

**Michael K. McKell** proposes the following substitute bill:

## Geothermal Amendments

## 2026 GENERAL SESSION

# STATE OF UTAH

**Chief Sponsor: Michael K. McKell**

### House Sponsor:

## LONG TITLE

### **General Description:**

This bill addresses geothermal resources or fluids.

## **Highlighted Provisions:**

This bill:

- addresses the reservation of a geothermal resource on state and institutional trust land;
- clarifies the purposes of the geothermal chapter;
- addresses definitions;
- modifies provisions related to ownership of geothermal resources or fluids;
- amends powers of the Division of Water Rights related to confidentiality of information;
- addresses bonding requirements; and
- makes technical and conforming amendments.

### **Money Appropriated in this Bill:**

None

## Other Special Clauses:

None

## Utah Code Sections Affected:

## AMENDS:

**53C-2-401**, as last amended by Laws of Utah 2003, Chapter 192

73-22-2, as enacted by Laws of Utah 1981, Chapter 188

73-22-3, as last amended by Laws of Utah 2016, Chapter 348

**73-22-4**, as enacted by Laws of Utah 1981, Chapter 188

**73-22-6**, as enacted by Laws of Utah 1981, Chapter 188

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

Section 1. Section **53C-2-401** is amended to read:

29           **53C-2-401 . Coal and mineral deposits reserved -- Geothermal resource --**

30           **Exceptions.**

31           (1)(a)(i) Except as otherwise expressly provided by law, coal and mineral deposits in  
32           trust lands are reserved to the respective trust.

33           (ii) The reservation of mineral deposits described in Subsection (1)(a)(i) includes  
34           reservation of a geothermal resource as defined in Section 73-22-3.

35           (b) [Each-] A certificate of sale and patent issued shall contain [sueh] a reservation  
36           described in Subsection (1)(a).

37           (c) The purchaser of any lands belonging to the trust:

38           (i) acquires no right, title, or interest in coal or mineral deposits, including  
39           geothermal resources; and

40           (ii) is subject to the conditions and limitations prescribed by law providing for the  
41           state and any person authorized by [it] the state to:

42           (A) prospect or mine;

43           (B) remove [the-]deposits; [and]

44           (C) develop geothermal resources; and

45           [(C)] (D) occupy and use as much of the surface of the lands as may be required  
46           for any purpose reasonably incident to [the-]mining[and], removal of [the-]  
47           deposits, or development of a geothermal resource.

48           (d)(i) Coal[and], mineral deposits, or geothermal resources in trust lands may be  
49           leased on a rental and royalty basis.

50           (ii) The administration may also, with board approval, enter into joint ventures,  
51           farmout agreements, exploration agreements, operating agreements, and other  
52           business arrangements for the disposition of coal[and], mineral deposits, or  
53           geothermal resources in trust lands.

54           (iii) The mineral estate in trust lands may not be sold except as authorized in  
55           Subsection (2).

56           (iv) [Agreements] An agreement made under Subsection (1)(d)(ii) [are] is not subject  
57           to Subsections 53C-2-405(3) and (4).

58           (2) Except as otherwise prohibited by the Jones Act of January 25, 1927, 43 U.S.C.

59           Sections 870-871, mineral interests in trust lands may be exchanged for mineral interests  
60           of comparable value or otherwise disposed of, if [their] the retention would create a  
61           liability exceeding their value.

62           (3)(a) Common varieties of sand, gravel, and cinders are not considered to be minerals

63 under this section but may be reserved by specific action of the director.

64 (b) Common varieties do not include deposits [~~which~~] that are valuable because the  
65 deposit contains characteristics which give [~~it~~] the deposit distinct and special value.

