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GREAT SALT LAKE REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: Scott D. Sandall

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James A. Dunnigan	Matt MacPherson	

2

LONG TITLE

4

General Description:

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This bill addresses actions affecting the Great Salt Lake.

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Highlighted Provisions:

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This bill:

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▸ modifies provisions related to severance taxes including:

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- distribution of severance taxes; and

- 10 • disclosure of certain severance tax information;
- 11 ▸ exempts challenges to a distribution management plan from the Administrative
- 12 Procedures Act;
- 13 ▸ addresses mineral lease and royalty agreement provisions, including:
- 14 • providing for the loss of certain rights for failure to use;
- 15 • providing for royalty discounts under certain circumstances; and
- 16 • providing for small projects;
- 17 ▸ enacts the Great Salt Lake Preservation Act, including:
- 18 • defining terms;
- 19 • addressing management responsibilities;
- 20 • requiring certain provisions within royalty agreements;
- 21 • providing for acquisition of property interests or mineral estates, including through
- 22 eminent domain;
- 23 • requiring payment of royalties;
- 24 • addressing the Great Salt Lake as a multiple mineral development area;
- 25 • addressing concurrent operations on the Great Salt Lake; and
- 26 • clarifying what constitutes waste;
- 27 ▸ enacts the Great Salt Lake Distribution Management chapter, including:
- 28 • defining terms;
- 29 • directing the state engineer to develop a Great Salt Lake distribution management
- 30 plan related to water rights;
- 31 • allowing for voluntary agreements;
- 32 • providing for challenges to a distribution management plan;
- 33 • addressing the measurement of the volume and quality of water; and
- 34 • addressing the scope of the chapter;
- 35 ▸ amends provisions regarding approval of a water right related application related to the
- 36 extraction of minerals or elements;
- 37 ▸ addresses rulemaking;
- 38 ▸ addresses eminent domain; and
- 39 ▸ makes technical and conforming changes.
- 40 **Money Appropriated in this Bill:**
- 41 This bill appropriates in fiscal year 2025:
- 42 ▸ to Department of Natural Resources - Forestry, Fire, and State Lands - Project Management
- 43 as a one-time appropriation:

44 • from the General Fund Restricted - Sovereign Lands Management, One-time, \$500,000
 45 ▶ to Department of Natural Resources - Water Rights - Field Services as a one-time
 46 appropriation:

47 • from the General Fund Restricted - Sovereign Lands Management, One-time, \$300,000

48 **Other Special Clauses:**

49 This bill provides a special effective date.

50 **Utah Code Sections Affected:**

51 AMENDS:

52 **51-9-306 (Effective 01/01/25)**, as last amended by Laws of Utah 2023, Chapter 526

53 **51-9-307 (Effective 01/01/25)**, as last amended by Laws of Utah 2023, Chapter 537

54 **59-1-403 (Effective 01/01/25)**, as last amended by Laws of Utah 2023, Chapters 21, 52,
 55 86, 259, and 329

56 **59-5-202 (Effective 01/01/25)**, as last amended by Laws of Utah 2023, Chapter 208

57 **59-5-203 (Effective 01/01/25)**, as last amended by Laws of Utah 2019, Chapter 466

58 **59-5-207 (Effective 01/01/25)**, as last amended by Laws of Utah 1995, Chapter 228

59 **59-5-215 (Effective 01/01/25)**, as last amended by Laws of Utah 2021, Chapter 401

60 **63G-4-102 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 329

61 **65A-5-1 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapters 205, 208
 62 and 358

63 **65A-6-4 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 208

64 **73-3-8 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 253

65 **73-32-204 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 205

66 **73-32-303 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 208 and
 67 renumbered and amended by Laws of Utah 2023, Chapter 205

68 **78B-6-501 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 34

69 **78B-6-502 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2008,
 70 Chapter 3

71 ENACTS:

72 **65A-17-101 (Effective 05/01/24)**, Utah Code Annotated 1953

73 **65A-17-103 (Effective 05/01/24)**, Utah Code Annotated 1953

74 **65A-17-301 (Effective 05/01/24)**, Utah Code Annotated 1953

75 **65A-17-302 (Effective 05/01/24)**, Utah Code Annotated 1953

76 **65A-17-303 (Effective 05/01/24)**, Utah Code Annotated 1953

77 **65A-17-304 (Effective 05/01/24)**, Utah Code Annotated 1953

78 **65A-17-305 (Effective 05/01/24)**, Utah Code Annotated 1953

79 **65A-17-306 (Effective 05/01/24)**, Utah Code Annotated 1953

80 **73-33-101 (Effective 05/01/24)**, Utah Code Annotated 1953

81 **73-33-102 (Effective 05/01/24)**, Utah Code Annotated 1953

82 **73-33-201 (Effective 05/01/24)**, Utah Code Annotated 1953

83 **73-33-202 (Effective 05/01/24)**, Utah Code Annotated 1953

84 **73-33-203 (Effective 05/01/24)**, Utah Code Annotated 1953

85 RENUMBERS AND AMENDS:

86 **65A-17-102 (Effective 05/01/24)**, (Renumbered from 65A-10-202, as enacted by
87 Laws of Utah 2023, Chapter 208)

88 **65A-17-201 (Effective 05/01/24)**, (Renumbered from 65A-10-203, as last amended
89 by Laws of Utah 2023, Chapter 205 and renumbered and amended by Laws of Utah 2023,
90 Chapter 208)

91 **65A-17-202 (Effective 05/01/24)**, (Renumbered from 65A-10-204, as enacted by
92 Laws of Utah 2023, Chapter 208)

93 **65A-17-203 (Effective 05/01/24)**, (Renumbered from 65A-10-205, as enacted by
94 Laws of Utah 2023, Chapter 208)

95 REPEALS:

96 **65A-10-201 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 208

97

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

99 Section 1. Section **51-9-306** is amended to read:

100 **51-9-306 (Effective 01/01/25). Deposit of certain severance tax revenue for**
101 **specified state agencies.**

102 (1) As used in this section:

103 (a) "Aggregate annual revenue" means the aggregate annual revenue collected in a fiscal
104 year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas,
105 and Mining, after subtracting the amounts required to be distributed under Sections
106 51-9-305, 59-5-116, and 59-5-119 and under Subsection 59-5-202(5)(c).

107 (b) "Aggregate annual mining revenue" means the aggregate annual revenue collected in
108 a fiscal year from taxes imposed under Title 59, Chapter 5, Part 2, Mining Severance
109 Tax, after subtracting the amounts required to be distributed under Section 51-9-305
110 and under Subsection 59-5-202(5)(c).

111 (c) "Aggregate annual oil and gas revenue" means the aggregate annual revenue

112 collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 1, Oil
113 and Gas Severance Tax, after subtracting the amounts required to be distributed
114 under Sections 51-9-305, 59-5-116, and 59-5-119.

115 (d) "Average aggregate annual revenue" means the three-year rolling average of the
116 aggregate annual revenue collected in a fiscal year from the taxes imposed under
117 Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining:

118 (i) after subtracting the amounts required to be distributed under Sections 51-9-305,
119 59-5-116, and 59-5-119 and under Subsection 59-5-202(5)(c); and

120 (ii) ending in the fiscal year immediately preceding the fiscal year of a deposit
121 required by this section.

122 (e) "Average aggregate annual mining revenue" means the three-year rolling average of
123 the aggregate annual revenue collected in a fiscal year from the taxes imposed under
124 Title 59, Chapter 5, Part 2, Mining Severance Tax:

125 (i) after subtracting the amounts required to be distributed under Section 51-9-305
126 and under Subsection 59-5-202(5)(c); and

127 (ii) ending in the fiscal year immediately preceding the fiscal year of a deposit
128 required by this section.

129 (f) "Average aggregate annual oil and gas revenue" means the three-year rolling average
130 of the aggregate annual revenue collected in a fiscal year from the taxes imposed
131 under Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax:

132 (i) after subtracting the amounts required to be distributed under Sections 51-9-305,
133 59-5-116, and 59-5-119; and

134 (ii) ending in the fiscal year immediately preceding the fiscal year of a deposit
135 required by this section.

136 (2) After making the deposits of oil and gas severance tax revenue as required under
137 Sections 59-5-116 and 59-5-119 and making the credits under Section 51-9-305, for a
138 fiscal year beginning on or after July 1, 2021, the State Tax Commission shall annually
139 make the following deposits:

140 (a) to the Division of Air Quality Oil, Gas, and Mining Restricted Account, created in
141 Section 19-2a-106, the following average aggregate annual revenue:

142 (i) 2.75% of the first \$50,000,000 of the average aggregate annual revenue;

143 (ii) 1% of the next \$50,000,000 of the average aggregate annual revenue; and

144 (iii) .5% of the average aggregate annual revenue that exceeds \$100,000,000;

145 (b) to the Division of Water Quality Oil, Gas, and Mining Restricted Account, created in

- 146 Section 19-5-126, the following average aggregate annual revenue:
- 147 (i) .4% of the first \$50,000,000 of the average aggregate annual revenue;
- 148 (ii) .15% of the next \$50,000,000 of the average aggregate annual revenue; and
- 149 (iii) .08% of the average aggregate annual revenue that exceeds \$100,000,000;
- 150 (c) to the Division of Oil, Gas, and Mining Restricted Account, created in Section
- 151 40-6-23, the following:
- 152 (i) (A) 11.5% of the first \$50,000,000 of the average aggregate annual mining
- 153 revenue;
- 154 (B) 3% of the next \$50,000,000 of the average aggregate annual mining revenue;
- 155 and
- 156 (C) 1% of the average aggregate annual mining revenue that exceeds
- 157 \$100,000,000; and
- 158 (ii) (A) 18% of the first \$50,000,000 of the average aggregate annual oil and gas
- 159 revenue;
- 160 (B) 3% of the next \$50,000,000 of the average aggregate annual oil and gas
- 161 revenue; and
- 162 (C) 1% of the average aggregate annual oil and gas revenue that exceeds
- 163 \$100,000,000; and
- 164 (d) to the Utah Geological Survey Oil, Gas, and Mining Restricted Account, created in
- 165 Section 79-3-403, the following average aggregate annual revenue:
- 166 (i) 2.5% of the first \$50,000,000 of the average aggregate annual revenue;
- 167 (ii) 1% of the next \$50,000,000 of the average aggregate annual revenue; and
- 168 (iii) .5% of the average aggregate annual revenue that exceeds \$100,000,000.
- 169 (3) If the money collected in a fiscal year from the taxes imposed under Title 59, Chapter 5,
- 170 Severance Tax on Oil, Gas, and Mining, is insufficient to make the deposits required by
- 171 Subsection (2), the State Tax Commission shall deposit money collected in the fiscal
- 172 year as follows:
- 173 (a) to the Division of Air Quality Oil, Gas, and Mining Restricted Account, created in
- 174 Section 19-2a-106, the following revenue:
- 175 (i) 2.75% of the first \$50,000,000 of the aggregate annual revenue;
- 176 (ii) 1% of the next \$50,000,000 of the aggregate annual revenue; and
- 177 (iii) .5% of the aggregate annual revenue that exceeds \$100,000,000;
- 178 (b) to the Division of Water Quality Oil, Gas, and Mining Restricted Account, created in
- 179 Section 19-5-126, the following revenue:

- 180 (i) .4% of the first \$50,000,000 of the aggregate annual revenue;
- 181 (ii) .15% of the next \$50,000,000 of the aggregate annual revenue; and
- 182 (iii) .08% of the aggregate annual revenue that exceeds \$100,000,000;
- 183 (c) to the Division of Oil, Gas, and Mining Restricted Account, created in Section
- 184 40-6-23, the following:
 - 185 (i) (A) 11.5% of the first \$50,000,000 of the aggregate annual mining revenue;
 - 186 (B) 3% of the next \$50,000,000 of the aggregate annual mining revenue; and
 - 187 (C) 1% of the aggregate annual mining revenue that exceeds \$100,000,000; and
 - 188 (ii) (A) 18% of the first \$50,000,000 of the aggregate annual oil and gas revenue;
 - 189 (B) 3% of the next \$50,000,000 of the aggregate annual oil and gas revenue; and
 - 190 (C) 1% of the aggregate annual oil and gas revenue that exceeds \$100,000,000;
 - 191 and
 - 192 (d) to the Utah Geological Survey Oil, Gas, and Mining Restricted Account, created in
 - 193 Section 79-3-403, the following revenue:
 - 194 (i) 2.5% of the first \$50,000,000 of the aggregate annual revenue;
 - 195 (ii) 1% of the next \$50,000,000 of the aggregate annual revenue; and
 - 196 (iii) .5% of the aggregate annual revenue that exceeds \$100,000,000.
- 197 (4) The severance tax revenues deposited under this section into restricted accounts for the
- 198 state agencies specified in Subsection (2) and appropriated from the restricted accounts
- 199 offset and supplant General Fund appropriations used to pay the costs of programs or
- 200 projects administered by the state agencies that are primarily related to oil, gas, and
- 201 mining.

202 Section 2. Section **51-9-307** is amended to read:

203 **51-9-307 (Effective 01/01/25). New Severance Tax Revenue Special Revenue**

204 **Fund.**

- 205 (1) As used in this section:
 - 206 (a) "Fund" means the New Severance Tax Revenue Special Revenue Fund created in
 - 207 this section.
 - 208 (b) "New revenue" means revenue collected above \$100,000,000 from the taxes imposed
 - 209 under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, after subtracting
 - 210 the amounts required to be distributed under Sections 51-9-305, 51-9-306, 59-5-116,
 - 211 59-5-119, and 59-5-121 and under Subsection 59-5-202(5)(c).
- 212 (2) There is created a special revenue fund known as the "New Severance Tax Revenue
- 213 Special Revenue Fund" that consists of:

- 214 (a) money deposited by the State Tax Commission in accordance with this section; and
 215 (b) interest earned on the money in the fund.
 216 (3) Beginning July 1, 2021, the State Tax Commission shall deposit into the fund 100% of
 217 new revenue until the new revenue equals or exceeds \$200,000,000 in a fiscal year.

218 Section 3. Section **59-1-403** is amended to read:

219 **59-1-403 (Effective 01/01/25). Confidentiality -- Exceptions -- Penalty --**
 220 **Application to property tax.**

221 (1) As used in this section:

222 (a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

223 (i) the commission administers under:

224 (A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax
 225 Act;

226 (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

227 (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

228 (D) Section 19-6-805;

229 (E) Section 63H-1-205; or

230 (F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service
 231 Charges; and

232 (ii) with respect to which the commission distributes the revenue collected from the
 233 tax, fee, or charge to a qualifying jurisdiction.

