

**Representative Casey Snider** proposes the following substitute bill:

**GREAT SALT LAKE AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Casey Snider**

Senate Sponsor: Michael K. McKell

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**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 viable  
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, at a minimum, in-kind water back  
196 into the Great Salt Lake that approximates the volume of water lost through operations,  
197 processing, or evaporation;

198 (iii) a provision authorizing the division to curtail or limit mineral production at any  
199 time the condition of the Great Salt Lake reaches the emergency trigger, as defined in Section  
200 [65A-10-201](#);

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

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

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

212 (c) If under Subsection (5)(a)(v) the division requires an existing operator to use a  
213 commercially viable, innovative technology, the division may not require use of the technology  
214 to begin until after a reasonable period determined by the division not to exceed 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 viable, 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) The division shall annually report to the Natural Resources, Agriculture, and  
251 Environmental Quality Appropriations Subcommittee regarding the amount of money collected  
252 under this section from royalties provided for in Subsection (6).

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

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

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

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

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

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

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

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

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

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

270 ~~[(ii) the lessee pays a minimum royalty:]~~

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

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

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

276 **65A-10-201. Definitions.**

277 As used in this part:

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

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

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

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

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

290 **65A-10-202. Legislative findings.**

291 The Legislature finds that:

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

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

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

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

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

304 ~~[65A-10-8].~~ **65A-10-203. Great Salt Lake -- Management responsibilities of the**

305 **division.**

306 The division has the following powers and duties:

307 (1) The division shall ~~[prepare and maintain a comprehensive plan for the Great Salt~~  
308 ~~Lake that recognizes the following policies]~~ make rules, in accordance with Title 63G, Chapter  
309 3, Utah Administrative Rulemaking Act, for the management of the Great Salt Lake that  
310 recognize and balance the following public trust values and public interest benefits and  
311 policies:

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

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

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

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

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

321 (i) migratory and shorebirds habitats;

322 (ii) wetlands;

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

324 (iv) brine shrimp;

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

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

327 (vii) search and rescue efforts;

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

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

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

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

336 ~~[(h) encourage the development of an integrated industrial complex;]~~  
337 ~~[(i) promote and maintain recreation areas on and surrounding the Great Salt Lake;]~~  
338 ~~[(j) encourage safe boating use of the Great Salt Lake;]~~  
339 ~~[(k) maintain and protect state, federal, and private marshlands, rookeries, and wildlife~~  
340 ~~refuges; and]~~  
341 ~~[(†)]~~ (d) ~~[provide]~~ public access to the Great Salt Lake for recreation, hunting, and  
342 fishing[-];  
343 (e) temperature moderation, a stable role in the water cycle, and dust mitigation;  
344 (f) maintain the Great Salt Lake's flood plain as a hazard zone;  
345 (g) maintain the Great Salt Lake and the marshes as important shorebirds, waterfowl,  
346 and other waterbird flyway system;  
347 (h) promote and maintain recreation areas on and surrounding the Great Salt Lake; and  
348 (i) maintain and protect state, federal, and private marshlands, rookeries, and wildlife  
349 refuges.  
350 (2) The division shall prepare and maintain a comprehensive management plan for the  
351 Great Salt Lake that is consistent with the public trust values and public interest benefits  
352 described in Subsection (1) and policies established by rule made under Subsection (1).  
353 ~~[(2)]~~ (3) The division may employ personnel and purchase equipment and supplies that  
354 the Legislature authorizes through appropriations for the purposes of this chapter.  
355 ~~[(3)]~~ (4) The division may initiate studies of the Great Salt Lake and the Great Salt  
356 Lake's related resources.  
357 ~~[(4)]~~ (5) The division may publish scientific and technical information concerning the  
358 Great Salt Lake.  
359 ~~[(5)]~~ (6) The division shall define the Great Salt Lake's flood plain.  
360 ~~[(6)]~~ (7) The division may qualify for, accept, and administer grants, gifts, or other  
361 funds from the federal government and other sources, for carrying out any functions under this  
362 chapter.  
363 ~~[(7)]~~ (8) The division shall determine the need for public works and utilities for the  
364 lake area.  
365 ~~[(8)]~~ (9) The division may implement the comprehensive plan described in Subsection  
366 ~~[(†)]~~ (2) through state and local entities or agencies.

367           ~~[(9)]~~ (10) The division shall coordinate the activities of the various divisions within the  
368 Department of Natural Resources with respect to the Great Salt Lake.

369           ~~[(10) The division may perform all other acts reasonably necessary to carry out the~~  
370 ~~purposes and provisions of this chapter.]~~

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

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

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

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

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

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

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

387           **65A-10-204. Emergency management responsibilities of the division.**

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

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

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

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

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

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

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

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

402 (i) portions of the Great Salt Lake;

403 (ii) specific methods of extraction; or

404 (iii) specific minerals; and

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

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

407 (ii) mitigation to offset depletion; or

408 (iii) innovative extraction technologies.

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

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

413 **65A-10-205. Force majeure.**

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

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

421 (3) The division shall allow an operator to continue processing brines that have already  
422 been extracted from the Great Salt Lake that are residing in the operator's process, and selling  
423 products derived from brines that have already been extracted at the time the force majeure is  
424 invoked.

425 (4) The division shall include standard mechanisms to promptly waive force majeure  
426 once salinity conditions improve by declining below the emergency trigger threshold.

427 (5) If the division invokes a force majeure provision in a contract, mineral lease, or  
428 royalty agreement, the effected operator is relieved from performance of any contractual

429 provision requiring production to hold the contract, mineral lease, or royalty agreement for a  
430 maximum of two years. If the conditions creating the emergency trigger persists beyond a  
431 two-year period, the division shall terminate the contract, mineral lease, or royalty agreement  
432 and require the operator to engage in new contractual agreements whereby the operator  
433 represents and warrants that future operations will not amount to a net depletion of water.

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

435 **73-30-202. Duties of the council.**

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

438 (i) sustainable use;

439 (ii) environmental health; and

440 (iii) reasonable access for existing and future development.

441 (b) The council shall advise, as provided in Subsection (1)(a):

442 (i) the governor;

443 (ii) the Department of Natural Resources; and

444 (iii) the Department of Environmental Quality.

445 (2) The council shall assist the Division of Forestry, Fire, and State Lands in its  
446 responsibilities for the Great Salt Lake described in [~~Section 65A-10-8~~] Sections 65A-10-203  
447 and 65A-10-204.

448 (3) The council:

449 (a) may recommend appointments to the Great Salt Lake technical team created by the  
450 Division of Forestry, Fire, and State Lands; and

451 (b) shall receive and utilize technical support from the Great Salt Lake technical team.

452 (4) The council shall assist the Department of Natural Resources, the Department of  
453 Environmental Quality, and their applicable boards in accomplishing their responsibilities for  
454 the Great Salt Lake.

455 (5) The council shall report annually to the Natural Resources, Agriculture, and  
456 Environmental Quality Appropriations Subcommittee on the council's activities.

457 Section 12. **Effective date.**

458 (1) Except as provided in Subsection (2), this bill takes effect on May 3, 2023.

459 (2) The amendments to Section 59-5-202 take effect on January 1, 2024.