

Representative Casey Snider proposes the following substitute bill:

GREAT SALT LAKE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses management of the Great Salt Lake and related activities.

Highlighted Provisions:

This bill:

- ▶ modifies provisions related to severance taxes;
- ▶ clarifies minerals with royalties going to the Great Salt Lake Account;
- ▶ addresses mineral leases or royalty agreements related to the Great Salt Lake;
- ▶ provides for royalties for certain elements and minerals;
- ▶ defines terms;
- ▶ codifies legislative findings;
- ▶ modifies the Division of Forestry, Fire, and State Lands' management responsibilities for the Great Salt Lake, including addressing rulemaking;
- ▶ establishes emergency management responsibilities and powers;
- ▶ addresses force majeure; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 This bill provides a special effective date.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **59-5-202**, as last amended by Laws of Utah 1990, Chapter 295

30 **65A-5-1**, as last amended by Laws of Utah 2022, Chapter 54

31 **65A-5-1.5**, as enacted by Laws of Utah 2022, Chapter 54

32 **65A-6-2**, as last amended by Laws of Utah 1994, Chapter 294

33 **65A-6-4**, as last amended by Laws of Utah 1994, Chapter 294

34 **73-30-202**, as last amended by Laws of Utah 2012, Chapter 242

35 ENACTS:

36 **65A-10-201**, Utah Code Annotated 1953

37 **65A-10-202**, Utah Code Annotated 1953

38 **65A-10-204**, Utah Code Annotated 1953

39 **65A-10-205**, Utah Code Annotated 1953

40 RENUMBERS AND AMENDS:

41 **65A-10-203**, (Renumbered from 65A-10-8, as last amended by Laws of Utah 2022,
42 Chapter 78)



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

45 Section 1. Section **59-5-202** is amended to read:

46 **59-5-202. Severance tax -- Rate -- Computation -- Annual exemption.**

47 (1) [Every] A person engaged in the business of mining or extracting metalliferous
48 minerals in this state shall pay to the state a severance tax equal to 2.6% of the taxable value of
49 all metals or metalliferous minerals sold or otherwise disposed of.

50 (2) If the metals or metalliferous minerals are shipped outside the state, this constitutes
51 a sale, and the finished metals or the recoverable units of finished metals from the metalliferous
52 minerals shipped are subject to the severance tax. If the metals or metalliferous minerals are
53 stockpiled, the tax is not applicable until they are sold or shipped out of state. For purposes of
54 the tax imposed by this chapter, uranium concentrates shall be considered to be finished metals.
55 The owner of the metals or metalliferous minerals that are stockpiled shall report to the
56 commission annually, in a form acceptable to the commission, the amount of metalliferous

57 minerals so stockpiled. Metals or metalliferous minerals that are stockpiled for more than two
58 years, however, are subject to the severance tax.

59 (3) An annual exemption from the payment of the tax imposed by this chapter upon the
60 first \$50,000 in gross value of the metalliferous mineral is allowed to each mine.

61 (4) These taxes are in addition to all other taxes provided by law and are delinquent,
62 unless otherwise deferred, on June 1 next succeeding the calendar year when the metalliferous
63 mineral is produced and sold or delivered.

64 (5) (a) As used in this Subsection (5):

65 (i) "Great Salt Lake extraction operator" means a person who:

66 (A) is engaged in the business of mining or extracting metalliferous minerals from the
67 brine of the Great Salt Lake; and

68 (B) enters into a mineral lease with the Division of Forestry, Fire, and State Lands on
69 or after May 3, 2023, or as of July 1, 2020, had a mineral lease with the Division of Forestry,
70 Fire, and State Lands, but not a royalty agreement for a metalliferous mineral, chloride
71 compound, or salt.

72 (ii) "Metalliferous compound" means a metalliferous mineral or a chloride compound
73 or salt containing a metalliferous mineral.