234 (b) "Qualifying jurisdiction" means:

235 (i) a county, city, town, or metro township;

236 (ii) the military installation development authority created in Section 63H-1-201; or

237 (iii) the Utah Inland Port Authority created in Section 11-58-201.

238 (2) (a) Any of the following may not divulge or make known in any manner any
 239 information gained by that person from any return filed with the commission:

240 (i) a tax commissioner;

241 (ii) an agent, clerk, or other officer or employee of the commission; or

242 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
 243 town.

244 (b) An official charged with the custody of a return filed with the commission is not
 245 required to produce the return or evidence of anything contained in the return in any
 246 action or proceeding in any court, except:

247 (i) in accordance with judicial order;

- 248 (ii) on behalf of the commission in any action or proceeding under:
249 (A) this title; or
250 (B) other law under which persons are required to file returns with the
251 commission;
- 252 (iii) on behalf of the commission in any action or proceeding to which the
253 commission is a party; or
254 (iv) on behalf of any party to any action or proceeding under this title if the report or
255 facts shown by the return are directly involved in the action or proceeding.
- 256 (c) Notwithstanding Subsection (2)(b), a court may require the production of, and may
257 admit in evidence, any portion of a return or of the facts shown by the return, as are
258 specifically pertinent to the action or proceeding.
- 259 (3) This section does not prohibit:
- 260 (a) a person or that person's duly authorized representative from receiving a copy of any
261 return or report filed in connection with that person's own tax;
- 262 (b) the publication of statistics as long as the statistics are classified to prevent the
263 identification of particular reports or returns; and
- 264 (c) the inspection by the attorney general or other legal representative of the state of the
265 report or return of any taxpayer:
- 266 (i) who brings action to set aside or review a tax based on the report or return;
- 267 (ii) against whom an action or proceeding is contemplated or has been instituted
268 under this title; or
- 269 (iii) against whom the state has an unsatisfied money judgment.
- 270 (4) (a) Notwithstanding Subsection (2) and for purposes of administration, the
271 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah
272 Administrative Rulemaking Act, provide for a reciprocal exchange of information
273 with:
- 274 (i) the United States Internal Revenue Service; or
275 (ii) the revenue service of any other state.
- 276 (b) Notwithstanding Subsection (2) and for all taxes except individual income tax and
277 corporate franchise tax, the commission may by rule, made in accordance with Title
278 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered
279 from returns and other written statements with the federal government, any other
280 state, any of the political subdivisions of another state, or any political subdivision of
281 this state, except as limited by Sections 59-12-209 and 59-12-210, if the political

- 282 subdivision, other state, or the federal government grant substantially similar
283 privileges to this state.
- 284 (c) Notwithstanding Subsection (2) and for all taxes except individual income tax and
285 corporate franchise tax, the commission may by rule, in accordance with Title 63G,
286 Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of
287 information concerning the identity and other information of taxpayers who have
288 failed to file tax returns or to pay any tax due.
- 289 (d) Notwithstanding Subsection (2), the commission shall provide to the director of the
290 Division of Environmental Response and Remediation, as defined in Section
291 19-6-402, as requested by the director of the Division of Environmental Response
292 and Remediation, any records, returns, or other information filed with the
293 commission under Chapter 13, Motor and Special Fuel Tax Act, or Section
294 19-6-410.5 regarding the environmental assurance program participation fee.
- 295 (e) Notwithstanding Subsection (2), at the request of any person the commission shall
296 provide that person sales and purchase volume data reported to the commission on a
297 report, return, or other information filed with the commission under:
- 298 (i) Chapter 13, Part 2, Motor Fuel; or
299 (ii) Chapter 13, Part 4, Aviation Fuel.
- 300 (f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer,
301 as defined in Section 59-22-202, the commission shall report to the manufacturer:
- 302 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
303 manufacturer and reported to the commission for the previous calendar year under
304 Section 59-14-407; and
- 305 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
306 manufacturer for which a tax refund was granted during the previous calendar
307 year under Section 59-14-401 and reported to the commission under Subsection
308 59-14-401(1)(a)(v).
- 309 (g) Notwithstanding Subsection (2), the commission shall notify manufacturers,
310 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is
311 prohibited from selling cigarettes to consumers within the state under Subsection
312 59-14-210(2).
- 313 (h) Notwithstanding Subsection (2), the commission may:
- 314 (i) provide to the Division of Consumer Protection within the Department of
315 Commerce and the attorney general data:

- 316 (A) reported to the commission under Section 59-14-212; or
317 (B) related to a violation under Section 59-14-211; and
318 (ii) upon request, provide to any person data reported to the commission under
319 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).
- 320 (i) Notwithstanding Subsection (2), the commission shall, at the request of a committee
321 of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's
322 Office of Planning and Budget, provide to the committee or office the total amount of
323 revenues collected by the commission under Chapter 24, Radioactive Waste Facility
324 Tax Act, for the time period specified by the committee or office.
- 325 (j) Notwithstanding Subsection (2), the commission shall make the directory required by
326 Section 59-14-603 available for public inspection.
- 327 (k) Notwithstanding Subsection (2), the commission may share information with federal,
328 state, or local agencies as provided in Subsection 59-14-606(3).
- 329 (l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of
330 Recovery Services within the Department of Health and Human Services any
331 relevant information obtained from a return filed under Chapter 10, Individual
332 Income Tax Act, regarding a taxpayer who has become obligated to the Office of
333 Recovery Services.
- 334 (ii) The information described in Subsection (4)(l)(i) may be provided by the Office
335 of Recovery Services to any other state's child support collection agency involved
336 in enforcing that support obligation.
- 337 (m) (i) Notwithstanding Subsection (2), upon request from the state court
338 administrator, the commission shall provide to the state court administrator, the
339 name, address, telephone number, county of residence, and social security number
340 on resident returns filed under Chapter 10, Individual Income Tax Act.
- 341 (ii) The state court administrator may use the information described in Subsection
342 (4)(m)(i) only as a source list for the master jury list described in Section
343 78B-1-106.
- 344 (n) (i) As used in this Subsection (4)(n):
345 (A) "GO Utah office" means the Governor's Office of Economic Opportunity
346 created in Section 63N-1a-301.
347 (B) "Income tax information" means information gained by the commission that is
348 required to be attached to or included in a return filed with the commission
349 under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10,

- 350 Individual Income Tax Act.
- 351 (C) "Other tax information" means information gained by the commission that is
352 required to be attached to or included in a return filed with the commission
353 except for a return filed under Chapter 7, Corporate Franchise and Income
354 Taxes, or Chapter 10, Individual Income Tax Act.
- 355 (D) "Tax information" means income tax information or other tax information.
- 356 (ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection
357 (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office
358 provide to the GO Utah office all income tax information.
- 359 (B) For purposes of a request for income tax information made under Subsection
360 (4)(n)(ii)(A), the GO Utah office may not request and the commission may not
361 provide to the GO Utah office a person's address, name, social security
362 number, or taxpayer identification number.
- 363 (C) In providing income tax information to the GO Utah office, the commission
364 shall in all instances protect the privacy of a person as required by Subsection
365 (4)(n)(ii)(B).
- 366 (iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection
367 (4)(n)(iii)(B), the commission shall at the request of the GO Utah office
368 provide to the GO Utah office other tax information.
- 369 (B) Before providing other tax information to the GO Utah office, the commission
370 shall redact or remove any name, address, social security number, or taxpayer
371 identification number.
- 372 (iv) The GO Utah office may provide tax information received from the commission
373 in accordance with this Subsection (4)(n) only:
- 374 (A) as a fiscal estimate, fiscal note information, or statistical information; and
375 (B) if the tax information is classified to prevent the identification of a particular
376 return.
- 377 (v) (A) A person may not request tax information from the GO Utah office under
378 Title 63G, Chapter 2, Government Records Access and Management Act, or
379 this section, if the GO Utah office received the tax information from the
380 commission in accordance with this Subsection (4)(n).
- 381 (B) The GO Utah office may not provide to a person that requests tax information
382 in accordance with Subsection (4)(n)(v)(A) any tax information other than the
383 tax information the GO Utah office provides in accordance with Subsection

- 384 (4)(n)(iv).
- 385 (o) Notwithstanding Subsection (2), the commission may provide to the governing board
386 of the agreement or a taxing official of another state, the District of Columbia, the
387 United States, or a territory of the United States:
- 388 (i) the following relating to an agreement sales and use tax:
- 389 (A) information contained in a return filed with the commission;
- 390 (B) information contained in a report filed with the commission;
- 391 (C) a schedule related to Subsection (4)(o)(i)(A) or (B); or
- 392 (D) a document filed with the commission; or
- 393 (ii) a report of an audit or investigation made with respect to an agreement sales and
394 use tax.
- 395 (p) Notwithstanding Subsection (2), the commission may provide information
396 concerning a taxpayer's state income tax return or state income tax withholding
397 information to the Driver License Division if the Driver License Division:
- 398 (i) requests the information; and
- 399 (ii) provides the commission with a signed release form from the taxpayer allowing
400 the Driver License Division access to the information.
- 401 (q) Notwithstanding Subsection (2), the commission shall provide to the Utah
402 Communications Authority, or a division of the Utah Communications Authority, the
403 information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and
404 63H-7a-502.
- 405 (r) Notwithstanding Subsection (2), the commission shall provide to the Utah
406 Educational Savings Plan information related to a resident or nonresident individual's
407 contribution to a Utah Educational Savings Plan account as designated on the
408 resident or nonresident's individual income tax return as provided under Section
409 59-10-1313.
- 410 (s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under
411 Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility
412 worker with the Department of Health and Human Services or its designee with the
413 adjusted gross income of an individual if:
- 414 (i) an eligibility worker with the Department of Health and Human Services or its
415 designee requests the information from the commission; and
- 416 (ii) the eligibility worker has complied with the identity verification and consent
417 provisions of Sections 26B-3-106 and 26B-3-903.

- 418 (t) Notwithstanding Subsection (2), the commission may provide to a county, as
419 determined by the commission, information declared on an individual income tax
420 return in accordance with Section 59-10-103.1 that relates to eligibility to claim a
421 residential exemption authorized under Section 59-2-103.
- 422 (u) Notwithstanding Subsection (2), the commission shall provide a report regarding any
423 access line provider that is over 90 days delinquent in payment to the commission of
424 amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid
425 Wireless Telecommunications Service Charges, to the board of the Utah
426 Communications Authority created in Section 63H-7a-201.
- 427 (v) Notwithstanding Subsection (2), the commission shall provide the Department of
428 Environmental Quality a report on the amount of tax paid by a radioactive waste
429 facility for the previous calendar year under Section 59-24-103.5.
- 430 (w) Notwithstanding Subsection (2), the commission may, upon request, provide to the
431 Department of Workforce Services any information received under Chapter 10, Part
432 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce
433 Services.
- 434 (x) Notwithstanding Subsection (2), the commission may provide the Public Service
435 Commission or the Division of Public Utilities information related to a seller that
436 collects and remits to the commission a charge described in Subsection 69-2-405(2),
437 including the seller's identity and the number of charges described in Subsection
438 69-2-405(2) that the seller collects.
- 439 (y) (i) Notwithstanding Subsection (2), the commission shall provide to each
440 qualifying jurisdiction the collection data necessary to verify the revenue collected
441 by the commission for a distributed tax, fee, or charge collected within the
442 qualifying jurisdiction.
- 443 (ii) In addition to the information provided under Subsection (4)(y)(i), the
444 commission shall provide a qualifying jurisdiction with copies of returns and other
445 information relating to a distributed tax, fee, or charge collected within the
446 qualifying jurisdiction.
- 447 (iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief
448 executive officer or the chief executive officer's designee of the qualifying
449 jurisdiction shall submit a written request to the commission that states the
450 specific information sought and how the qualifying jurisdiction intends to use
451 the information.

- 452 (B) The information described in Subsection (4)(y)(ii) is available only in official
453 matters of the qualifying jurisdiction.
- 454 (iv) Information that a qualifying jurisdiction receives in response to a request under
455 this subsection is:
- 456 (A) classified as a private record under Title 63G, Chapter 2, Government Records
457 Access and Management Act; and
- 458 (B) subject to the confidentiality requirements of this section.
- 459 (z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic
460 Beverage Services Commission, upon request, with taxpayer status information
461 related to state tax obligations necessary to comply with the requirements described
462 in Section 32B-1-203.
- 463 (aa) Notwithstanding Subsection (2), the commission shall inform the Department of
464 Workforce Services, as soon as practicable, whether an individual claimed and is
465 entitled to claim a federal earned income tax credit for the year requested by the
466 Department of Workforce Services if:
- 467 (i) the Department of Workforce Services requests this information; and
- 468 (ii) the commission has received the information release described in Section
469 35A-9-604.
- 470 (bb) (i) As used in this Subsection (4)(bb), "unclaimed property administrator" means
471 the administrator or the administrator's agent, as those terms are defined in Section
472 67-4a-102.
- 473 (ii) (A) Notwithstanding Subsection (2), upon request from the unclaimed
474 property administrator and to the extent allowed under federal law, the
475 commission shall provide the unclaimed property administrator the name,
476 address, telephone number, county of residence, and social security number or
477 federal employer identification number on any return filed under Chapter 7,
478 Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax
479 Act.
- 480 (B) The unclaimed property administrator may use the information described in
481 Subsection (4)(aa)(ii)(A) only for the purpose of returning unclaimed property
482 to the property's owner in accordance with Title 67, Chapter 4a, Revised
483 Uniform Unclaimed Property Act.
- 484 (iii) The unclaimed property administrator is subject to the confidentiality provisions
485 of this section with respect to any information the unclaimed property

- 486 administrator receives under this Subsection (4)(aa).
- 487 (cc) Notwithstanding Subsection (2), the commission shall provide the total amount of
 488 revenues collected by the commission under Subsection 59-5-202(5):
- 489 (i) at the request of a committee of the Legislature, the Office of the Legislative
 490 Fiscal Analyst, or the Governor's Office of Planning and Budget, to the committee
 491 or office for the time period specified by the committee or office; and
- 492 (ii) to the Division of Finance for purposes of the Division of Finance administering
 493 Subsection 59-5-202(5).
- 494 (5) (a) Each report and return shall be preserved for at least three years.
- 495 (b) After the three-year period provided in Subsection (5)(a) the commission may
 496 destroy a report or return.
- 497 (6) (a) Any individual who violates this section is guilty of a class A misdemeanor.
- 498 (b) If the individual described in Subsection (6)(a) is an officer or employee of the state,
 499 the individual shall be dismissed from office and be disqualified from holding public
 500 office in this state for a period of five years thereafter.
- 501 (c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting
 502 information in accordance with Subsection (4)(n)(iii), or an individual who requests
 503 information in accordance with Subsection (4)(n)(v):
- 504 (i) is not guilty of a class A misdemeanor; and
- 505 (ii) is not subject to:
- 506 (A) dismissal from office in accordance with Subsection (6)(b); or
- 507 (B) disqualification from holding public office in accordance with Subsection
 508 (6)(b).
- 509 (d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the
 510 Office of the Legislative Auditor General in accordance with Title 36, Chapter 12,
 511 Legislative Organization, an individual described in Subsection (2):
- 512 (i) is not guilty of a class A misdemeanor; and
- 513 (ii) is not subject to:
- 514 (A) dismissal from office in accordance with Subsection (6)(b); or
- 515 (B) disqualification from holding public office in accordance with Subsection
 516 (6)(b).
- 517 (7) Except as provided in Section 59-1-404, this part does not apply to the property tax.
- 518 Section 4. Section **59-5-202** is amended to read:
- 519 **59-5-202 (Effective 01/01/25). Severance tax -- Rate -- Computation -- Annual**