66 Section 2. Section **73-22-2** is amended to read:

67 **73-22-2 . Purpose of chapter.**

68 ~~[It is declared to be in the public interest]~~ The purpose of this chapter is to:

69 (1) foster, encourage, and promote the discovery, development, production, [~~utilization~~] use,  
70 and disposal of geothermal resources [~~in the State of Utah~~] for the purpose of electricity  
71 production in such manner as will prevent waste, protect correlative rights, and  
72 safeguard the natural environment and the public welfare; [~~to~~] and

73 (2) authorize, encourage, and provide for the development and operation of geothermal  
74 resource properties for the purpose of electricity production in such manner that the  
75 maximum ultimate economic recovery of geothermal resources may be obtained  
76 through, among other things, agreements for cooperative development, production,  
77 injection, and pressure maintenance operations.

78 Section 3. Section **73-22-3** is amended to read:

79 **73-22-3 . Definitions.**

80 As used in this chapter:

81 (1) "Correlative rights" mean the rights of [~~each~~] a geothermal owner in a geothermal area to  
82 produce without waste [~~his~~] the geothermal owner's just and equitable share of the  
83 geothermal resource underlying the geothermal area.

84 (2) "Division" means the Division of Water Rights[~~,~~] within the Department of Natural  
85 Resources.

86 (3) "Geothermal area" means the general land area [~~which~~] that is underlain or reasonably  
87 appears to be underlain by a geothermal [resources] resource.

88 (4) "Geothermal fluid" means water and steam at temperatures greater than [~~120~~] 100  
89 degrees centigrade naturally present in a geothermal system.

90 (5)(a) "Geothermal resource" means:

91 (i) the natural heat of the earth at temperatures greater than [~~120~~] 100 degrees  
92 centigrade; and

93 (ii) the energy, in whatever form, including pressure, present in, resulting from,  
94 created by, or [~~which~~] that may be extracted from that natural heat, directly or  
95 through a material medium using any type of application including a conventional  
96 hydrothermal, enhanced geothermal, or advanced geothermal system.

97 (b) "Geothermal resource" does not include a geothermal [fluids] fluid.

98 (6) "Geothermal system" means [any] a strata, pool, reservoir, or other geologic formation

99 containing a geothermal [resources] resource.

100 (7) "Material medium" means a geothermal [fluids] fluid, or water and other [substances]

101 substance artificially introduced into a geothermal system to serve as a heat transfer

102 medium.

103 (8) "Operator" means [any] a person drilling, maintaining, operating, producing, or in

104 control of [any] a well.

105 (9) "Owner" means a person who has the right to drill into, produce, and make use of [the] a

106 geothermal resource.

107 [(10) "Person" means any individual, business entity (corporate or otherwise), or political

108 subdivision of this or any other state.]

109 [(11) (a) "Waste" means [any] an inefficient, excessive, or improper production, use,

110 or dissipation of a geothermal [resources] resource.

111 (b) [Wasteful practices include] "Waste" includes:

112 (i) a transporting or storage [methods that cause or tend] method that causes or tends

113 to cause unnecessary surface loss of a geothermal [resources] resource; or

114 (ii) locating, spacing, constructing, equipping, operating, producing, or venting of [

115 any] a well in a manner that results or tends to result in unnecessary surface loss or

116 in reducing the ultimate economic recovery of a geothermal [resources] resource.

117 (11) "Water right" means:

118 (a) a right to use water, including a geothermal fluid, evidenced by a means identified in

119 Subsection 73-1-10(1)(a); or

120 (b) a right to use water, including a geothermal fluid, under an approved application:

121 (i) to appropriate; or

122 (ii) for a change of use.

123 (12) "Well" means [any] a well drilled, converted, or reactivated for the discovery, testing,

124 production, or subsurface injection of a geothermal [resources] resource.

125 Section 4. Section **73-22-4** is amended to read:

126 **73-22-4 . Ownership of geothermal resource -- Water right -- Lands subject to**

127 **chapter.**

128 (1) Ownership of a geothermal resource derives from an interest in the surface of land[and

129 not from an appropriative right to geothermal fluids].