74 (b) Notwithstanding the exclusion for chloride compounds or salts from the definition
75 of metalliferous minerals under Section 59-5-201, beginning with calendar year 2024, a Great
76 Salt Lake extraction operator shall pay to the state a severance tax in accordance with this part
77 for the mining of a metalliferous compound.

78 (c) This Subsection (5) may not be interpreted to:

79 (i) excuse a person from paying a severance tax in accordance with the other provisions
80 of this part; or

81 (ii) void a mineral lease or royalty agreement.

82 (d) A person extracting metalliferous minerals, including a metalliferous compound,
83 from the brine of the Great Salt Lake is subject to the payment of a royalty agreement under
84 Section 65A-6-4 and the payment of a severance tax under this part.

85 Section 2. Section **65A-5-1** is amended to read:

86 **65A-5-1. Sovereign Lands Management Account.**

87 (1) There is created within the General Fund a restricted account known as the

88 "Sovereign Lands Management Account."

89 (2) The Sovereign Lands Management Account shall consist of the following:

90 (a) the revenues derived from sovereign lands, except for revenues deposited into the
91 Great Salt Lake Account under Section [65A-5-1.5](#);

92 (b) that portion of the revenues derived from mineral leases on other lands managed by
93 the division necessary to recover management costs;

94 (c) fees deposited by the division; and

95 (d) amounts deposited into the account in accordance with Section [59-23-4](#).

96 (3) (a) The expenditures of the division relating directly to the management of
97 sovereign lands shall be funded by appropriation by the Legislature from the Sovereign Lands
98 Management Account or other sources.

99 (b) Money in the Sovereign Lands Management Account may be used only for the
100 direct benefit of sovereign lands, including the management of sovereign lands.

101 (c) In appropriating money from the Sovereign Lands Management Account, the
102 Legislature shall prefer appropriations that benefit the sovereign land from which the money is
103 derived unless compelling circumstances require that money be appropriated for sovereign land
104 other than the sovereign land from which the money is derived.

105 (4) The division shall use the amount deposited into the account under Subsection
106 (2)(d) for the Great Salt Lake as described in Section [~~65A-10-8~~] [65A-10-203](#) as directed by
107 the Great Salt Lake Advisory Council created in Section [73-30-201](#).

108 Section 3. Section **65A-5-1.5** is amended to read:

109 **65A-5-1.5. Great Salt Lake Account.**

110 (1) As used in this section:

111 (a) "Account" means the Great Salt Lake Account created in this section.

112 (b) "Mineral" includes a chemical compound that includes an element or mineral.

113 [~~(b)~~] (c) "Mining" means the process of producing, extracting, leaching, evaporating, or
114 otherwise removing a mineral from a natural deposit of the mineral.

115 (2) (a) There is created within the General Fund a restricted account known as the
116 "Great Salt Lake Account" consisting of:

117 (i) revenues deposited into the account under Subsection (3);

118 (ii) appropriations from the Legislature; and

119 (iii) interest and other earnings described in Subsection (2)(b).

120 (b) The Office of the Treasurer shall deposit interest and other earnings derived from
121 investment of money in the account into the account.

122 (3) The division shall deposit into the account the royalty income received by the state
123 from mining that occurs on or after July 1, 2022, of a mineral from the sovereign lands of the
124 Great Salt Lake if during the fiscal year beginning July 1, 2020, the state did not receive royalty
125 income from the mining of that same mineral from the sovereign lands of the Great Salt Lake.

126 (4) Upon appropriation by the Legislature, money in the account may be used to
127 manage the water levels of the Great Salt Lake.

128 Section 4. Section 65A-6-2 is amended to read:

129 **65A-6-2. Mineral leases -- Division to prescribe rules.**

130 The division shall by rule prescribe:

131 (1) the term of the lease;

132 (2) the annual rental;

133 (3) subject to Section 65A-6-4, the amount of royalty in addition to or in lieu of rental;

134 and

135 (4) the basis upon which the royalty shall be computed.