520 **exemption.**

- 521 (1) A person engaged in the business of mining or extracting metalliferous minerals in this
522 state shall pay to the state a severance tax equal to 2.6% of the taxable value of all
523 metals or metalliferous minerals sold or otherwise disposed of.
- 524 (2) If the metals or metalliferous minerals are shipped outside the state, this constitutes a
525 sale, and the finished metals or the recoverable units of finished metals from the
526 metalliferous minerals shipped are subject to the severance tax. If the metals or
527 metalliferous minerals are stockpiled, the tax is not applicable until they are sold or
528 shipped out of state. For purposes of the tax imposed by this chapter, uranium
529 concentrates shall be considered to be finished metals. The owner of the metals or
530 metalliferous minerals that are stockpiled shall report to the commission annually, in a
531 form acceptable to the commission, the amount of metalliferous minerals so stockpiled.
532 Metals or metalliferous minerals that are stockpiled for more than two years, however,
533 are subject to the severance tax.
- 534 (3) An annual exemption from the payment of the tax imposed by this chapter upon the first
535 \$50,000 in gross value of the metalliferous mineral is allowed to each mine.
- 536 (4) These taxes are in addition to all other taxes provided by law and are delinquent, unless
537 otherwise deferred, on June 1 next succeeding the calendar year when the metalliferous
538 mineral is produced and sold or delivered.
- 539 (5) (a) As used in this Subsection (5):
- 540 (i) "Great Salt Lake element or mineral" means a metalliferous mineral, metal, ore,
541 chloride compound, potash, or salt mined or extracted from the brines of the Great
542 Salt Lake.
- 543 (ii) "Great Salt Lake elevation" means the same as that term is defined in Section
544 65A-17-101.
- 545 [(+)] (iii) "Great Salt Lake extraction operator" means a person who[:]
[(A)] is
546 engaged in the business of mining or extracting Great Salt Lake elements or
547 minerals or metalliferous [minerals] compounds from the brine of the Great Salt
548 Lake[; and] .
- 549 [(B) enters into a mineral lease with the Division of Forestry, Fire, and State
550 Lands on or after May 3, 2023, or as of July 1, 2020, had a mineral lease with
551 the Division of Forestry, Fire, and State Lands, but not a royalty agreement for
552 a metalliferous mineral, chloride compound, or salt.]

- 553 (iv) For purposes of each tax imposed under Subsection (5)(b), "incremental revenue"
554 means the difference between the sum of the revenue collected for the fiscal year
555 from each of the tax rates imposed under Subsection (5)(b) and the revenue
556 collected for the fiscal year from the tax rate imposed under Subsection (1).
557 [(ii)] (v) "Metalliferous compound" means a metalliferous mineral or a chloride
558 compound or salt containing a metalliferous mineral.
- 559 (b) Notwithstanding the exclusion for chloride compounds or salts from the definition of
560 metalliferous minerals under Section 59-5-201[;] and in lieu of the severance tax
561 imposed under Subsection (1), beginning with calendar year [2024] 2025, a Great Salt
562 Lake extraction operator shall pay to the state a severance tax in accordance with [
563 this part for the mining of a metalliferous compound:] the following:
- 564 (i) for a Great Salt Lake extraction operator that is not a party or a third-party
565 beneficiary to a voluntary agreement for water rights with an approved beneficial
566 use by a division as defined in Section 73-3-30, a severance tax equal to 7.8% of
567 the taxable value of Great Salt Lake elements or minerals or metalliferous
568 compounds sold or otherwise disposed of;
- 569 (ii) for a Great Salt Lake extraction operator that is not a party or a third-party
570 beneficiary to a voluntary agreement for water rights with an approved beneficial
571 use by a division as defined in Section 73-3-30, but does not use evaporative
572 concentrations of Great Salt Lake brines in any stage of the extractive process, a
573 severance tax equal to 2.6% of the taxable value of Great Salt Lake elements or
574 minerals or metalliferous compounds sold or otherwise disposed of; or
- 575 (iii) for a Great Salt Lake extraction operator that is a party or a third-party
576 beneficiary to a voluntary agreement for water rights with an approved beneficial
577 use by a division as defined in Section 73-3-30:
- 578 (A) a severance tax equal to 2.6% of the taxable value of Great Salt Lake elements
579 or minerals sold or otherwise disposed of, if the Great Salt Lake elements or
580 minerals are extracted during a calendar year when the Great Salt Lake
581 elevation recorded pursuant to Section 65A-17-306 was at or above 4,198 feet
582 in the prior calendar year; or
- 583 (B) a severance tax does not apply to the taxable value of Great Salt Lake
584 elements or minerals sold or otherwise disposed of, if those Great Salt Lake
585 elements or minerals are sold or otherwise disposed of in a calendar year when
586 the Great Salt Lake elevation recorded pursuant to Section 65A-17-306 was

587 below 4,198 feet in the prior calendar year; and
 588 (iv) notwithstanding Subsection (5)(b)(iii), for a Great Salt Lake extraction operator
 589 that is a party or third-party beneficiary to a voluntary agreement for water rights
 590 with an approved beneficial use by a division as defined in Section 73-3-30, a
 591 severance tax equal to 2.6% of the taxable value of a metalliferous compound sold
 592 or otherwise disposed of under a royalty agreement issued under Subsection
 593 65A-6-4(2)(d), entered into on or after May 1, 2024.

594 (c) (i) Subject to Subsection (5)(c)(ii), the Division of Finance shall deposit the
 595 incremental revenue in accordance with Section 51-9-305.

596 (ii) The Division of Finance shall consider the incremental revenue required to be
 597 deposited under Subsection (5)(c)(i) to be the first revenue collected under this
 598 chapter for the fiscal year.

599 (iii) The Division of Finance shall deposit the incremental revenue that remains after
 600 making the deposit required by Subsection (5)(c)(i) into the Sovereign Lands
 601 Management Account created in Section 65A-5-1.

602 ~~[(e)]~~ (d) This Subsection (5) may not be interpreted to:

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

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

606 ~~[(d)]~~ (e) A person extracting metalliferous minerals, including a metalliferous compound,
 607 from the brine of the Great Salt Lake is subject to the payment of a royalty agreement
 608 under Section 65A-6-4 and the payment of a severance tax under this part.

609 Section 5. Section **59-5-203** is amended to read:

610 **59-5-203 (Effective 01/01/25). Determining taxable value.**

611 (1) Except as provided in Subsection (3), the basis for computing the gross proceeds, prior
 612 to those deductions or adjustments specified in this chapter, in determining the taxable
 613 value of the metals ~~[or]~~ , metalliferous minerals, or metalliferous compounds, as defined
 614 in Subsection 59-5-202(5), sold or otherwise disposed of, in the order of priority, is as
 615 follows:

616 (a) If the metals ~~[or]~~ , metalliferous mineral products, or metalliferous compounds are
 617 actually sold, the value of those metals ~~[or]~~ , metalliferous mineral products, or
 618 metalliferous compounds shall be the gross amount the producer receives from that
 619 sale, provided that the metals ~~[or]~~ , metalliferous mineral products, or metalliferous
 620 compounds are sold under a bona fide contract of sale between unaffiliated parties.

621 In the case of a sale of uranium concentrates, gross proceeds shall be the gross
 622 amount the producer receives from the sale of processed uranium concentrate or
 623 "yellowcake," provided that the uranium concentrate is sold under a bona fide
 624 contract of sale between unaffiliated parties.

625 (b) (i) For purposes of a Great Salt Lake extraction operator, as defined in Section
 626 59-5-202, if metals, metalliferous minerals, or metalliferous compounds are not
 627 sold, but are otherwise disposed of, the gross proceeds shall be the multiple of the
 628 recoverable units of finished or unfinished metals, or of the finished or unfinished
 629 metals contained in the metalliferous minerals or metalliferous compounds
 630 shipped, and the average daily price per unit of contained metals as quoted by an
 631 established authority for market prices of metals for the period during which the
 632 tax imposed by this chapter is due.

633 (ii) The established authority or authorities under this Subsection (1)(b) shall be
 634 designated by the commission by rule adopted in accordance with Title 63G,
 635 Chapter 3, Utah Administrative Rulemaking Act.

636 ~~(b)~~ (c) (i) If the metals [Ø], metalliferous mineral products, or metalliferous
 637 compounds are not actually sold but are shipped, transported, or delivered out of
 638 state, the gross proceeds shall be the multiple of the recoverable units of finished
 639 metals, or of the finished metals contained in the metalliferous minerals or
 640 metalliferous compounds shipped, and the average daily price per unit of
 641 contained metals as quoted by an established authority for market prices of metals
 642 for the period during which the tax imposed by this chapter is due.

643 (ii) The established authority or authorities shall be designated by the commission by
 644 rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative
 645 Rulemaking Act.

646 ~~(c)~~ (d) In the case of metals [Ø], metalliferous minerals, or metalliferous compounds
 647 not sold, but otherwise disposed of, for which there is no established authority for
 648 market prices of metals for the period during which the tax imposed by this chapter is
 649 due, gross proceeds is determined by allocating to the state the same proportion of the
 650 producer's total sales of metals [Ø], metalliferous minerals, or metalliferous
 651 compounds sold or otherwise disposed of as the producer's total Utah costs bear to
 652 the total costs associated with sale or disposal of the metal or metalliferous mineral.

653 ~~(d)~~ (e) In the event of a sale of metals [Ø], metalliferous minerals, or metalliferous
 654 compounds between affiliated companies which is not a bona fide sale because the

655 value received is not proportionate to the fair market value of the metals [or] ,
656 metalliferous minerals, metalliferous compounds or in the event that Subsection [
657 ~~(1)(a), (b), or (c)~~] (1)(a), (b), (c), or (d) are not applicable, the commission shall
658 determine the value of such metals [or] , metalliferous minerals, or metalliferous
659 compounds in an equitable manner by reference to an objective standard as specified
660 in a rule adopted in accordance with the provisions of Title 63G, Chapter 3, Utah
661 Administrative Rulemaking Act.

- 662 (2) For all metals except beryllium, the taxable value of the metalliferous mineral sold or
663 otherwise disposed of is 30% of the gross proceeds received for the metals sold or
664 otherwise disposed of by the producer of the metal.
- 665 (3) Notwithstanding Subsection (1) or (4), the taxable value of beryllium sold or otherwise
666 disposed of by the producer of the beryllium is equal to 125% of the direct mining costs
667 incurred in mining the beryllium.
- 668 (4) Except as provided in Subsection (3), if the metalliferous mineral sold or otherwise
669 disposed of is sold or shipped out of state in the form of ore, then the taxable value is
670 80% of the gross proceeds.

671 Section 6. Section **59-5-207** is amended to read:

672 **59-5-207 (Effective 01/01/25). Date tax due -- Extensions -- Installment payments**
673 **-- Penalty on delinquencies -- Audit.**

- 674 (1) The tax imposed by this chapter is due and payable on or before June 1 of the year next
675 succeeding the calendar year when the mineral is produced and sold or delivered.
- 676 (2) The commission may, for good cause shown upon a written application by the taxpayer,
677 extend the time of payment of the whole or any part of the tax for a period not to exceed
678 six months. If an extension is granted, interest at the rate and in the manner prescribed
679 in Section 59-1-402 shall be charged and added to the amount of the deferred payment
680 of the tax.
- 681 (3) Every taxpayer subject to this chapter whose total tax obligation for the preceding
682 calendar year was \$3,000 or more shall pay the taxes assessed under this chapter in
683 quarterly installments. Each installment shall be based on the estimated gross value
684 received by the taxpayer during the quarter preceding the date on which the installment
685 is due.
- 686 (4) The quarterly installments are due as follows:
- 687 (a) for January 1 through March 31, on or before June 1;
- 688 (b) for April 1 through June 30, on or before September 1;

- 689 (c) for July 1 through September 30, on or before December 1; and
 690 (d) for October 1 through December 31, on or before March 1 of the next year.
- 691 (5) (a) If the taxpayer fails to report and pay any tax when due, the taxpayer is subject to
 692 the penalties provided under Section 59-1-401, unless otherwise provided in
 693 Subsection (6).
- 694 (b) An underpayment exists if less than 80% of the tax due for a quarter is paid.
- 695 (6) The penalty for failure to pay the tax due or underpayment of tax may not be assessed if
 696 the taxpayer's quarterly tax installment payment equals 25% of the tax reported and paid
 697 by the taxpayer for the preceding taxable year.
- 698 (7) There shall be no interest added to any estimated tax payments subject to a penalty
 699 under this section.
- 700 (8) The commission may conduct audits to determine whether any tax is owed under this
 701 section.
- 702 (9) For purposes of a Great Salt Lake extraction operator under Subsection 59-5-202(5), the
 703 Division of Forestry, Fire, and State Lands shall provide the commission by January 15
 704 of each year the information required by Section 65A-17-306, that the commission shall
 705 use to determine the amount due and payable on June 1 of the year next succeeding the
 706 calendar year.

707 Section 7. Section **59-5-215** is amended to read:

708 **59-5-215 (Effective 01/01/25). Disposition of taxes collected -- Credit to General**
 709 **Fund.**

710 Except as provided in Section 51-9-305, 51-9-306, or 51-9-307, or Subsection
 711 59-5-202(5), a tax imposed and collected under Section 59-5-202 shall be paid to the
 712 commission, promptly remitted to the state treasurer, and credited to the General Fund.

