (8)(a) The division shall assess an operator who fails to correct a violation for which a  
461 notice or cessation order has been issued under Subsection (1)(b) within the period  
462 permitted for a correction of the violation a civil penalty of not less than \$750 for  
463 each day during which the failure or violation continues.
- 464 (b) The period permitted for correction of a violation for which a notice of cessation  
465 order has been issued under Subsection (1)(b) may not end until:
- 466 (i) the entry of a final order by the board, in a review proceeding initiated by the  
467 operator, in which the board orders, after an expedited hearing, the suspension of  
468 the abatement requirements of the citation after determining that the operator will  
469 suffer irreparable loss or damage from the application of those requirements; or
- 470 (ii) the entry of an order of the court after a review proceeding initiated by the  
471 operator, in which the court orders the suspension of the abatement requirements

472 of the citation.

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

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

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

482 **40-13-203 . Criminal penalties.**

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

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

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

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

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

494 (e) fail or refuse to comply with:

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

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

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

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

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

502 (c) both a fine and imprisonment.

503 (3) If a permittee violates Subsection (1), a director, officer, or agent of the permittee may  
 504 be held criminally responsible in accordance with Section 76-2-205.

505 (4) A criminal proceeding for a violation described in Subsection (1) shall be commenced,

506 as provided in Section 76-1-302, by no later than two years from the date of the alleged  
507 violation.

508 (5) The division or board may impose a civil penalty under Section 40-13-202 in addition to  
509 prosecution under this section.

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

511 **40-13-204 . Forfeiture of surety.**

512 (1) Subsection (2) applies if the board determines that an operator has neglected, failed, or  
513 refused to:

514 (a) plug and abandon a brine well;

515 (b) close any surface impoundment;

516 (c) repair a brine well leaking or causing waste; or

517 (d) maintain and reclaim a site.

518 (2) A person who violates Subsection (1) shall forfeit from the person's surety or shall pay  
519 to this state a sum equal to the cost of:

520 (a) plugging a brine well;

521 (b) closure of the surface impoundment;

522 (c) repair of the brine well leaking or causing waste; or

523 (d) reclamation of the site.

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

525 **40-13-205 . Sale of equipment, installation, or material.**

526 (1) After the board determines a brine well or facility is to be abandoned, as part of the  
527 plugging and reclamation process, the division may sell or dispose of in a manner the  
528 division sees fit the following found on the site or taken from the brine well or facility:

529 (a) drilling, producing, or operating equipment;

530 (b) installations; or

531 (c) material.

532 (2) A person to whom any equipment, installations, or material is sold under Subsection (1)  
533 receives the title to the equipment, installation, or material, free of any claim.

534 (3) When the division receives money on the sale or disposal of equipment, installation, or  
535 material under Subsection (1), the division shall:

536 (a) apply the money to the payment of any unpaid costs and civil penalty determined by  
537 the division; and

538 (b) if money remains after applying the money under Subsection (3)(a), the division

539 shall return the unused money to the operator or a person who has established a legal



540 right to the money.

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

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

543 **40-13-301 . Establishment or modification of a brine production drilling unit.**

- 544 (1) Upon the petition of an owner or operator of a brine well, the board may order the  
545 establishment of a brine production drilling unit.
- 546 (2) Within a brine production drilling unit, only one brine well may be drilled for  
547 production from the reservoir, except as provided in Subsections (6) and (7).
- 548 (3) A brine production drilling unit may not be smaller than the maximum area that can be  
549 efficiently and economically drained by one brine well.
- 550 (4)(a) Each brine production drilling unit within a reservoir shall be of uniform size and  
551 shape, unless the board finds that the board is required to make an exception due to  
552 geologic, geographic, or other factors.
- 553 (b) If the board finds it necessary to divide a reservoir into zones and establish a brine  
554 production drilling unit for each zone, brine production drilling units may differ in  
555 size and shape for each zone.
- 556 (5) An order of the board that establishes a brine production drilling unit for a reservoir  
557 shall:
- 558 (a) be made upon terms and conditions that are just and reasonable;
- 559 (b) include the lands determined by the board to overlay the reservoir;
- 560 (c) specify the acreage and shape of each brine production drilling unit as determined by  
561 the board; and
- 562 (d) specify the location of the brine well in terms of distance from brine production  
563 drilling unit boundaries and other brine wells.
- 564 (6) The board may establish a brine production drilling unit and concurrently authorize the  
565 drilling of more than one brine well in a brine production drilling unit if the board finds  
566 that:
- 567 (a) engineering or geologic characteristics justify the drilling of more than one brine  
568 well in that brine production drilling unit; and
- 569 (b) the drilling of more than one brine well in the brine production drilling unit will not  
570 result in waste or unreasonably interfere with correlative rights.
- 571 (7) The board may modify an order that establishes a brine production drilling unit for a  
572 reservoir to provide for:
- 573 (a) an exception to the authorized location of a brine well;

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

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

581 **40-13-302 . Pooling of interests for the development and operation of a brine**  
582 **production drilling unit.**

583 (1) Two or more owners within a brine production drilling unit may bring together their  
584 interests for the development and operation of the brine production drilling unit.