136 Section 5. Section 65A-6-4 is amended to read:

137 **65A-6-4. Mineral leases -- Multiple leases on same land -- Rentals and royalties --**
138 **Lease terms -- Great Salt Lake.**

139 (1) As used in this section:

140 (a) "Great Salt Lake element or mineral" means:

141 (i) a rare earth element;

142 (ii) a trace element or mineral; or

143 (iii) a chemical compound that includes a rare earth element or trace element or
144 mineral.

145 (b) "Rare earth element" is one of the following ores, minerals, or elements located in
146 the brines or the sovereign lands of the Great Salt Lake:

147 (i) lanthanum;

148 (ii) cerium;

149 (iii) praseodymium;

150 (iv) neodymium;

151 (v) samarium;

152 (vi) europium;

153 (vii) gadolinium;

154 (viii) terbium;

155 (ix) dysprosium;

156 (x) holmium;

157 (xi) erbium;

158 (xii) thulium;

159 (xiii) ytterbium;

160 (xiv) lutetium; and

161 (xv) yttrium.

162 (c) "Trace element or mineral" means an element or mineral that is located in the brines
163 or the sovereign lands of the Great Salt Lake that is not in production by July 1, 2020, and for
164 which the state has not received a royalty payment by July 1, 2020.

165 (2) (a) Mineral leases, including oil, gas, and hydrocarbon leases, may be issued for
166 prospecting, exploring, developing, and producing minerals covering any portion of state lands
167 or the reserved mineral interests of the state.

168 (b) (i) Leases may be issued for different types of minerals on the same land.

169 (ii) If leases are issued for different types of minerals on the same land, the leases shall
170 include stipulations for simultaneous operations.

171 (c) No more than one lease may be issued for the same resource on the same land.

172 (d) The division shall require a separate royalty agreement for extraction of minerals
173 from brines of the Great Salt Lake when:

174 (i) a mineral lease, a royalty agreement, or both that are in effect before the operator
175 seeks to extract a particular mineral or mineral compound do not expressly include the right to
176 extract the particular mineral or mineral compound; or

177 (ii) the proposed operation will use brines from the Great Salt Lake, but will not
178 occupy sovereign lands for the direct production of minerals other than for incidental structures
179 such as pumps and intake and outflow pipelines.

180 ~~[(2)]~~ (3) (a) Each mineral lease issued by the division shall provide for an annual rental

181 of not less than \$1 per acre per year, except that a mineral lease issued by the division
182 involving the extraction of mineral from brines in the Great Salt Lake shall provide for an
183 annual rental of not less than \$100 per acre per year.

184 (b) However, a lease may provide for a rental credit, minimum rental, or minimum
185 royalty upon commencement of production, as prescribed by rule.

186 ~~[(3)]~~ (4) The primary term of a mineral lease may not exceed:

187 (a) 20 years for oil shale and tar sands; and

188 (b) 10 years for oil and gas and any other mineral.

189 (5) (a) Subject to the other provisions of this Subsection (5), for a mineral lease or
190 royalty agreement involving the extraction of minerals from brines in the Great Salt Lake, the
191 division shall ensure that following terms are included:

192 (i) an extraction operation or extraction method shall adhere to commercially available
193 technologies that minimize water depletion or evaporation;

194 (ii) an extraction operation or extraction method shall mitigate depletion or evaporation
195 that occurs through operations or processing by providing water back into the Great Salt Lake
196 that approximates the volume of water lost through operations, processing, or evaporation;

197 (iii) a provision authorizing the division to curtail or limit mineral production at any
198 time the condition of the Great Salt Lake reaches the emergency trigger, as defined in Section
199 [65A-10-201](#);

200 (iv) a provision authorizing the division to withdraw lands, operations, extraction
201 methods, or technologies from mineral production or mineral operations; and

202 (v) a provision allowing the division to require an existing operator to use
203 commercially available, innovative technologies to minimize water evaporation or depletion
204 caused by the planned mineral extraction as a condition of continued operations.