713 Section 8. Section **63G-4-102** is amended to read:

714 **63G-4-102 (Effective 05/01/24). Scope and applicability of chapter.**

- 715 (1) Except as set forth in Subsection (2), and except as otherwise provided by a statute
 716 superseding provisions of this chapter by explicit reference to this chapter, the
 717 provisions of this chapter apply to every agency of the state and govern:
- 718 (a) state agency action that determines the legal rights, duties, privileges, immunities, or
 719 other legal interests of an identifiable person, including agency action to grant, deny,
 720 revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license;
 721 and
- 722 (b) judicial review of the action.

- 723 (2) This chapter does not govern:
- 724 (a) the procedure for making agency rules, or judicial review of the procedure or rules;
- 725 (b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive
- 726 a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the
- 727 issuance of a tax assessment, except that this chapter governs an agency action
- 728 commenced by a taxpayer or by another person authorized by law to contest the
- 729 validity or correctness of the action;
- 730 (c) state agency action relating to extradition, to the granting of a pardon or parole, a
- 731 commutation or termination of a sentence, or to the rescission, termination, or
- 732 revocation of parole or probation, to the discipline of, resolution of a grievance of,
- 733 supervision of, confinement of, or the treatment of an inmate or resident of a
- 734 correctional facility, the Utah State Hospital, the Utah State Developmental Center,
- 735 or a person in the custody or jurisdiction of the Office of Substance Use and Mental
- 736 Health, or a person on probation or parole, or judicial review of the action;
- 737 (d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a
- 738 student or teacher in a school or educational institution, or judicial review of the
- 739 action;
- 740 (e) an application for employment and internal personnel action within an agency
- 741 concerning its own employees, or judicial review of the action;
- 742 (f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah
- 743 Occupational Safety and Health Act, and Title 58, Occupations and Professions,
- 744 except that this chapter governs an agency action commenced by the employer,
- 745 licensee, or other person authorized by law to contest the validity or correctness of
- 746 the citation or assessment;
- 747 (g) state agency action relating to management of state funds, the management and
- 748 disposal of school and institutional trust land assets, and contracts for the purchase or
- 749 sale of products, real property, supplies, goods, or services by or for the state, or by
- 750 or for an agency of the state, except as provided in those contracts, or judicial review
- 751 of the action;
- 752 (h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of
- 753 Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository
- 754 Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository
- 755 Institutions or Holding Companies, and Chapter 7, Governmental Immunity Act of
- 756 Utah, or judicial review of the action;

- 757 (i) the initial determination of a person's eligibility for unemployment benefits, the initial
758 determination of a person's eligibility for benefits under Title 34A, Chapter 2,
759 Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease
760 Act, or the initial determination of a person's unemployment tax liability;
- 761 (j) state agency action relating to the distribution or award of a monetary grant to or
762 between governmental units, or for research, development, or the arts, or judicial
763 review of the action;
- 764 (k) the issuance of a notice of violation or order under Title 26B, Chapter 4, Part 1, Utah
765 Emergency Medical Services System, Title 19, Chapter 2, Air Conservation Act,
766 Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water
767 Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and
768 Hazardous Waste Act, Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or
769 Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part
770 10, Mercury Switch Removal Act, except that this chapter governs an agency action
771 commenced by a person authorized by law to contest the validity or correctness of
772 the notice or order;
- 773 (l) state agency action, to the extent required by federal statute or regulation, to be
774 conducted according to federal procedures;
- 775 (m) the initial determination of a person's eligibility for government or public assistance
776 benefits;
- 777 (n) state agency action relating to wildlife licenses, permits, tags, and certificates of
778 registration;
- 779 (o) a license for use of state recreational facilities;
- 780 (p) state agency action under Chapter 2, Government Records Access and Management
781 Act, except as provided in Section 63G-2-603;
- 782 (q) state agency action relating to the collection of water commissioner fees and
783 delinquency penalties, or judicial review of the action;
- 784 (r) state agency action relating to the installation, maintenance, and repair of headgates,
785 caps, valves, or other water controlling works and weirs, flumes, meters, or other
786 water measuring devices, or judicial review of the action;
- 787 (s) the issuance and enforcement of an initial order under Section 73-2-25;
- 788 (t) (i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and
789 (ii) an action taken by the Division of Securities under a hearing conducted under
790 Section 61-1-11.1, including a determination regarding the fairness of an issuance

- 791 or exchange of securities described in Subsection 61-1-11.1(1);
- 792 (u) state agency action relating to water well driller licenses, water well drilling permits,
- 793 water well driller registration, or water well drilling construction standards, or
- 794 judicial review of the action;
- 795 (v) the issuance of a determination and order under Title 34A, Chapter 5, Utah
- 796 Antidiscrimination Act;
- 797 (w) state environmental studies and related decisions by the Department of
- 798 Transportation approving state or locally funded projects, or judicial review of the
- 799 action;
- 800 (x) the suspension of operations under Subsection 32B-1-304(3); [~~or~~]
- 801 (y) the issuance of a determination of violation by the Governor's Office of Economic
- 802 Opportunity under Section 11-41-104[-] ; or
- 803 (z) a challenge to an aspect of a distribution management plan under Section 73-33-202.
- 804 (3) This chapter does not affect a legal remedy otherwise available to:
- 805 (a) compel an agency to take action; or
- 806 (b) challenge an agency's rule.
- 807 (4) This chapter does not preclude an agency, prior to the beginning of an adjudicative
- 808 proceeding, or the presiding officer during an adjudicative proceeding from:
- 809 (a) requesting or ordering a conference with parties and interested persons to:
- 810 (i) encourage settlement;
- 811 (ii) clarify the issues;
- 812 (iii) simplify the evidence;
- 813 (iv) facilitate discovery; or
- 814 (v) expedite the proceeding; or
- 815 (b) granting a timely motion to dismiss or for summary judgment if the requirements of
- 816 Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving
- 817 party, except to the extent that the requirements of those rules are modified by this
- 818 chapter.
- 819 (5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by
- 820 this chapter, except as explicitly provided in that section.
- 821 (b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is
- 822 governed by this chapter.
- 823 (6) This chapter does not preclude an agency from enacting a rule affecting or governing an
- 824 adjudicative proceeding or from following the rule, if the rule is enacted according to the

825 procedures outlined in Chapter 3, Utah Administrative Rulemaking Act, and if the rule
826 conforms to the requirements of this chapter.

827 (7) (a) If the attorney general issues a written determination that a provision of this
828 chapter would result in the denial of funds or services to an agency of the state from
829 the federal government, the applicability of the provision to that agency shall be
830 suspended to the extent necessary to prevent the denial.

831 (b) The attorney general shall report the suspension to the Legislature at its next session.

832 (8) Nothing in this chapter may be interpreted to provide an independent basis for
833 jurisdiction to review final agency action.

834 (9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause
835 shown, from lengthening or shortening a time period prescribed in this chapter, except
836 the time period established for judicial review.

837 (10) Notwithstanding any other provision of this section, this chapter does not apply to a
838 special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent
839 expressly provided in Section 19-1-301.5.

840 (11) Subsection (2)(w), regarding action taken based on state environmental studies and
841 policies of the Department of Transportation, applies to any claim for which a court of
842 competent jurisdiction has not issued a final unappealable judgment or order before May
843 14, 2019.

844 Section 9. Section **65A-5-1** is amended to read:

845 **65A-5-1 (Effective 05/01/24). Sovereign Lands Management Account.**

846 (1) There is created within the General Fund a restricted account known as the "Sovereign
847 Lands Management Account."

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

849 (a) the revenues derived from sovereign lands, except for revenues deposited into the
850 Great Salt Lake Account under Section 73-32-304;

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

853 (c) revenues derived from the Great Salt Lake Preservation support special group license
854 plate described in Sections 41-1a-418 and 41-1a-422;

855 (d) fees deposited by the division; [~~and~~]

856 (e) amounts deposited into the account in accordance with Section 59-23-4[-] ; and

857 (f) amounts deposited into the account in accordance with Section 59-5-202.

858 (3) (a) The expenditures of the division relating directly to the management of sovereign

859 lands shall be funded by appropriation by the Legislature from the Sovereign Lands
860 Management Account or other sources.

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

863 (c) In appropriating money from the Sovereign Lands Management Account, the
864 Legislature shall prefer appropriations that benefit the sovereign land from which the
865 money is derived unless compelling circumstances require that money be
866 appropriated for sovereign land other than the sovereign land from which the money
867 is derived.

868 (4) The division shall use the amount deposited into the account under Subsection (2)(d) for
869 the Great Salt Lake as described in Section [~~65A-10-203~~] 65A-17-201 as directed by the
870 Great Salt Lake Advisory Council created in Section 73-32-302.

871 Section 10. Section ~~65A-6-4~~ is amended to read:

872 **~~65A-6-4~~ (Effective 05/01/24). Mineral leases -- Multiple leases on same land --**

873 **Rentals and royalties -- Lease terms -- Great Salt Lake.**

874 (1) As used in this section:

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

876 (i) a rare earth element;

877 (ii) a trace element or mineral; or

878 (iii) a chemical compound that includes a rare earth element or trace element or
879 mineral.

880 (b) "Operator" means, for purposes of provisions applicable to the extraction of a Great
881 Salt Lake element or mineral, a person qualified to do business in the state who is
882 pursuing the extraction of a Great Salt Lake element or mineral.

883 [~~(b)~~] (c) "Rare earth element" is one of the following ores, minerals, or elements located
884 in the brines or the sovereign lands of the Great Salt Lake:

885 (i) lanthanum;

886 (ii) cerium;

887 (iii) praseodymium;

888 (iv) neodymium;

889 (v) samarium;

890 (vi) europium;

891 (vii) gadolinium;

892 (viii) terbium;

- 893 (ix) dysprosium;
 894 (x) holmium;
 895 (xi) erbium;
 896 (xii) thulium;
 897 (xiii) ytterbium;
 898 (xiv) lutetium; and
 899 (xv) yttrium.

900 [(e)] (d) "Trace element or mineral" means an element or mineral that is located in the
 901 brines or the sovereign lands of the Great Salt Lake that is not in production by July
 902 1, 2020, and for which the state has not received a royalty payment by July 1, 2020.

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

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

907 (ii) If leases are issued for different types of minerals on the same land, the leases
 908 shall include stipulations for simultaneous operations, except that for leases
 909 related to the Great Salt Lake the leases shall include stipulations for simultaneous
 910 operations that will not interfere with, impede, limit, or require changes to
 911 pre-existing rights.

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

913 (d) The division shall require a separate royalty agreement for extraction of Great Salt
 914 Lake elements or minerals from brines of the Great Salt Lake when:

915 (i) a mineral lease, a royalty agreement, or both that are in effect before the operator
 916 seeks to extract a particular [~~mineral or mineral compound~~] Great Salt Lake
 917 element or mineral do not expressly include the right to extract the particular [~~mineral or mineral compound~~] Great Salt Lake element or mineral; or

918 (ii) the proposed operation will use brines from the Great Salt Lake, but will not
 919 occupy sovereign lands for the direct production of [~~minerals~~] Great Salt Lake
 920 elements or minerals other than for incidental structures such as pumps and intake
 921 and outflow pipelines.

923 (3) (a) Each mineral lease issued by the division shall provide for an annual rental of not
 924 less than \$1 per acre per year, except that a mineral lease issued by the division
 925 involving the extraction of [~~mineral~~] a Great Salt Lake element or mineral from brines
 926 in the Great Salt Lake shall provide for an annual rental of not less than \$100 per acre

- 927 per year.
- 928 (b) However, a lease may provide for a rental credit, minimum rental, or minimum
929 royalty upon commencement of production, as prescribed by rule.
- 930 (4) The primary term of a mineral lease may not exceed:
- 931 (a) 20 years for oil shale and tar sands; and
- 932 (b) 10 years for oil and gas and any other mineral.
- 933 (5) (a) [Subject] In addition to the requirements of Chapter 17, Part 3, Mineral or
934 Element Extraction, and subject to the other provisions of this Subsection (5), for a
935 mineral lease or royalty agreement involving the extraction of [minerals] Great Salt
936 Lake elements and minerals from brines in the Great Salt Lake, the division shall
937 ensure that the following terms, as applicable, are included:
- 938 (i) an extraction operation or extraction method shall adhere to commercially viable
939 technologies that minimize water depletion;
- 940 ~~[(ii) an extraction operation or extraction method shall mitigate for the total amount~~
941 ~~of water depleted by providing water back into the Great Salt Lake that~~
942 ~~approximates the total volume of water depleted;]~~
- 943 ~~[(iii) (ii) a provision authorizing the division to curtail or limit Great Salt Lake~~
944 ~~element or mineral production at any time the condition of the Great Salt Lake~~
945 ~~reaches the emergency trigger, as defined in Section [65A-10-201] 65A-17-101;~~
- 946 ~~[(iv) (iii) a provision authorizing the division to withdraw lands, operations,~~
947 ~~extraction methods, or technologies from Great Salt Lake element or mineral~~
948 ~~production or Great Salt Lake element or mineral operations; ~~and~~]~~
- 949 ~~[(v) (iv) a provision allowing the division to require an existing operator to use~~
950 ~~commercially viable, innovative technologies to minimize water depletions caused~~
951 ~~by the planned mineral extraction as a condition of continued operations[-] if the~~
952 ~~technology:~~
- 953 (A) has been successfully implemented on a commercial scale in similar
954 circumstances;
- 955 (B) has been shown to be economically viable; and
- 956 (C) is reasonably compatible with the operator's overall extraction process; and
- 957 (v) a provision that provides for the reductions of the following after the primary
958 term of a mineral lease or royalty agreement:
- 959 (A) the acreage subject to the mineral lease by the acreage the operator does not
960 use to extract a Great Salt Lake element or mineral during the primary term of

- 961 the mineral lease under conditions that do not constitute waste, as defined in
 962 Section 65A-17-101; and
- 963 (B) the volume of water that the operator may divert from the Great Salt Lake, by
 964 the volume of water that the operator does not use during the longer of the
 965 primary term of the mineral lease or seven years if the operator fails to use the
 966 volume of water for a beneficial use, except if the failure to use the volume of
 967 water is as a result of a reduction of water usage under Section 73-33-201 or is
 968 excused under Section 73-1-4.
- 969 [~~(b) If as of May 3, 2023, an operator has a mineral lease but not a royalty agreement~~
 970 ~~involving the extraction of minerals from brines in the Great Salt Lake, the extraction~~
 971 ~~operation or extraction method shall mitigate the total water depleted as provided in~~
 972 ~~Subsection (5)(a)(ii) only to the extent that the extraction operation or extraction~~
 973 ~~method increases total depletions as compared to an estimated 10-year average of~~
 974 ~~depletions as estimated by the Division of Water Resources' water budget model~~
 975 ~~beginning on January 1, 2013, and ending on December 31, 2022.]~~
- 976 [(~~e~~) (b) If under Subsection [(5)(a)(v)] (5)(a)(iv) the division requires an existing
 977 operator to use a commercially viable, innovative technology, the division may not
 978 require use of a technology not yet proven to be commercially viable on the Great
 979 Salt Lake and may not require implementation of the technology to begin until after a
 980 reasonable period determined by the division [not to exceed five years] that is at least
 981 five years but does not exceed seven years.
- 982 (c) (i) If the volume of water that the operator may divert from the Great Salt Lake is
 983 reduced under Subsection (5)(a)(v), the division shall pursue a judicial action to
 984 declare all or a portion of the water right forfeited under Subsection 73-1-4(2).
- 985 (ii) If the division secures the reduction under this Subsection (5)(c), the division
 986 shall petition the state engineer to order a reversal of the application approval in
 987 accordance with the terms of the reduction or forfeiture of the water right.
- 988 (iii) Nothing in this Subsection (5) modifies or otherwise affects Section 73-1-4 or
 989 73-3-30.
- 990 (6) (a) Before issuing a royalty agreement under Subsection (2)(d), the division may
 991 require an operator to engage in a feasibility assessment and may issue a royalty
 992 agreement without compliance of Subsection (5)(a) if the agreement:
- 993 (i) has a term of 12 months or less; and
- 994 (ii) limits use of brines from the Great Salt Lake to a maximum of five acre-feet

995 during the term of the agreement.