130 (2) A person that owns the surface of the land also owns title to the geothermal resource,

131 even if the mineral estate is severed, unless the right to the geothermal resource is  
132 expressly reserved by a conveyance, contract, deed, lease, or other binding obligation.

133 (3)(a) Subsections (1) and (2) do not apply to school and institutional trust lands as  
134 defined in Section 53C-1-103.

135 (b) Section 53C-2-401 governs the reservation of a geothermal resource in school and  
136 institutional trust lands.

137 (c) On and after May 6, 2026, for school and institutional trust lands owned as of May 6,  
138 2026, the state owns title to a geothermal resource in school and institutional trust  
139 lands unless title to the geothermal resource has been expressly conveyed by a  
140 conveyance, contract, deed, or other binding obligation to another party by the state  
141 in accordance with Section 53C-2-401.

142 (4) Subject to Section 73-22-8, a person may not use a geothermal fluid without a water  
143 right.

144 [(2)] (5) This chapter shall apply to [all] lands in the [State of Utah] state, including federal  
145 and Indian lands to the extent allowed by law. When [these] federal or Indian lands are  
146 committed to a unit agreement involving lands subject to federal or Indian jurisdiction,  
147 the division may, with respect to the unit agreement, [deem] consider this chapter  
148 complied with if the unit operations are regulated by the United States and the division  
149 finds that conservation of geothermal resources and prevention of waste are  
150 accomplished under the unit agreement.

151 Section 5. Section **73-22-6** is amended to read:

152 **73-22-6 . Information required concerning resource development --**

153 **Confidentiality -- Regulation of wells -- Surety bonds -- Inspection.**

154 (1) The division [shall have authority to] may require a person to:

155 (a) [Identification of] identify the location and ownership of [all wells and producing  
156 geothermal leases.] a well or producing geothermal lease;

157 (b) [Filing with the division of] file with the division a notice of intent to drill, redrill,  
158 renovate, deepen, permanently alter the casing of, test, maintain, or abandon any well[;  
159 Approval] and obtain the division's approval of the notice of intent [must be obtained  
160 from the division prior to commencement of operations.] before the person  
161 commences operations;

162 (c) [Keeping of well logs and filing true and correct copies] subject to Subsection (4),  
163 keep a well log or record and file a copy of the well log or record with the division[;  
164 These records are public records when filed with the division, unless the owner or

165 operator requests, in writing, that the records be held confidential. The period of  
166 confidentiality shall be established by the division, not to exceed five years from the  
167 date of production or injection for other than testing purposes or five years from the  
168 date of abandonment, whichever occurs first, as determined by the division. Well  
169 records held confidential by the division are open to inspection by those persons  
170 authorized in writing by the owner or operator. Confidential status shall not restrict  
171 inspection by state officers charged with regulating well operations or by authorized  
172 officials of the Utah State Tax Commission for purposes of tax assessment.] ;

173 (d) [The spacing, drilling, casing, testing, operating, producing, and abandonment of  
174 wells] space, drill, case, test, operate, produce, or abandon a well so as to prevent:

175 (i) a geothermal [resources] resource, water, [gases] gas, or other [fluids] fluid from  
176 escaping into strata;

177 (A) other than the strata in which [they are] the resource, water, gas, or fluid is  
178 found[–] ; and

179 (B) unless in accordance with a subsurface injection program approved by the  
180 division[–];

181 (ii) pollution of surface and groundwater;

182 (iii) premature cooling of [any] a geothermal system by water encroachment or  
183 otherwise [which] that tends to reduce the ultimate economic recovery of the  
184 geothermal [resources] resource;

185 (iv) [blowouts, cave-ins, and] a blowout, cave-in, or seepage; and

186 (v) unreasonable disturbance or injury to neighboring properties, prior water rights,  
187 human life, health, and the environment[–] ;