205 (b) If as of May 3, 2023, an operator has a mineral lease but not a royalty agreement
206 involving the extraction of minerals from brines in the Great Salt Lake, the extraction operation
207 or extraction method shall mitigate depletion and evaporation as provided in Subsection
208 (5)(a)(ii) only to the extent that the extraction operation or extraction method increases
209 depletion and evaporation as compared to the 10-year average of depletion and evaporation
210 measured beginning on January 1, 2013, and ending on December 31, 2022.

211 (c) If under Subsection (5)(a)(v) the division requires an existing operator to use a

212 commercially available, innovative technology, the division may not require use of the
213 technology to begin until after a reasonable period determined by the division not to exceed
214 five years.

215 (6) (a) Upon nomination from a prospective operator, the division shall by rule, made
216 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a
217 royalty rate and calculation methodology for a Great Salt Lake element or mineral that:

218 (i) provides for a full and fair return to the state from the production of the Great Salt
219 Lake element or mineral;

220 (ii) is consistent with market royalty rates applicable to the production of the Great Salt
221 Lake element or mineral or of the production of oil and gas;

222 (iii) provides a base royalty rate;

223 (iv) provides a reduced royalty rate from the royalty rate under Subsection (6)(a)(iii) if
224 the royalty agreement:

225 (A) relates to a non-evaporative method of producing the Great Salt Lake element or
226 mineral; or

227 (B) provides an incentive to use commercially available, innovative technology to
228 minimize water depletion and evaporation as determined by the division; and

229 (v) provides for a royalty rate that is based on the highest market value prevailing at the
230 time of the sale or disposal of the following:

231 (A) the Great Salt Lake element or mineral; or

232 (B) a product the lessee produces from the Great Salt Lake element or mineral.

233 (b) Before entering into a royalty agreement permitting the extraction of Great Salt
234 Lake elements or minerals, the operator shall:

235 (i) demonstrate commercial viability;

236 (ii) certify before operation begins that the operator is not negatively impacting the
237 biota or chemistry of the Great Salt Lake; and

238 (iii) obtain the approval of the division and the Department of Environmental Quality
239 that the certification supports a finding that the operation will not negatively impact the biota or
240 chemistry of the Great Salt Lake.

241 (c) A new mineral lease for a mineral in production in the Great Salt Lake as of May 3,
242 2023, is subject to new royalty rates due to emergent technologies.

243 (d) An operator who as of July 1, 2020, had a mineral lease with the division but not a
 244 royalty agreement and who is subject to a severance tax under Subsection 59-5-202(5) shall pay
 245 a royalty under this section in addition to the severance tax.

246 (7) An operator who extracts a Great Salt Lake element or mineral from tailings from
 247 the production of minerals from brines in the Great Salt Lake is subject to this section to the
 248 same extent as an operator producing a Great Salt Lake element or mineral from brines in the
 249 Great Salt Lake.

250 (8) Actions under this section related to the Great Salt Lake are reasonable and
 251 necessary in light of the legislative findings under Section 65A-10-202.

252 ~~[(4) The division shall make rules regarding the continuation of a mineral lease after~~
 253 ~~the primary term has expired, which shall provide that a mineral lease shall continue so long~~
 254 ~~as:]~~

255 ~~[(a) the mineral covered by the lease is being produced in paying quantities from:]~~

256 ~~[(i) the leased premises;]~~

257 ~~[(ii) lands pooled, communitized, or unitized with the leased premises; or]~~

258 ~~[(iii) lands constituting an approved mining or drilling unit with respect to the leased~~
 259 ~~premises; or]~~

260 ~~[(b) (i) the lessee is engaged in diligent operations, exploration, research, or~~
 261 ~~development which is reasonably calculated to advance development or production of the~~
 262 ~~mineral covered by the lease from:]~~

263 ~~[(A) the leased premises;]~~

264 ~~[(B) lands pooled, communitized, or unitized with the leased premises; or]~~

265 ~~[(C) lands constituting an approved mining or drilling unit with respect to the leased~~
 266 ~~premises; and]~~

267 ~~[(ii) the lessee pays a minimum royalty.]~~

268 ~~[(5) For the purposes of Subsection (4), diligent operations with respect to oil, gas, and~~
 269 ~~other hydrocarbon leases may include cessation of operations not in excess of 90 days in~~
 270 ~~duration.]~~

271 Section 6. Section 65A-10-201 is enacted to read:

272 **Part 2. Great Salt Lake Management**

273 **65A-10-201. Definitions.**

274 As used in this part:

275 (1) "Adaptive management berm" means a berm installed in the UP causeway breach
276 to manage salinity to protect the ecosystem of Gilbert Bay.