996 (b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah
997 Administrative Rulemaking Act, for implementing this Subsection (6).

998 [(6)] (7) (a) Upon nomination from a prospective operator, the division shall by rule,
999 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1000 establish a royalty rate and calculation methodology for a Great Salt Lake element or
1001 mineral that:

1002 (i) provides for a full and fair return to the state from the production of the Great Salt
1003 Lake element or mineral;

1004 (ii) is consistent with market royalty rates applicable to the production of the Great
1005 Salt Lake element or mineral or of the production of oil and gas;

1006 (iii) provides a base royalty rate;

1007 (iv) provides a reduced royalty rate from the royalty rate under Subsection [(6)] (7)
1008 (a)(iii) if the royalty agreement:

1009 (A) relates to a non-evaporative method of producing the Great Salt Lake element
1010 or mineral; or

1011 (B) provides an incentive to use commercially viable, innovative technology to
1012 minimize water depletion and evaporation as determined by the division; [and]

1013 (v) provides a reduced royalty rate from the royalty rate under Subsection (7)(a)(iii) if
1014 the prospective operator for the extraction of lithium demonstrates to the
1015 satisfaction of the division that the prospective operator has an agreement with a
1016 person who will process or manufacture a product in this state, exclusive of any
1017 primary or secondary lithium processing or manufacturing, using the lithium
1018 extracted by the prospective operator; and

1019 [(v)] (vi) subject to Subsection (7)(e), provides for a royalty rate that is based on the
1020 highest market value prevailing at the time of the sale or disposal of the following:

1021 (A) the Great Salt Lake element or mineral; or

1022 (B) a product the lessee produces from the Great Salt Lake element or mineral.

1023 (b) Before entering into a royalty agreement permitting the extraction of Great Salt Lake
1024 elements or minerals, the operator shall:

1025 (i) demonstrate the proposed operation's commercial viability;

1026 (ii) certify before operation begins that the operator is not negatively impacting the
1027 biota or chemistry of the Great Salt Lake; and

1028 (iii) obtain the approval of the division and the Department of Environmental Quality

- 1029 that the certification supports a finding that the operation will not negatively
 1030 impact the biota or chemistry of the Great Salt Lake.
- 1031 (c) A new mineral lease for a Great Salt Lake element or mineral in production in the
 1032 Great Salt Lake as of May 3, 2023, is subject to new royalty rates due to emergent
 1033 technologies.
- 1034 (d) An operator who as of July 1, 2020, had a mineral lease with the division but not a
 1035 royalty agreement and who is subject to a severance tax under Subsection 59-5-202
 1036 (5) shall pay a royalty under this section in addition to the severance tax.
- 1037 (e) The royalty rate described in Subsection (7)(a)(vi) may not be reassessed during the
 1038 primary term of an initial royalty agreement issued under this section, but may be
 1039 reassessed upon the conclusion of the primary term.
- 1040 [(7)] (8) (a) [~~An~~] Except as provided in Subsection (8)(b), an operator who extracts a
 1041 Great Salt Lake element or mineral from tailings from the production of Great Salt
 1042 Lake elements or minerals from brines in the Great Salt Lake is subject to this section
 1043 to the same extent as an operator producing a Great Salt Lake element or mineral
 1044 from brines in the Great Salt Lake.
- 1045 (b) An operator that, as of May 3, 2023, has an agreement to recover a Great Salt Lake
 1046 element or mineral from existing tailings, discarded material, end-use products, or
 1047 waste products produced from the evaporation and processing of Great Salt Lake
 1048 brines is not subject to this section, except as to the payment of royalties set by the
 1049 division under Subsection (7)(a). The division shall make rules, in accordance with
 1050 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the issuance
 1051 and termination of a royalty agreement for mineral extraction from tailings, discarded
 1052 material, end-use products, or waste products produced from the evaporation and
 1053 processing of Great Salt Lake brines.
- 1054 (c) An operator that, as of May 3, 2023, has an underlying agreement to recover a Great
 1055 Salt Lake element or mineral shall obtain an additional agreement for any additional
 1056 Great Salt Lake element or mineral produced from the tailings, discarded material,
 1057 end-use products, or waste products newly produced under the underlying agreement.
 1058 The additional agreement is subject to this section.
- 1059 [(8)] (9) The division shall annually report to the Natural Resources, Agriculture, and
 1060 Environmental Quality Appropriations Subcommittee regarding the amount of money
 1061 collected under this section from royalties provided for in Subsection [(6)] (7).
- 1062 [(9)] (10) (a) In the issuance of royalty agreements for the extraction of lithium from the

- 1063 Great Salt Lake, the division shall prioritize applicants that[;]
1064 [(a)] do not use
1065 evaporative concentration of Great Salt Lake brines in any stage of the extractive
1066 process[; and]
1067 [(b) use commercially viable extractive processes].
- 1066 (b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah
1067 Administrative Rulemaking Act, creating a process for implementing this Subsection
1068 (10).
- 1069 [(10)] (11) Except in relationship to mineral leases related to the Great Salt Lake, the
1070 division shall make rules regarding the continuation of a mineral lease after the primary
1071 term has expired, which shall provide that a mineral lease shall continue so long as:
1072 (a) the mineral covered by the lease is being produced in paying quantities from:
1073 (i) the leased premises;
1074 (ii) lands pooled, communitized, or unitized with the leased premises; or
1075 (iii) lands constituting an approved mining or drilling unit with respect to the leased
1076 premises; or
1077 (b) (i) the lessee is engaged in diligent operations, exploration, research, or
1078 development which is reasonably calculated to advance development or
1079 production of the mineral covered by the lease from:
1080 (A) the leased premises;
1081 (B) lands pooled, communitized, or unitized with the leased premises; or
1082 (C) lands constituting an approved mining or drilling unit with respect to the
1083 leased premises; and
1084 (ii) the lessee pays a minimum royalty.
- 1085 [(11)] (12) For the purposes of Subsection [(10)] (11), diligent operations with respect to oil,
1086 gas, and other hydrocarbon leases may include cessation of operations not in excess of
1087 90 days in duration.
- 1088 [(12)] (13) (a) The division shall study and analyze each mineral lease and mineral
1089 royalty agreement issued on the Great Salt Lake and compare and evaluate whether
1090 the mineral leases and royalty agreements are representative of current market
1091 conditions. As part of this study, the division shall:
1092 (i) make the following determinations for mineral leases:
1093 (A) whether the entire surface area described within the mineral lease is being
1094 used; and

- 1095 (B) whether the annual lease payments are representative of current market
 1096 conditions; and
- 1097 (ii) for royalty agreements, perform studies and comparative analyses to determine
 1098 whether the state is receiving royalty rates consistent with current market
 1099 conditions.
- 1100 (b) By no later than the 2023 November interim meeting, the division shall report the
 1101 division's findings of the study required by this Subsection [~~(12)~~] (13) to the Natural
 1102 Resources, Agriculture, and Environment Interim Committee.
- 1103 (14) The division may make rules, in accordance with Title 63G, Chapter 3, Utah
 1104 Administrative Rulemaking Act, for implementing this section.
- 1105 (15) The provisions in this section related to extraction of a Great Salt Lake element or
 1106 mineral under a mineral lease or royalty agreement apply to a mineral lease or royalty
 1107 agreement in effect on May 1, 2024, and any mineral lease or royalty agreement entered
 1108 into after May 1, 2024.

1109 Section 11. Section **65A-17-101** is enacted to read:

1110 **CHAPTER 17. GREAT SALT LAKE PRESERVATION ACT**

1111 **Part 1. General Provisions**

1112 **65A-17-101 (Effective 05/01/24). Definitions.**

1113 As used in this chapter:

- 1114 (1) "Adaptive management berm" means a berm installed in the UP causeway breach to
 1115 manage salinity to protect the ecosystem of Gilbert Bay.
- 1116 (2) "Commercially viable technology" means a technology that:
- 1117 (a) has been successfully implemented on a commercial scale in similar conditions;
 1118 (b) is shown to be economically viable; and
 1119 (c) is reasonably compatible with the operator's overall extraction process.
- 1120 (3) "Common source of supply" means the mineral or element estate contained within the
 1121 Great Salt Lake meander line.
- 1122 (4) "Correlative right" means the opportunity of each operator to extract a portion of a
 1123 common source of supply, subject to the state's sovereign lands management
 1124 responsibilities, without the occurrence of waste.
- 1125 (5) "Emergency trigger" means the salinity levels of the Gilbert Bay of the Great Salt Lake
 1126 do not satisfy the ecological conditions required for healthy brine shrimp and brine fly
 1127 reproduction.

- 1128 (6) "Great Salt Lake elevation" means the elevation of the Great Salt Lake as measured by
1129 the United States Geological Survey gauging station 10010000 located at Saltair Boat
1130 Harbor, Utah.
- 1131 (7) "Great Salt Lake meander line" means the official meander line, completed in 1966, of
1132 the Great Salt Lake unless otherwise established by court order or negotiated boundary
1133 settlement.
- 1134 (8) "Great Salt Lake salinity" means the salinity of the Great Salt Lake as measured by the
1135 United States Geological Survey in Gilbert Bay.
- 1136 (9) "Healthy physical and ecological condition" means that Gilbert Bay of the Great Salt
1137 Lake has sustained salinity levels that satisfy the ecological conditions required for
1138 healthy brine shrimp and brine fly reproduction.
- 1139 (10) "Mineral or element" means:
- 1140 (a) a rare earth element;
- 1141 (b) a trace element or mineral;
- 1142 (c) a chemical compound that includes a rare earth element or trace element or mineral;
1143 or
- 1144 (d) a mineral or element that is attached, embedded to, or is a by-product of another
1145 mineral or element.
- 1146 (11) "Mitigation plan" means an agreement entered into on or after May 1, 2024, among the
1147 operators and the division for resolving issues arising from concurrent operations.
- 1148 (12) "Multiple mineral development area" means an area involving the management of
1149 various surface and sub-surface resources so that they are used in the combination that
1150 will best meet present and future needs.
- 1151 (13) "Natural resources of the Great Salt Lake" means the biota, water resources, water
1152 quality, the fishery and recreational resources, the wetlands and wildlife resources, and
1153 any other naturally occurring resource on the Great Salt Lake.
- 1154 (14) "Operator" means a person qualified to do business in the state pursuing the extraction
1155 of minerals or elements from the Great Salt Lake.
- 1156 (15) "Paying quantities" means the revenue generated from the sale of the mineral or
1157 element being produced exceeds the costs associated with obtaining the mineral or
1158 element, including any royalty obligation.
- 1159 (16) "Public trust assets" means the same as that term is defined in Section 65A-1-1.
- 1160 (17) "UP causeway breach" means a breach in the 21-mile Union Pacific Railroad
1161 causeway across the Great Salt Lake that separates the Great Salt Lake into Gunnison

1162 Bay and Gilbert Bay.

1163 (18) (a) Except as provided in Subsection (18)(b) and subject to Section 65A-17-305,

1164 "waste" means:

1165 (i) the failure of an operation to provide the state with a full and fair return on each
 1166 separately identified mineral or element;

1167 (ii) an unnecessary depletion, diminishment, or reduction of the quantity or quality of
 1168 a mineral or element; or

1169 (iii) imprudent and uneconomical operations.

1170 (b) "Waste" does not include extraction or removal of a mineral or element that cannot
 1171 be extracted in paying quantities through commercially viable technology and:

1172 (i) that has not been nominated under Subsection 65A-6-4(7)(a); or

1173 (ii) for which the division has not established a royalty rate in rule.

1174 Section 12. Section **65A-17-102**, which is renumbered from Section 65A-10-202 is renumbered
 1175 and amended to read:

1176 **{65A-10-202} 65A-17-102. (Effective 05/01/24). Legislative findings.**

1177 The Legislature finds that:

1178 (1) under Section 65A-10-1 the division, as the manager of sovereign lands, has a duty to
 1179 serve the public interest in managing the Great Salt Lake;

1180 (2) the Great Salt Lake is a critical resource owned and managed by the state;

1181 (3) the lake levels of the Great Salt Lake have reached historic lows, requiring action by the
 1182 state to address significant risks and minimize dangers to protect the ecological integrity
 1183 of the Great Salt Lake, the state's environment in general, and the welfare of the state's
 1184 citizens; and

1185 (4) the management of the Great Salt Lake under this ~~[part]~~ chapter, especially if the
 1186 emergency trigger is reached, is reasonable and necessary to serve important public
 1187 purposes and no reasonable alternative meets the interests described in Subsection (3).

1188 Section 13. Section **65A-17-103** is enacted to read:

1189 **65A-17-103 (Effective 05/01/24). Application of chapter.**

1190 This chapter applies to a mineral lease or royalty agreement in effect on May 1,
 1191 2024, or the mineral or element extraction process engaged in on May 1, 2024, and any
 1192 mineral lease or royalty agreement entered into after May 1, 2024, or mineral or element
 1193 extraction process engaged in after May 1, 2024.

1194 Section 14. Section **65A-17-201**, which is renumbered from Section 65A-10-203 is renumbered
 1195 and amended to read:

1196

Part 2. Management

1197

~~[65A-10-203]~~ 65A-17-201. (Effective 05/01/24). Great Salt Lake -- Management responsibilities

1198

of the division.