585 (2)(a) In the absence of a written agreement for pooling, including an operating  
586 agreement, the board may enter an order pooling all interests in the brine production  
587 drilling unit for the development and operation of the brine production drilling unit.

588 (b) The board shall make the order upon terms and conditions that are just and  
589 reasonable.

590 (c) The board may adopt terms appearing in an operating agreement:

591 (i) for the brine production drilling unit that is in effect between the consenting  
592 owners;

593 (ii) submitted by any party to the proceeding; or

594 (iii) submitted by the board's own motion.

595 (3)(a) Operations incident to the drilling of a brine well upon any portion of a brine  
596 production drilling unit covered by a pooling order are considered for all purposes to  
597 be the conduct of the brine mining operations upon each separately owned tract in the  
598 brine production drilling unit by the several owners.

599 (b) The portion of the production allocated or applicable to a separately owned tract  
600 included in a brine production drilling unit covered by a pooling order shall, when  
601 produced, be considered for all purposes to have been produced from that tract by a  
602 brine well drilled on the tract.

603 (4)(a)(i) A pooling order shall provide for the payment of just and reasonable costs  
604 incurred in the drilling and operating of the brine production drilling unit,  
605 including:

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

- 608           (B) reasonable charges for the administration and supervision of brine mining  
609           operations; and
- 610           (C) other costs customarily incurred in the industry.
- 611           (ii) An owner is not liable under a pooling order for costs or losses resulting from the  
612           gross negligence or willful misconduct of the operator.
- 613       (b) A pooling order shall provide for reimbursement to the consenting owners for any  
614           nonconsenting owner's share of the costs out of production from the brine production  
615           drilling unit attributable to the nonconsenting owner's tract.
- 616       (c) A pooling order shall provide that each consenting owner shall own and is entitled to  
617           receive, subject to royalty or similar obligations:
- 618           (i) the share of the production of the brine well applicable to the consenting owner's  
619           interest in the brine production drilling unit; and
- 620           (ii) unless the consenting owner has agreed otherwise, the consenting owner's  
621           proportionate part of the nonconsenting owner's share of the production until costs  
622           are recovered as provided in Subsection (4)(d).
- 623       (d)(i) A pooling order shall provide that each nonconsenting owner is entitled to  
624           receive, subject to royalty or similar obligations, the share of the production of the  
625           brine well applicable to the nonconsenting owner's interest in the brine production  
626           drilling unit after the consenting owners have recovered from the nonconsenting  
627           owner's share of production the following amounts less any cash contributions  
628           made by the nonconsenting owner:
- 629           (A) 100% of the nonconsenting owner's share of the cost of surface equipment  
630           beyond the wellhead connections, including stock tanks, separators, treaters,  
631           pumping equipment, and piping;
- 632           (B) 100% of the nonconsenting owner's share of the estimated cost to plug and  
633           abandon the brine well as determined by the board;
- 634           (C) 100% of the nonconsenting owner's share of the cost of brine mining  
635           operations of the brine well commencing with first production and continuing  
636           until the consenting owners have recovered all costs; and
- 637           (D) 300% on the first brine well and 150% for each subsequent brine well of the  
638           nonconsenting owner's share of the costs of staking the location, wellsite  
639           preparation, rights-of-way, rigging up, drilling, reworking, recompleting,  
640           deepening or plugging back, testing, and completing, and the cost of equipment  
641           in the brine well to and including the wellhead connections.

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

- 676 (b) the total volume of production of brine and the volumes extracted therefrom; and  
677 (c) the amount of brine proceeds realized from the sale of the production during the  
678 preceding month.
- 679 (9) A pooling order shall provide that when the consenting owners recover from a  
680 nonconsenting owner's relinquished interest the amounts provided for in Subsection  
681 (4)(d):
- 682 (a) the relinquished interest of the nonconsenting owner shall automatically revert to the  
683 nonconsenting owner;
- 684 (b) the nonconsenting owner shall from that time:
- 685 (i) own the same interest in the brine well and the production from the brine well; and  
686 (ii) be liable for the further costs of the brine mining operation as if the  
687 nonconsenting owner had participated in the initial drilling and operation; and
- 688 (c) costs are payable out of production unless otherwise agreed between the  
689 nonconsenting owner and the operator.
- 690 (10) A pooling order shall provide that in any circumstance where the nonconsenting owner  
691 has relinquished the nonconsenting owner's share of production to consenting owners or  
692 at any time fails to take the nonconsenting owner's share of production in-kind when the  
693 nonconsenting owner is entitled to do so, the nonconsenting owner is entitled to:
- 694 (a) an accounting of the brine proceeds applicable to the nonconsenting owner's  
695 relinquished share of production; and
- 696 (b) payment of the brine proceeds applicable to that share of production not taken  
697 in-kind, net of costs.
- 698 Section 11. Section **40-13-303** is enacted to read:
- 699 **40-13-303 . Order establishing brine field unit.**
- 700 (1)(a) The board may hold a hearing to consider the need for the operation as a unit of  
701 one or more brine reservoirs or parts of brine reservoirs in a field.
- 702 (b) The board shall consider including any state lands within a brine field unit that  
703 would not otherwise be protected from drainage because of the inability to develop  
704 the state lands due to geography or other factors.
- 705 (2) The board shall make an order providing for the unit operation of a reservoir or part of a  
706 reservoir, if the board finds that:
- 707 (a) the operation is reasonably necessary for the purposes of this chapter; and  
708 (b) the value of the estimated additional recovery of brine substantially exceeds the  
709 estimated additional cost incident to conducting the operations.