277 (2) "Emergency trigger" means that the salinity levels of the Gilbert Bay of the Great
278 Salt Lake do not satisfy the ecological conditions required for healthy brine shrimp and brine
279 fly reproduction.

280 (3) "Healthy physical and ecological condition" means that the Gilbert Bay of the Great
281 Salt Lake has sustained salinity levels that satisfy the ecological conditions required for healthy
282 brine shrimp and brine fly reproduction.

283 (4) "UP causeway breach" means a breach in the 21-mile Union Pacific Railroad
284 causeway across the Great Salt Lake that separates the Great Salt Lake into Gunnison Bay and
285 Gilbert Bay.

286 Section 7. Section **65A-10-202** is enacted to read:

287 **65A-10-202. Legislative findings.**

288 The Legislature finds that:

289 (1) under Section [65A-10-1](#) the division, as the manager of sovereign lands, has a duty
290 to serve the public interest in managing the Great Salt Lake;

291 (2) the Great Salt Lake is a critical resource owned and managed by the state;

292 (3) the lake levels of the Great Salt Lake have reached historic lows, requiring action
293 by the state to address significant risks and minimize dangers to protect the ecological integrity
294 of the Great Salt Lake, the state's environment in general, and the welfare of the state's citizens;
295 and

296 (4) the management of the Great Salt Lake under this part, especially if the emergency
297 trigger is reached, is reasonable and necessary to serve important public purposes and no
298 reasonable alternative meets the interests described in Subsection (3).

299 Section 8. Section **65A-10-203**, which is renumbered from Section 65A-10-8 is
300 renumbered and amended to read:

301 **[65A-10-8]. 65A-10-203. Great Salt Lake -- Management responsibilities of the**
302 **division.**

303 The division has the following powers and duties:

304 (1) The division shall [~~prepare and maintain a comprehensive plan for the Great Salt~~

305 ~~Lake that recognizes the following policies]~~ make rules, in accordance with Title 63G, Chapter
306 3, Utah Administrative Rulemaking Act, for the management of the Great Salt Lake that
307 recognize and balance the following public trust values and public interest benefits and
308 policies:

309 ~~[(a) develop strategies to deal with a fluctuating lake level;]~~

310 ~~[(b) encourage development of the Great Salt Lake in a manner that will preserve the~~
311 ~~Great Salt Lake, encourage availability of brines to lake extraction industries, protect wildlife,~~
312 ~~and protect recreational facilities;]~~

313 ~~[(c) maintain the Great Salt Lake's flood plain as a hazard zone;]~~

314 ~~[(d)]~~ (a) strategies to effectively and efficiently manage the Great Salt Lake based on
315 the Great Salt Lake's fluctuating lake levels;

316 (b) development of the Great Salt Lake that balances, in a manner that promotes a
317 healthy physical and ecological condition:

318 (i) migratory and shorebirds habitats;

319 (ii) wetlands;

320 (iii) brines, minerals, chemicals, and petro-chemicals;

321 (iv) brine shrimp;

322 (v) the protection of wildlife and wildlife habitat;

323 (vi) the protection of recreational access and facilities; and

324 (vii) search and rescue efforts;

325 (c) promote water quality management for the Great Salt Lake and the Great Salt
326 Lake's tributary streams;

327 ~~[(e) promote the development of lake brines, minerals, chemicals, and petro-chemicals~~
328 ~~to aid the state's economy;]~~