1199

The division has the following powers and duties:

1200

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah

1201

Administrative Rulemaking Act, for the management of the Great Salt Lake that

1202

recognize the division's duty to manage public trust assets and balance the following [

1203

~~public trust values and~~] public interest benefits and policies:

1204

(a) strategies to effectively and efficiently manage the Great Salt Lake based on the

1205

Great Salt Lake's fluctuating lake levels;

1206

(b) development of the Great Salt Lake that balances, in a manner that promotes a

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healthy physical and ecological condition:

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(i) migratory and shorebirds habitats;

1209

(ii) wetlands;

1210

(iii) brines, minerals or elements, chemicals, and petro-chemicals;

1211

(iv) brine shrimp;

1212

(v) the protection of wildlife and wildlife habitat;

1213

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

1214

(vii) search and rescue efforts;

1215

(c) promote water quality management for the Great Salt Lake and the Great Salt Lake's

1216

tributary streams;

1217

(d) public access to the Great Salt Lake for recreation, hunting, and fishing;

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

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

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(g) maintain the Great Salt Lake and the marshes as important shorebirds, waterfowl,

1221

and other waterbird flyway system;

1222

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

1223

(i) maintain and protect state, federal, and private marshlands, rookeries, and wildlife

1224

refuges.

1225

(2) (a) The division shall prepare and maintain a comprehensive management plan for

1226

the Great Salt Lake that is consistent with:

1227

(i) the ~~[public trust values]~~ management duty and public interest benefits described in

- 1228 Subsection (1)~~[-and-]~~ ;
- 1229 (ii) policies established by rule made under Subsection (1)[-:] ; and
- 1230 (iii) the Great Salt Lake strategic plan adopted under Section 73-32-204.
- 1231 (b) The comprehensive management plan described in this section shall integrate the
- 1232 land within the Great Salt Lake meander line regardless of whether the land has been
- 1233 excluded from water within the Great Salt Lake because of a berm or other
- 1234 infrastructure on sovereign land associated with the Great Salt Lake.
- 1235 (c) The division shall prepare the comprehensive management plan in consultation with
- 1236 the Great Salt Lake commissioner.
- 1237 (3) The division may employ personnel and purchase equipment and supplies that the
- 1238 Legislature authorizes through appropriations for the purposes of this chapter and
- 1239 Chapter 10, Management of Sovereign Lands.
- 1240 (4) The division may initiate studies of the Great Salt Lake and the Great Salt Lake's related
- 1241 resources.
- 1242 (5) The division may publish scientific and technical information concerning the Great Salt
- 1243 Lake.
- 1244 (6) The division shall define the Great Salt Lake's flood plain.
- 1245 (7) The division may qualify for, accept, and administer grants, gifts, or other funds from
- 1246 the federal government and other sources, for carrying out any functions under this
- 1247 chapter and Chapter 10, Management of Sovereign Lands.
- 1248 (8) The division shall determine the need for public works and utilities for the lake area.
- 1249 (9) The division may implement the comprehensive plan described in Subsection (2)
- 1250 through state and local entities or agencies.
- 1251 (10) The division shall coordinate the activities of the various divisions within the
- 1252 Department of Natural Resources with respect to the Great Salt Lake.
- 1253 (11) The division shall retain and encourage the continued activity of the Great Salt Lake
- 1254 technical team.
- 1255 (12) The division shall administer Chapter 16, Great Salt Lake Watershed Enhancement
- 1256 Program.
- 1257 (13) The division shall administer Section [~~65A-10-204~~] 65A-17-202 when the Great Salt
- 1258 Lake emergency trigger is reached.
- 1259 (14) (a) The division shall manage the adaptive management berm in the UP causeway
- 1260 breach to [~~manage salinity to protect the ecosystem of Gilbert Bay. Unless salinity~~
- 1261 ~~conditions in Gilbert Bay warrant raising the adaptive management berm, the policy~~

- 1262 of the state is to keep the UP causeway breach open so as to allow the exchange of
 1263 water between Gilbert and Gunnison Bays.] keep salinity of Gilbert Bay within target
 1264 ranges, raising and lowering the adaptive management berm as needed to achieve that
 1265 goal.
- 1266 (b) In pursuing the goal described in Subsection (14)(a), the division shall:
- 1267 (i) consider the other management objectives enumerated in this section, including
 1268 the preservation of Gunnison Bay;
- 1269 (ii) raise the adaptive management berm if the Great Salt Lake elevation is 4,190 feet
 1270 or lower; and
- 1271 (iii) comply with a plan and schedule required by Subsection (14)(c).
- 1272 (c) Before raising the adaptive management berm, the division shall have a plan and
 1273 schedule to lower the adaptive management berm by no later than nine months after
 1274 raising the adaptive management berm, with an objective of equalizing the elevations
 1275 of Gilbert Bay and Gunnison Bay to be within two feet of each other.
- 1276 (d) The division will consult with the Great Salt Lake commissioner:
- 1277 (i) before modifying the adaptive management berm; and
- 1278 (ii) concerning the adoption of the plan and schedule described in Subsection (14)(c).
- 1279 (15) Notwithstanding a statute to the contrary and except for activities that interfere with
 1280 the authority granted the state engineer under Title 73, Water and Irrigation, the division
 1281 may construct, operate, modify, or maintain infrastructure related to protecting the Great
 1282 Salt Lake and adjacent wetlands and may engage in planning and provide staff to
 1283 manage the infrastructure.
- 1284 [(15)] (16) The division may perform acts other than those described in Subsections (1)
 1285 through [(14)] (15) that are reasonably necessary to carry out this chapter and Chapter
 1286 10, Management of Sovereign Lands.
- 1287 (17) The division shall complete an analysis to determine the infrastructure and engineering
 1288 needs related to salinity management within the Great Salt Lake meander line.
- 1289 (18) The division shall consult with the Division of Wildlife Resources to identify projects
 1290 on sovereign lands that benefit wildlife habitat through the improved flow of water and
 1291 management of both native and invasive plant species.
- 1292 [(16)] (19) This [part] chapter may not be interpreted to override, supersede, or modify any
 1293 water right within the state, or the role and authority of the state engineer.

1294 Section 15. Section **65A-17-202**, which is renumbered from Section 65A-10-204 is renumbered
 1295 and amended to read:

1296 ~~{65A-10-204}~~ 65A-17-202. (Effective 05/01/24). Emergency management responsibilities of
 1297 the
 1298 division.

- 1298 (1) When the Great Salt Lake reaches the emergency trigger, the division:
- 1299 (a) may construct, operate, modify, and maintain the adaptive management berm;
- 1300 (b) may construct, operate, modify, and maintain one or more additional berms, dikes,
 1301 structures, or management systems consistent with the authority granted in this title;
- 1302 (c) may enter into agreements as necessary to provide for all or a portion of a berm,
 1303 dike, system, or structure;
- 1304 (d) is exempt from Title 63G, Chapter 6a, Utah Procurement Code, when acting to
 1305 manage the Great Salt Lake under this section;
- 1306 (e) is not liable for a third-party claim resulting from the division's actions to manage the
 1307 Great Salt Lake under this section;
- 1308 (f) may decline to issue a new permit, authorization, or agreement and may curtail
 1309 mineral or element production for leases that contain provisions contemplating
 1310 curtailment or similar contractual remedies;
- 1311 (g) may implement mineral lease withdrawal over one or more of the following:
- 1312 (i) portions of the Great Salt Lake;
- 1313 (ii) specific methods of extraction; or
- 1314 (iii) specific Great Salt Lake elements or minerals as defined in Section 65A-6-4; and
- 1315 (h) may require the implementation of one or more of the following:
- 1316 (i) extraction methods that are non-depletive in nature;
- 1317 (ii) mitigation to offset depletion; or
- 1318 (iii) innovative extraction technologies.

1319 (2) The division shall make rules in accordance with Title 63G, Chapter 3, Utah
 1320 Administrative Rulemaking Act, providing for the procedures the division shall follow
 1321 in taking an action described in Subsection (1).

1322 Section 16. Section **65A-17-203**, which is renumbered from Section 65A-10-205 is renumbered
 1323 and amended to read:

1324 ~~{65A-10-205}~~ 65A-17-203. (Effective 05/01/24). Force majeure.

- 1325 (1) For purposes of managing the Great Salt Lake, the division may treat the fact that the
 1326 Great Salt Lake has reached the emergency trigger as a triggering event for the purposes
 1327 of invoking a force majeure provision in a contract, mineral lease, or royalty agreement.
- 1328 (2) In addition to the standard mechanisms whereby performance is excused by invocation

1329 of a force majeure provision, the division shall include language in a contract, mineral
 1330 lease, or royalty agreement whereby the division may curtail or prohibit mineral or
 1331 element production that results in a net depletion of water.

1332 (3) The division shall allow an operator to continue processing brines that have already
 1333 been extracted from the Great Salt Lake that are residing in the operator's process, and
 1334 selling products derived from brines that have already been extracted at the time the
 1335 force majeure is invoked.

1336 (4) The division shall include standard mechanisms to promptly waive force majeure once
 1337 salinity conditions improve by declining below the emergency trigger threshold.

1338 (5) If the division invokes a force majeure provision in a contract, mineral lease, or royalty
 1339 agreement, the effected operator is relieved from performance of any contractual
 1340 provision requiring production to hold the contract, mineral lease, or royalty agreement
 1341 for a maximum of two years. If the conditions creating the emergency trigger persist
 1342 beyond a two-year period, the division shall terminate the contract, mineral lease, or
 1343 royalty agreement and require the operator to engage in new contractual agreements
 1344 whereby the operator represents and warrants that future operations will not amount to a
 1345 net depletion of water.

1346 Section 17. Section **65A-17-301** is enacted to read:

1347

Part 3. Mineral or Element Extraction

1348 **65A-17-301 (Effective 05/01/24). General royalty agreement provisions -- State**
 1349 **action regarding evaporation ponds and leaseholds.**

1350 (1) In addition to the requirements of Section 65A-6-4, the division shall ensure that a
 1351 royalty agreement:

1352 (a) obligates the lessee to extract minerals or elements in a manner that prevents waste to
 1353 the common source of supply;

1354 (b) obligates the lessee to extract minerals or elements in a manner that avoids negative
 1355 impacts to any natural resources of the Great Salt Lake;

1356 (c) contains terms and conditions wherein the lessee agrees to extract minerals or
 1357 elements in a manner that preserves and conserves ecological integrity and healthy
 1358 salinity levels; and

1359 (d) contains terms and conditions wherein the lessee represents and warrants full
 1360 compliance, at the lessee's sole expense, with the management decisions and
 1361 instructions of the division and director for preservation of minerals or elements and

1362 natural resources of the Great Salt Lake.

- 1363 (2) (a) The division may acquire the property interest in land or a mineral estate for a
 1364 solar evaporation pond on sovereign lands and an improvement, property, easement,
 1365 or right-of-way appurtenant to the solar evaporation pond by any lawful means,
 1366 including eminent domain, as described in Sections 78B-6-501 and 78B-6-502.
 1367 (b) The division may not implement this Subsection (2) to acquire a property interest in
 1368 land or a mineral estate that is not in or on sovereign land.
 1369 (c) The division may not implement this Subsection (2) on property interests in land or
 1370 mineral estates held by an operator who, in an agreement with the division, has
 1371 relinquished property interests in land or mineral estates.
 1372 (d) Only the division may implement this Subsection (2).

1373 Section 18. Section **65A-17-302** is enacted to read:

1374 **65A-17-302 (Effective 05/01/24). Minerals or elements extracted from the Great**
 1375 **Salt Lake subject to royalty rate.**

- 1376 (1) An operator who removes or extracts a mineral or element from the Great Salt Lake and
 1377 does not return the mineral or element to the Great Salt Lake shall compensate the
 1378 division for the value of the mineral or element at the royalty rate established by the
 1379 division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
 1380 Rulemaking Act, if a royalty rate has been established, except that this Subsection (1)
 1381 only applies to the extent that the mineral or element:
 1382 (a) has been nominated under Subsection 65A-6-4(7)(a) or for which the division has
 1383 established a royalty rate in rule; and
 1384 (b) can be extracted in paying quantities through a commercially viable technology after
 1385 a reasonable period determined by the division, that is at least five years but does not
 1386 exceed seven years, from the day on which the division determines that the
 1387 technology is a commercially viable technology.
 1388 (2) (a) The division shall require an operator that removes or extracts a mineral or
 1389 element from the Great Salt Lake to annually certify to the division by no later than
 1390 May 1 whether the operator is in compliance with Subsection (1). The certification
 1391 by the operator shall:
 1392 (i) state the operator's name;
 1393 (ii) list the amount of each mineral or element that the operator has removed or
 1394 extracted from the Great Salt Lake in the previous calendar year; and
 1395 (iii) include other information as determined by the division by rule made in

- 1396 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1397 (b) The operator shall submit the certificate on a form provided by the division.
- 1398 (3) (a) If the division finds that an operator has violated Subsection (1), the division shall
- 1399 issue the operator an order that:
- 1400 (i) finds that the operator is in violation of Subsection (1);
- 1401 (ii) states the mineral or element for which the operator has failed to pay the royalty
- 1402 rate;
- 1403 (iii) states the amount of the mineral or element that was removed or extracted but for
- 1404 which the operator failed to pay the royalty rate; and
- 1405 (iv) orders the payment of the applicable royalty.
- 1406 (b) The operator may seek review of an order issued under this Subsection (3) in
- 1407 accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- 1408 (4) The division may take an enforcement action against an operator in violation of this
- 1409 section.
- 1410 Section 19. Section **65A-17-303** is enacted to read:
- 1411 **65A-17-303 (Effective 05/01/24). Multiple mineral development area --**
- 1412 **Cooperative agreements -- Correlative right protection -- Withdrawn from or**
- 1413 **incapable of mineral development.**
- 1414 (1) (a) The division shall manage the Great Salt Lake below the Great Salt Lake
- 1415 meander line as a multiple mineral development area to:
- 1416 (i) prevent waste;
- 1417 (ii) ensure the greatest ultimate recovery of minerals or elements;
- 1418 (iii) protect correlative rights of owners having rights to a common source of supply
- 1419 and the division's duty to manage public trust assets; and
- 1420 (iv) encourage new and emergent technologies to protect the Great Salt Lake's overall
- 1421 ecological integrity while ensuring the greatest possible recovery for operators and
- 1422 the state.
- 1423 (b) The division may make rules, in accordance with Title 63G, Chapter 3,
- 1424 Administrative Rulemaking Act, to implement Subsection (1)(a) and any related
- 1425 defined terms in Section 65A-17-101.
- 1426 (c) An operator shall conduct operations to comply with the rules made under
- 1427 Subsection (1)(b) and other rules made in accordance with Title 63G, Chapter 3, Utah
- 1428 Administrative Rulemaking Act:
- 1429 (i) governing individual operations; and