188 (e) [The operator to file each or] subject to Subsection (2), if an operator, file an  
189 individual surety [bonds] bond with the division for [each] a new well drilled [and each]  
190 or an abandoned well redrilled[–]. The amount of surety required shall be determined  
191 by the division. In lieu of bonds for separate wells, the operator may file a blanket  
192 each or individual surety bond in an amount set by the division to cover all the  
193 operator's drilling, redrilling, deepening, maintenance, or abandonment activities for  
194 wells in the state. Bonds filed with the division shall be executed by the operator, as  
195 principal, conditioned on compliance with division regulations in drilling, redrilling,  
196 deepening, maintaining, or abandoning any well or wells covered by the bond and  
197 shall secure the state against all losses, charges, and expenses incurred by it to obtain  
198 such compliance by the principal named in the bond.] ;

199 (f) [The geothermal] if an owner or operator[ to] , measure geothermal production  
200 according to standards set by the division and maintain complete and accurate  
201 production records[. The records, or certified copies of them, shall be preserved on  
202 file by] or certified copies of the records that the owner or operator:  
203 (i) keeps for a period of five years[ and shall be] ; and  
204 (ii) makes available for examination by the division at [all] reasonable times[.] ; and  
205 (g) [Filing] file with the division any other reasonable [reports which it prescribes] report  
206 that the division requires regarding geothermal operations within the state.

207 (2)(a) With the consent of the division, a person may terminate or cancel a surety  
208 bond filed with the division in conformance with this chapter [may, with the consent  
209 of the division, be terminated and canceled and the surety be relieved of all] and  
210 relieve the surety of the obligations under [it] the surety bond when the well or wells  
211 covered by the surety bond have been properly abandoned or another valid surety  
212 bond has been substituted for [it] the surety bond.

213 (b) The amount of surety bond required by this section shall be determined by the  
214 division to be a reasonable amount.

215 (c) In lieu of an individual surety bond for separate wells, the operator may file a blanket  
216 surety bond in an amount set by the division to cover all the operator's drilling,  
217 redrilling, deepening, maintenance, or abandonment activities for wells.

218 (d) An operator shall execute a surety bond filed with the division by the operator as  
219 principal and condition the surety bond on compliance with division regulations in  
220 drilling, redrilling, deepening, maintaining, or abandoning a well covered by the  
221 surety bond.

222 (e) A surety bond filed with the division shall secure the state against losses, charges,  
223 and expenses incurred by the state to obtain the compliance described in Subsection  
224 (2)(d) by the principal named in the surety bond.

225 (3) The division may enter onto private or public land at any time to inspect [any] a well or  
226 geothermal resource development project to determine if the well or project is being  
227 constructed, operated, or maintained according to any applicable permits or to determine  
228 if the construction, operation, or maintenance of the well or project may involve an  
229 unreasonable risk to life, health, property, the environment or subsurface, surface, or  
230 atmospheric resources.

231 (4)(a) A well log or record described in Subsection (1)(c) is a public record when filed  
232 with the division, unless the owner or operator requests, in writing, that the division

233       holds the well log or record as protected in accordance with Subsection 63G-2-305(1)  
234       or (2) for a period established by the division, not to exceed the earlier of the  
235       following, as determined by the division:

236        (i) five years from the date of production or injection for other than testing purposes;  
237        (ii) two years from the date of abandonment; or  
238        (iii) two years from the date of completion of a geothermal monitoring, exploration,  
239        investigation, or test well project that does not directly transition into production  
240        development.

241       (b) A well log or record held protected by the division under Subsection (4)(a) is open to  
242       inspection by a person authorized in writing to inspect the well log or record by the  
243       owner or operator.

244       (c) The status of a well log or record as protected under Subsection (4)(a) does not  
245       restrict inspection by:  
246        (i) a state officer charged with regulating well operations; or  
247        (ii) an authorized official of the State Tax Commission for purposes of tax  
248        assessment.

249       **Section 6. Effective Date.**

250       This bill takes effect on May 6, 2026.