329 ~~[(f) encourage the use of appropriate areas for extraction of brine, minerals, chemicals,~~
330 ~~and petro-chemicals;]~~

331 ~~[(g) maintain the Great Salt Lake and the marshes as important to shorebirds,~~
332 ~~waterfowl, and other waterbird flyway system;]~~

333 ~~[(h) encourage the development of an integrated industrial complex;]~~

334 ~~[(i) promote and maintain recreation areas on and surrounding the Great Salt Lake;]~~

335 ~~[(j) encourage safe boating use of the Great Salt Lake;]~~

336 ~~[(k) maintain and protect state, federal, and private marshlands, rookeries, and wildlife~~
337 ~~refuges; and]~~

338 ~~[(†)] (d) [provide]~~ public access to the Great Salt Lake for recreation, hunting, and
339 fishing[-];

340 (e) temperature moderation, a stable role in the water cycle, and dust mitigation;

341 (f) maintain the Great Salt Lake's flood plain as a hazard zone;

342 (g) maintain the Great Salt Lake and the marshes as important shorebirds, waterfowl,
343 and other waterbird flyway system;

344 (h) promote and maintain recreation areas on and surrounding the Great Salt Lake; and

345 (i) maintain and protect state, federal, and private marshlands, rookeries, and wildlife
346 refuges.

347 (2) The division shall prepare and maintain a comprehensive management plan for the
348 Great Salt Lake that is consistent with the public trust values and public interest benefits
349 described in Subsection (1) and policies established by rule made under Subsection (1).

350 ~~[(2)] (3)~~ The division may employ personnel and purchase equipment and supplies that
351 the Legislature authorizes through appropriations for the purposes of this chapter.

352 ~~[(3)] (4)~~ The division may initiate studies of the Great Salt Lake and the Great Salt
353 Lake's related resources.

354 ~~[(4)] (5)~~ The division may publish scientific and technical information concerning the
355 Great Salt Lake.

356 ~~[(5)] (6)~~ The division shall define the Great Salt Lake's flood plain.

357 ~~[(6)] (7)~~ The division may qualify for, accept, and administer grants, gifts, or other
358 funds from the federal government and other sources, for carrying out any functions under this
359 chapter.

360 ~~[(7)] (8)~~ The division shall determine the need for public works and utilities for the
361 lake area.

362 ~~[(8)] (9)~~ The division may implement the comprehensive plan described in Subsection
363 ~~[(†)] (2)~~ through state and local entities or agencies.

364 ~~[(9)] (10)~~ The division shall coordinate the activities of the various divisions within the
365 Department of Natural Resources with respect to the Great Salt Lake.

366 ~~[(10) The division may perform all other acts reasonably necessary to carry out the~~

367 ~~purposes and provisions of this chapter.]~~

368 (11) The division shall retain and encourage the continued activity of the Great Salt
369 Lake technical team.

370 (12) The division shall administer Chapter 16, Great Salt Lake Watershed
371 Enhancement Program.

372 (13) The division shall administer Section 65A-10-204 when the Great Salt Lake
373 emergency trigger is reached.

374 (14) The division shall manage the adaptive management berm in the UP causeway
375 breach to manage salinity to protect the ecosystem of Gilbert Bay. Unless salinity conditions in
376 Gilbert Bay warrant raising the adaptive management berm, the policy of the state is to keep
377 the UP causeway breach open so as to allow the exchange of water between Gilbert and
378 Gunnison Bays.

379 (15) The division may perform acts other than those described in Subsections (1)
380 through (14) that are reasonably necessary to carry out this chapter.

381 (16) This part may not be interpreted to override, supersede, or modify any water right
382 within the state, or the role and authority of the state engineer.