- 1430 (ii) made for the multiple mineral development area.
- 1431 (2) (a) As a condition of the division issuing a lease or royalty agreement on or after
1432 May 1, 2024, and of continued operations, the division shall require an operator to
1433 enter into and maintain a cooperative agreement with the persons with correlative
1434 rights in a common source of supply for a mineral or element in the Great Salt Lake.
- 1435 (b) After submitting an application with the division to obtain a lease or royalty
1436 agreement, a person shall:
- 1437 (i) obtain a list from the division of all operators existing at the time of application;
1438 and
- 1439 (ii) notify each operator on the list of the person's intention to enter into a cooperative
1440 agreement.
- 1441 (c) A cooperative agreement shall meet the requirements of Subsection 65A-17-304(1),
1442 shall provide that the rights and obligations contained in the cooperative agreement
1443 are subject to the division's duty to manage public trust assets, and shall address:
- 1444 (i) how the operators may conduct concurrent or simultaneous operations without
1445 unreasonably interfering with existing and separate operations while also
1446 preventing undue waste;
- 1447 (ii) recognition of other operator's vested mineral or element interests so that
1448 operations may be conducted in a manner that will result in the maximum
1449 recovery of minerals or elements with the minimum adverse effect on the ultimate
1450 maximum recovery of other minerals or elements;
- 1451 (iii) terms and conditions for establishing a mitigation plan for when one operator,
1452 either intentionally or unintentionally, interferes with or damages the mineral or
1453 element rights or mineral or element interests of another operator;
- 1454 (iv) terms and conditions for establishing a mitigation plan with the division that
1455 would limit unreasonable mineral estate interference, waste, or negative impacts
1456 to natural resources of the Great Salt Lake;
- 1457 (v) the protection of natural resources of the Great Salt Lake without unnecessary
1458 cost to the operations of another operator, unless there is compensation for
1459 increased operational costs;
- 1460 (vi) the coordination and locations of access to operations;
- 1461 (vii) any assessment of costs resulting from concurrent operations within the Great
1462 Salt Lake;
- 1463 (viii) the mitigation of surface impacts, including:

- 1464 (A) the location of a mineral or element extraction intake or discharge facility;
1465 (B) phased or coordinated surface occupancy to each operator to access and
1466 develop the operator's respective mineral or element estate or mineral or
1467 element interest with the least disruption of operations and damage to Great
1468 Salt Lake elements or minerals, as defined in Section 65A-6-4, or natural
1469 resources directly, indirectly, or through waste; and
1470 (C) limitations of mineral or element operations in areas where impacts to
1471 correlative rights or to natural resources of the Great Salt Lake are significant
1472 or most acute, as determined by the operators or the division;
1473 (ix) the scope and extent of how geological, engineering, product, and water use data
1474 is disclosed or exchanged;
1475 (x) how any joint reclamation obligation or plan is to be achieved or coordinated;
1476 (xi) how bonding will be obtained and coordinated on any lands impacted, disturbed,
1477 or developed in relation to mineral or element extraction and processing activities;
1478 (xii) terms and conditions indemnifying the state, the division, and any of the state's
1479 or division's directors, officers, agents, or employees from any and all damage or
1480 liability of any kind resulting from any stage or mineral or element extraction
1481 operations or any stage of mineral or element processing;
1482 (xiii) terms and conditions for the full compliance with a royalty rate reduction to
1483 which an operator is entitled;
1484 (xiv) a schedule of how the operators plan to collectively curtail production if the
1485 emergency trigger is reached and a curtailment of production is required; and
1486 (xv) any other term or condition outlining cooperative efforts consistent with the
1487 multiple mineral development area and plans or rules of the division, made in
1488 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
1489 (d) The parties to a cooperative agreement described in Subsection (2)(a) shall present
1490 the cooperative agreement to the division and the director may approve the
1491 agreement if the cooperative agreement:
1492 (i) is in the public interest;
1493 (ii) prevents waste of minerals or elements;
1494 (iii) protects the correlative rights of each owner; and
1495 (iv) meets the requirements of Subsection 65A-17-304(1).
1496 (e) On the director's approval of the cooperative agreement, the division becomes a
1497 signator to the cooperative agreement.

- 1498 (f) A cooperative agreement described in this Subsection (2) may not be held or
 1499 construed to violate a statute relating to trusts, monopolies, or contracts and
 1500 combinations in restraint of trade, if the agreement is approved by the director.
- 1501 (g) The failure to submit an agreement to the division for approval may not for that
 1502 reason imply or constitute evidence that the agreement or operations conducted
 1503 pursuant to the agreement are in violation of laws relating to trusts, monopolies, or
 1504 restraint of trade.
- 1505 (h) (i) An operator may not unreasonably delay, condition, or decline to enter into a
 1506 cooperative agreement.
- 1507 (ii) A negotiation period of 60 days from the date notice is given under Subsection
 1508 (2)(b)(ii) is presumed to be reasonable.
- 1509 (i) A mitigation plan with the division shall be implemented in conjunction with the
 1510 Division of Water Rights.
- 1511 (3) The division may at any time determine that certain areas within the multiple mineral
 1512 development area are withdrawn from mineral development or incapable of mineral
 1513 development.

1514 Section 20. Section **65A-17-304** is enacted to read:

1515 **65A-17-304 (Effective 05/01/24). Concurrent operations -- Breach, disagreement,**
 1516 **or conflict -- Disputes.**

- 1517 (1) Two or more operators may conduct concurrent operations on the Great Salt Lake under
 1518 a cooperative agreement upon stipulation and agreement that the operations can be:
- 1519 (a) conducted simultaneously without unreasonably interfering with the value of the
 1520 resources being produced;
- 1521 (b) conducted simultaneously without unreasonably interfering with natural resources of
 1522 the Great Salt Lake; and
- 1523 (c) conducted without unreasonably interfering with, or unnecessarily raising the cost of
 1524 operations of another operator, unless the other affected operator is compensated for
 1525 increased costs or diminished returns.
- 1526 (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
 1527 Administrative Rulemaking Act, providing for the procedures the division and operators
 1528 shall follow to:
- 1529 (a) enable the division to enforce applicable statutes and rules on operators, including
 1530 the issuance of notices of violation or cessation orders;
- 1531 (b) assist in the timely resolution of disputes that may arise during the formation of a

1532 cooperative agreement;
 1533 (c) cure a breach of a mitigation plan; or
 1534 (d) resolve a continued disagreement or conflict regarding continued negative impacts to
 1535 biota or chemistry due to continuing concurrent operations.

1536 (3) If any dispute between operators under Subsection (2) has not been resolved through an
 1537 informal administrative dispute resolution process created by the division, the division
 1538 shall resolve the dispute by a final record of decision to be issued no more than 30 days
 1539 after notice to the division by an aggrieved operator that informal dispute resolution has
 1540 been unsuccessful.

1541 Section 21. Section **65A-17-305** is enacted to read:

1542 **65A-17-305 (Effective 05/01/24). Waste.**

1543 An operator is considered to not waste a mineral or element if the operator
 1544 implements a commercially viable technology to extract the mineral or element after a
 1545 reasonable period determined by the division, that is at least five years but does not
 1546 exceed seven years, from the day on which the division determines that the technology
 1547 is a commercially viable technology.

1548 Section 22. Section **65A-17-306** is enacted to read:

1549 **65A-17-306 (Effective 05/01/24). Certification of eligibility for tax rates.**

1550 (1) As used in this section:

1551 (a) "Great Salt Lake element or mineral" means the same as that term is defined in
 1552 Subsection 59-5-202(5).

1553 (b) "Great Salt Lake extraction operator" means the same as that term is defined in
 1554 Subsection 59-5-202(5).

1555 (2) (a) A Great Salt Lake extraction operator shall by no later than December 31 of each
 1556 year certify to the division for purposes of determining a severance tax imposed
 1557 under Subsection 59-5-202(5) during the next succeeding calendar year, the
 1558 information listed in Subsection (2)(b).

1559 (b) The Great Salt Lake extraction operator shall certify the following for the calendar
 1560 year ending on the date the Great Salt Lake extraction operator submits the
 1561 certification for purposes of determining a severance tax imposed during the next
 1562 succeeding calendar year:

1563 (i) the Great Salt Lake extraction operator's name;

1564 (ii) the Great Salt Lake extraction operator's tax identification number;

1565 (iii) whether at the time a Great Salt Lake element or mineral is extracted, the Great

- 1566 Salt Lake extraction operator is a party or a third-party beneficiary to a voluntary
1567 agreement for water rights with an approved beneficial use by a division as
1568 defined in Section 73-3-30;
- 1569 (iv) if the Great Salt Lake extraction operator is not a party or third-party beneficiary
1570 to a voluntary agreement for water rights with an approved beneficial use by a
1571 division as defined in Section 73-3-30, whether the Great Salt Lake extraction
1572 operator uses evaporative concentrations of Great Salt Lake brines in any stage of
1573 the Great Salt Lake extraction operator's extractive process;
- 1574 (v) whether the Great Salt Lake extraction operator extracted a Great Salt Lake
1575 element or mineral when the Great Salt Lake elevation recorded under Subsection
1576 (3) is at or above 4,198 feet, and what the Great Salt Lake element or mineral
1577 extracted was; and
- 1578 (vi) other information as determined by the division by rule made in accordance with
1579 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1580 (c) A Great Salt Lake extraction operator shall submit the certification on a form
1581 provided by the division and approved by the State Tax Commission.
- 1582 (3) The division shall record the Great Salt Lake elevation for purposes of this section and
1583 Subsection 59-5-202(5) as of June 15 to be applied during the next succeeding calendar
1584 year.
- 1585 (4) The division shall forward to the State Tax Commission by no later than January 15 of
1586 the year for which the severance tax shall be determined:
- 1587 (a) the Great Salt Lake elevation level recorded under Subsection (3);
- 1588 (b) a list of the Great Salt Lake extraction operators who are subject to a severance tax
1589 under Subsection 59-5-202(5);
- 1590 (c) the Great Salt Lake extraction operator's tax identification number for each Great
1591 Salt Lake extraction operator listed in Subsection (4)(b); and
- 1592 (d) for each Great Salt Lake extraction operator subject to a severance tax under
1593 Subsection 59-5-202(5):
- 1594 (i) each Great Salt Lake element or mineral or metalliferous compound extracted by
1595 the Great Salt Lake extraction operator that is subject to the severance tax; and
1596 (ii) the rate of severance tax that is to be imposed under Subsection 59-5-202(5).
- 1597 (5) The division may audit a certification submitted under this section for completeness and
1598 accuracy.
- 1599 (6) The division may take an enforcement action against a Great Salt Lake extraction

1600 operator who violates this section.

1601 Section 23. Section **73-3-8** is amended to read:

1602 **73-3-8 (Effective 05/01/24). Approval or rejection of application -- Requirements**
1603 **for approval -- Application for specified period of time -- Filing of royalty contract**
1604 **for removal of salt or minerals -- Request for agency action.**

1605 (1) (a) It shall be the duty of the state engineer to approve an application if there is
1606 reason to believe that:

1607 (i) for an application to appropriate, there is unappropriated water in the proposed
1608 source;

1609 (ii) the proposed use will not impair existing rights or interfere with the more
1610 beneficial use of the water;

1611 (iii) the proposed plan:

1612 (A) is physically and economically feasible, unless the application is filed by the
1613 United States Bureau of Reclamation; and

1614 (B) would not prove detrimental to the public welfare;

1615 (iv) the applicant has the financial ability to complete the proposed works;

1616 (v) the application was filed in good faith and not for purposes of speculation or
1617 monopoly; and

1618 (vi) if applicable, the application complies with a groundwater management plan
1619 adopted under Section 73-5-15.

1620 (b) If the state engineer, because of information in the state engineer's possession
1621 obtained either by the state engineer's own investigation or otherwise, has reason to
1622 believe that an application will interfere with the water's more beneficial use for
1623 irrigation, municipal and industrial, domestic or culinary, stock watering, power or
1624 mining development, or manufacturing, or will unreasonably affect public recreation
1625 or the natural stream environment, or will prove detrimental to the public welfare, the
1626 state engineer shall withhold approval or rejection of the application until the state
1627 engineer has investigated the matter.

1628 (c) If an application does not meet the requirements of this section, it shall be rejected.

1629 (2) (a) An application to appropriate water for industrial, power, mining development,
1630 manufacturing purposes, agriculture, or municipal purposes may be approved for a
1631 specific and certain period from the time the water is placed to beneficial use under
1632 the application, but in no event may an application be granted for a period of time
1633 less than that ordinarily needed to satisfy the essential and primary purpose of the

- 1634 application or until the water is no longer available as determined by the state
1635 engineer.
- 1636 (b) At the expiration of the period fixed by the state engineer the water shall revert to the
1637 public and is subject to appropriation as provided by this title.
- 1638 (c) No later than 60 calendar days before the expiration date of the fixed time period, the
1639 state engineer shall send notice by mail or by any form of electronic communication
1640 through which receipt is verifiable, to the applicant of record.
- 1641 (d) Except as provided by Subsection (2)(e), the state engineer may extend any limited
1642 water right upon a showing that:
- 1643 (i) the essential purpose of the original application has not been satisfied;
1644 (ii) the need for an extension is not the result of any default or neglect by the
1645 applicant; and
1646 (iii) the water is still available.
- 1647 (e) An extension may not exceed the time necessary to satisfy the primary purpose of the
1648 original application.
- 1649 (f) A request for extension of the fixed time period must be filed in writing in the office
1650 of the state engineer on or before the expiration date of the application.
- 1651 (3) (a) Before the approval of any application [~~for the appropriation of~~] to divert water
1652 from navigable lakes or streams of the state that contemplates the recovery of salts
1653 and other minerals or elements, as defined in Section 65A-17-101, therefrom by
1654 precipitation or otherwise, the applicant shall file with the state engineer a copy of:
- 1655 (i) a contract for the payment of royalties to the state~~[-]~~ ; and
1656 (ii) any mineral lease.
- 1657 (b) The approval of an application shall be [~~revoked~~] reversed if the applicant fails to
1658 comply with terms of the royalty contract or mineral lease.
- 1659 (4) (a) The state engineer shall investigate all temporary change applications.
1660 (b) The state engineer shall:
- 1661 (i) approve the temporary change if the state engineer finds there is reason to believe
1662 that the temporary change will not impair an existing right; and
1663 (ii) deny the temporary change if the state engineer finds there is reason to believe the
1664 temporary change would impair an existing right.
- 1665 (5) (a) With respect to a change application for a permanent or fixed time change:
1666 (i) the state engineer shall follow the same procedures provided in this title for
1667 approving an application to appropriate water; and