- 710 (3)(a) An order by the board establishing or modifying a brine field or brine field unit  
711 shall prescribe a plan for unit operations that shall include:
- 712 (i) a description of the lands and of the reservoir that is established as the brine field  
713 or brine field unit;
  - 714 (ii) subject to Subsection (3)(b), an allocation of the brine produced in the brine field  
715 unit to the separately-owned tracts in the brine field or brine field unit;
  - 716 (iii) the method for apportioning costs of development and operation between the  
717 separately owned tracts and how these costs are paid including a provision  
718 providing a procedure for the unit production allocated to an owner who does not  
719 pay the share of the cost of unit operations charged to such owner, or the interest  
720 of that owner, to be sold and the brine proceeds applied to the payment of the  
721 costs;
  - 722 (iv) a provision, if necessary, for carrying or otherwise financing a person who elects  
723 to be carried or otherwise financed, allowing a reasonable interest charge for this  
724 service payable out of that person's share of the production;
  - 725 (v) the method and circumstances under which brine or effluent from the brine field  
726 unit may be injected into the reservoir or other formations;
  - 727 (vi) the time when the unit operations shall commence, and the manner in which and  
728 the circumstances under which, the unit operations shall terminate;
  - 729 (vii) the additional provisions that the board finds appropriate for carrying out the  
730 unit operations, and for the protection of correlative rights; and
  - 731 (viii) the designation of a unit operator.
- 732 (b)(i) The allocation under Subsection (3)(a)(ii) shall be in accord with the  
733 agreement, if any, of the interested parties.
- 734 (ii) If there is no agreement, the board shall determine the relative value, from  
735 evidence introduced at the hearing, of the separately owned tracts in the brine field  
736 unit area and the production allocated to each tract shall be the proportion that the  
737 relative value of each tract so determined bears to the relative value of all tracts in  
738 the brine field unit area.
- 739 (4)(a) An order of the board providing for unit operations of a reservoir may not become  
740 effective unless and until:
- 741 (i) the plan for unit operations prescribed by the order has been approved in writing  
742 by:
    - 743 (A) those owners who, under the board's order, will be required to pay 70% of the

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

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

769 **Part 4. Brine Mining Operations**

770 **40-13-401 . Permits required.**

- 771 (1) A person may not engage in brine mining operations in the state without a permit.
- 772 (2) A person may only transfer a permit to another person with permission of the division.
- 773 (3) The division may issue a permit:
- 774 (a) authorizing construction, operation, maintenance, and cessation of processing and
- 775 refining facilities and brine wells; and
- 776 (b) approving, as part of that permit, post-cessation reclamation of the site.
- 777 (4) As a condition for approval of a permit, the owner and operator shall furnish surety in

778 an amount determined by the division to cover reclamation costs for the facility and any  
779 associated brine wells.

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

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

783 (a) if adequate surety is not posted;

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

785 (c) for other material and substantial cause.

786 Section 13. Section **40-13-402** is enacted to read:

787 **40-13-402 . Payment of brine proceeds.**

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

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

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

797 (i) unit identification;

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

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

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

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

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

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

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

807 (2)(a) A delay in determining whether a person is legally entitled to an interest in the  
808 brine proceeds does not affect payments to other persons entitled to payment.

809 (b) If accrued payments cannot be made within the time limits specified in Subsection (1),  
810 the payor shall deposit the brine proceeds credited to the eventual brine proceeds  
811 owner to an escrow account in a federally insured bank or savings and loan



812 institution using a standard escrow document form.  
813 (c) An escrow agent shall pay the principal and accrued interest from the escrow account  
814 to the person legally entitled to the principal and interest within 30 days from the date  
815 of receipt by the escrow agent of final legal determination of entitlement to the  
816 payment.

817 Section 14. **Repealer.**

818 This bill repeals:

819 Section **40-8-24, Brine mining.**

820 Section 15. **Effective Date.**

821 This bill takes effect on May 7, 2025.