383 Section 9. Section **65A-10-204** is enacted to read:

384 **65A-10-204. Emergency management responsibilities of the division.**

385 (1) When the Great Salt Lake reaches the emergency trigger, the division:

386 (a) may construct, operate, modify, and maintain the adaptive management berm;

387 (b) may construct, operate, modify, and maintain one or more additional berms, dikes,
388 structures, or management systems consistent with the authority granted in this title;

389 (c) may enter into agreements as necessary to provide for all or a portion of a berm,
390 dike, system, or structure;

391 (d) is exempt from Title 63G, Chapter 6a, Utah Procurement Code, when acting to
392 manage the Great Salt Lake under this section;

393 (e) is not liable for a third-party claim resulting from the division's actions to manage
394 the Great Salt Lake under this section;

395 (f) may decline to issue a new permit, authorization, or agreement and may curtail
396 mineral production for leases that contain provisions contemplating curtailment or similar
397 contractual remedies;

398 (g) may implement mineral lease withdrawal over one or more of the following:

399 (i) portions of the Great Salt Lake;

400 (ii) specific methods of extraction; or

401 (iii) specific minerals; and

402 (h) may require the implementation of one or more of the following:

403 (i) extraction methods that are non-depletive in nature;

404 (ii) mitigation to offset depletion; or

405 (iii) innovative extraction technologies.

406 (2) The division shall make rules in accordance with Title 63G, Chapter 3, Utah
407 Administrative Rulemaking Act, providing for the procedures the division shall follow in
408 taking an action described in Subsection (1).

409 Section 10. Section **65A-10-205** is enacted to read:

410 **65A-10-205. Force majeure.**

411 (1) For purposes of managing the Great Salt Lake, the division may treat the fact that
412 the Great Salt Lake has reached the emergency trigger as a triggering event for the purposes of
413 invoking a force majeure provision in a contract, mineral lease, or royalty agreement.

414 (2) In addition to the standard mechanisms whereby performance is excused by
415 invocation of a force majeure provision, the division shall include language in a contract,
416 mineral lease, or royalty agreement whereby the division may curtail or prohibit mineral
417 production that results in a net depletion of water.

418 (3) If the division invokes a force majeure provision in a contract, mineral lease, or
419 royalty agreement, the effected operator is relieved from performance of any contractual
420 provision requiring production to hold the contract, mineral lease, or royalty agreement for a
421 maximum of two years. If the conditions creating the emergency trigger persists beyond a
422 two-year period, the division shall terminate the contract, mineral lease, or royalty agreement
423 and require the operator to engage in new contractual agreements whereby the operator
424 represents and warrants that future operations will not amount to a net depletion of water.

425 Section 11. Section **73-30-202** is amended to read:

426 **73-30-202. Duties of the council.**

427 (1) (a) The council shall advise the persons listed in Subsection (1)(b) on the
428 sustainable use, protection, and development of the Great Salt Lake in terms of balancing:

- 429 (i) sustainable use;
- 430 (ii) environmental health; and
- 431 (iii) reasonable access for existing and future development.
- 432 (b) The council shall advise, as provided in Subsection (1)(a):
- 433 (i) the governor;
- 434 (ii) the Department of Natural Resources; and
- 435 (iii) the Department of Environmental Quality.
- 436 (2) The council shall assist the Division of Forestry, Fire, and State Lands in its
- 437 responsibilities for the Great Salt Lake described in [~~Section 65A-10-8~~] Sections 65A-10-203
- 438 and 65A-10-204.
- 439 (3) The council:
- 440 (a) may recommend appointments to the Great Salt Lake technical team created by the
- 441 Division of Forestry, Fire, and State Lands; and
- 442 (b) shall receive and utilize technical support from the Great Salt Lake technical team.
- 443 (4) The council shall assist the Department of Natural Resources, the Department of
- 444 Environmental Quality, and their applicable boards in accomplishing their responsibilities for
- 445 the Great Salt Lake.
- 446 (5) The council shall report annually to the Natural Resources, Agriculture, and
- 447 Environmental Quality Appropriations Subcommittee on the council's activities.
- 448 **Section 12. Effective date.**
- 449 (1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.
- 450 (2) The amendments to Section 59-5-202 take effect on January 1, 2024.