- 1668 (ii) the rights and duties of a change applicant are the same as the rights and duties of
1669 a person who applies to appropriate water under this title.
- 1670 (b) The state engineer may waive notice for a permanent or fixed time change
1671 application if the application only involves a change in point of diversion of 660 feet
1672 or less.
- 1673 (c) The state engineer may condition approval of a change application to prevent an
1674 enlargement of the quantity of water depleted by the nature of the proposed use when
1675 compared with the nature of the currently approved use of water proposed to be
1676 changed.
- 1677 (d) A condition described in Subsection (5)(c) may not include a reduction in the
1678 currently approved diversion rate of water under the water right identified in the
1679 change application solely to account for the difference in depletion under the nature
1680 of the proposed use when compared with the nature of the currently approved use.
- 1681 (6) (a) Except as provided in Subsection (6)(b), the state engineer shall reject a
1682 permanent or fixed time change application if the person proposing to make the
1683 change is unable to meet the burden described in Subsection 73-3-3(5).
- 1684 (b) If otherwise proper, the state engineer may approve a change application upon one or
1685 more of the following conditions:
- 1686 (i) for part of the water involved;
- 1687 (ii) that the applicant acquire a conflicting right; or
- 1688 (iii) that the applicant provide and implement a plan approved by the state engineer to
1689 mitigate impairment of an existing right.
- 1690 (c) (i) There is a rebuttable presumption of quantity impairment, as defined in Section
1691 73-3-3, to the extent that, for a period of at least seven consecutive years, a portion
1692 of the right identified in a change application has not been:
- 1693 (A) diverted from the approved point of diversion; or
- 1694 (B) beneficially used at the approved place of use.
- 1695 (ii) The rebuttable presumption described in Subsection (6)(c)(i) does not apply if the
1696 beneficial use requirement is excused by:
- 1697 (A) Subsection 73-1-4(2)(e);
- 1698 (B) an approved nonuse application under Subsection 73-1-4(2)(b);
- 1699 (C) Subsection 73-3-30(7); or
- 1700 (D) the passage of time under Subsection 73-1-4(2)(c)(i).
- 1701 (d) The state engineer may not consider quantity impairment based on the conditions

- 1702 described in Subsection (6)(c) unless the issue is raised in a:
- 1703 (i) timely protest that identifies which of the protestant's existing rights the protestant
- 1704 reasonably believes will experience quantity impairment; or
- 1705 (ii) written notice provided by the state engineer to the applicant within 90 days after
- 1706 the change application is filed.
- 1707 (e) The written notice described in Subsection (6)(d)(ii) shall:
- 1708 (i) specifically identify an existing right the state engineer reasonably believes may
- 1709 experience quantity impairment; and
- 1710 (ii) be mailed to the owner of an identified right, as shown by the state engineer's
- 1711 records, if the owner has not protested the change application.
- 1712 (f) The state engineer is not required to include all rights the state engineer believes may
- 1713 be impaired by the proposed change in the written notice described in Subsection
- 1714 (6)(d)(ii).
- 1715 (g) The owner of a right who receives the written notice described in Subsection
- 1716 (6)(d)(ii) may not become a party to the administrative proceeding if the owner has
- 1717 not filed a timely protest.
- 1718 (h) If a change applicant, the protestants, and the persons identified by the state engineer
- 1719 under Subsection (6)(d)(ii) come to a written agreement regarding how the issue of
- 1720 quantity impairment shall be mitigated, the state engineer may incorporate the terms
- 1721 of the agreement into a change application approval.

1722 Section 24. Section **73-32-204** is amended to read:

1723 **73-32-204 (Effective 05/01/24). Strategic plan.**

- 1724 (1) (a) In accordance with this section, the commissioner shall prepare a strategic plan
- 1725 and obtain the approval of the governor of that strategic plan.
- 1726 (b) A strategic plan prepared by the commissioner may not be implemented until the
- 1727 governor approves the strategic plan, except as provided in Subsection (5).
- 1728 (2) The commissioner shall base the strategic plan on a holistic approach that balances the
- 1729 diverse interests related to the health of the Great Salt Lake, and includes provisions
- 1730 concerning:
- 1731 (a) coordination of efforts related to the Great Salt Lake;
- 1732 (b) a sustainable water supply for the Great Salt Lake, while balancing competing needs;
- 1733 (c) human health and quality of life;
- 1734 (d) a healthy ecosystem;
- 1735 (e) economic development;

- 1736 (f) water conservation, including municipal and industrial uses and agricultural uses;
1737 (g) water and land use planning;
1738 (h) regional water sharing; and
1739 (i) other provisions that the commissioner determines would be for the benefit of the
1740 Great Salt Lake.
- 1741 (3) (a) The commissioner shall obtain the approval of the governor of an initial strategic
1742 plan by no later than December 31, 2023.
- 1743 (b) On or before November 30, 2023, the commissioner shall submit an initial strategic
1744 plan to the governor, speaker of the House of Representatives, and the president of
1745 the Senate.
- 1746 (c) The governor shall approve the strategic plan by no later than December 31, 2023, if
1747 the governor determines that the initial strategic plan satisfies this chapter.
- 1748 (d) By no later than January 15, 2024, the commissioner shall provide the following a
1749 copy of the initial strategic plan approved by the governor under Subsection (3)(c):
1750 (i) the Natural Resources, Agriculture, and Environment Interim Committee;
1751 (ii) the department;
1752 (iii) the Department of Environmental Quality; and
1753 (iv) the Department of Agriculture and Food.
- 1754 (4) The governor may approve a strategic plan only after consulting with the speaker of the
1755 House of Representatives and the president of the Senate.
- 1756 (5) Once a strategic plan is approved by the governor, the commissioner may make
1757 substantive changes to the strategic plan without the approval of the governor, except
1758 that the commissioner shall:
- 1759 (a) inform the governor, the speaker of the House of Representatives, and the president
1760 of the Senate of a substantive change to the strategic plan; and
1761 (b) submit the strategic plan every five years for the approval of the governor in a
1762 process that is consistent with Subsection (3).
- 1763 (6) The commissioner may work with the Division of Forestry, Fire, and State Lands in
1764 coordinating the comprehensive management plan created under Section [~~65A-10-203~~
1765 65A-17-201] with the strategic plan.
- 1766 Section 25. Section **73-32-303** is amended to read:
1767 **73-32-303 (Effective 05/01/24). Duties of the council.**
- 1768 (1) (a) The council shall advise the persons listed in Subsection (1)(b) on the sustainable
1769 use, protection, and development of the Great Salt Lake in terms of balancing:

- 1770 (i) sustainable use;
- 1771 (ii) environmental health; and
- 1772 (iii) reasonable access for existing and future development.
- 1773 (b) The council shall advise, as provided in Subsection (1)(a):
- 1774 (i) the governor;
- 1775 (ii) the Department of Natural Resources;
- 1776 (iii) the Department of Environmental Quality; and
- 1777 (iv) the commissioner.
- 1778 (2) The council shall assist the Division of Forestry, Fire, and State Lands in the Division of
- 1779 Forestry, Fire, and State Land's responsibilities for the Great Salt Lake described in
- 1780 Sections [~~65A-10-203 and 65A-10-204~~] 65A-17-201 and 65A-17-202.
- 1781 (3) The council:
- 1782 (a) may recommend appointments to the Great Salt Lake technical team created by the
- 1783 Division of Forestry, Fire, and State Lands; and
- 1784 (b) shall receive and use technical support from the Great Salt Lake technical team.
- 1785 (4) The council shall assist the department, the Department of Environmental Quality, and
- 1786 their applicable boards in accomplishing their responsibilities for the Great Salt Lake.
- 1787 (5) The council shall report annually to the Natural Resources, Agriculture, and
- 1788 Environmental Quality Appropriations Subcommittee on the council's activities.
- 1789 Section 26. Section **73-33-101** is enacted to read:

1790 **CHAPTER 33. GREAT SALT LAKE DISTRIBUTION MANAGEMENT**

1791 **Part 1. General Provisions**

1792 **73-33-101 (Effective 05/01/24). Definitions.**

1793 As used in this chapter:

- 1794 (1) "Distribution management plan" means a plan adopted by the state engineer in
- 1795 accordance with Section 73-33-201.
- 1796 (2) "Great Salt Lake Comprehensive Management Plan" means the plan adopted by a
- 1797 record of decision by the Division of Forestry, Fire, and State Lands for the management
- 1798 of the Great Salt Lake.
- 1799 (3) "Great Salt Lake meander line" means the same as that term is defined in Section
- 1800 65A-17-101.
- 1801 (4) "Great Salt Lake water right" means a water right that allows for the diversion of
- 1802 surface water or groundwater from a point below the Great Salt Lake meander line and

1803 that contemplates the recovery of salts or another mineral or element, as defined in
 1804 Section 65A-17-101, from the water resource by precipitation or otherwise.
 1805 (5) "Great Salt Lake watershed" means the drainage area for the Great Salt Lake, the Bear
 1806 River watershed, the Jordan River watershed, the Utah Lake watershed, the Weber River
 1807 watershed, and the West Desert watershed.

1808 Section 27. Section **73-33-102** is enacted to read:

1809 **73-33-102 (Effective 05/01/24). Scope of chapter.**

1810 (1) A person may not interpret this chapter as requiring the development, implementation,
 1811 or consideration of a distribution management plan as a prerequisite or condition to the
 1812 exercise of the state engineer's enforcement powers under other law, including powers
 1813 granted under Section 73-2-25.

1814 (2) This chapter applies to Great Salt Lake water rights that were approved or perfected on
 1815 or before May 1, 2024, and Great Salt Lake water rights approved or perfected after May
 1816 1, 2024, including use under a Great Salt Lake water right of water for the mineral or
 1817 element extraction process.

1818 Section 28. Section **73-33-201** is enacted to read:

1819

Part 2. Distribution Management Plan

1820 **73-33-201 (Effective 05/01/24). Great Salt Lake distribution management plan.**

1821 (1) The state engineer shall regulate the measurement, appropriation, apportionment, and
 1822 distribution of water within the Great Salt Lake meander line by adopting a distribution
 1823 management plan by no later than October 1, 2025, that establishes:

1824 (a) consistent with Section 73-33-203, requirements for the measurement, quantification,
 1825 and reporting of diversions, depletions, and return flows associated with Great Salt
 1826 Lake water rights; and

1827 (b) procedures for the apportionment and distribution of Great Salt Lake water rights.

1828 (2) (a) In developing a distribution management plan under this section, the state
 1829 engineer may consider:

1830 (i) the hydrology of the Great Salt Lake watershed as it affects Great Salt Lake water
 1831 rights;

1832 (ii) the physical characteristics of the Great Salt Lake;

1833 (iii) the Great Salt Lake elevation;

1834 (iv) the Great Salt Lake salinity;

1835 (v) the strategic plan prepared by the Great Salt Lake commissioner and approved by

- 1836 the governor under Section 73-32-204;
- 1837 (vi) the measurement, appropriation, apportionment, and distribution of Great Salt
- 1838 Lake water rights;
- 1839 (vii) the quantity of water approved for beneficial use within the Great Salt Lake
- 1840 meander line by a division as defined in Section 73-3-30;
- 1841 (viii) the quantity of water within the Great Salt Lake;
- 1842 (ix) the Great Salt Lake Comprehensive Management Plan;
- 1843 (x) the different types of beneficial uses of Great Salt Lake water rights; and
- 1844 (xi) other relevant factors such as the economic viability impacts.
- 1845 (b) The state engineer shall base the distribution management plan on the principles of
- 1846 prior appropriation and multiple use sustained yield, with multiple use defined in
- 1847 Section 65A-1-1, as the principles relate to the reasonable preservation or
- 1848 enhancement of the Great Salt Lake's natural aquatic environment.
- 1849 (c) The state engineer shall use the best available information to administer Great Salt
- 1850 Lake water rights to achieve the objectives of the distribution management plan.
- 1851 (d) As hydrologic conditions change or additional information becomes available, the
- 1852 state engineer may revise the distribution management plan by following the
- 1853 procedures of Subsection (3).
- 1854 (3) (a) To adopt or amend a distribution management plan for the Great Salt Lake, the
- 1855 state engineer shall:
- 1856 (i) give notice pursuant to Subsection (3)(b) at least 30 days before the first public
- 1857 meeting held in accordance with Subsection (3)(a)(ii):
- 1858 (A) that the state engineer proposes to adopt or amend a distribution management
- 1859 plan; and
- 1860 (B) stating the location, date, and time of each public meeting to be held in
- 1861 accordance with Subsection (3)(a)(ii);
- 1862 (ii) hold one or more public meetings to:
- 1863 (A) present data, studies, or reports that the state engineer intends to consider in
- 1864 preparing the distribution management plan;
- 1865 (B) address items that may be included in the distribution management plan; and
- 1866 (C) receive public comments and other information presented at the public
- 1867 meeting;
- 1868 (iii) receive and consider written comments concerning the proposed distribution
- 1869 management plan from any person for a period determined by the state engineer

- 1870 of not less than 60 days after the day on which the notice required by Subsection
1871 (3)(a)(i) is given;
- 1872 (iv) at least 60 days before final adoption of the distribution management plan,
1873 publish notice:
- 1874 (A) that a draft of the distribution management plan has been proposed; and
1875 (B) specifying where a copy of the draft distribution management plan may be
1876 reviewed;
- 1877 (v) promptly provide a copy of the draft distribution management plan in printed or
1878 electronic form to each person listed in Subsection (3)(b)(iii) that requests a copy
1879 in writing; and
- 1880 (vi) provide notice of the adoption of the distribution management plan.
- 1881 (b) The state engineer shall ensure that a notice required by this section:
- 1882 (i) is published:
- 1883 (A) once a week for two consecutive weeks in a newspaper of general circulation
1884 in each county that includes any land below the Great Salt Lake meander line;
1885 and
- 1886 (B) for two weeks in accordance with Section 45-1-101;
- 1887 (ii) is published conspicuously on the state engineer's website; and
- 1888 (iii) is mailed to water right owners of record in the state engineer's office of Great
1889 Salt Lake water rights.
- 1890 (c) A notice required by this section is effective upon substantial compliance with
1891 Subsection (3)(b).
- 1892 (d) A distribution management plan takes effect on the date notice of adoption is
1893 completed under Subsection (3)(b) or on a later date when specified in the
1894 distribution management plan.
- 1895 (4) (a) In accordance with the distribution management plan, the state engineer shall
1896 establish a priority schedule that apportions Great Salt Lake water rights based on
1897 relative priority among Great Salt Lake water rights and:
- 1898 (i) develop an apportionment schedule and distribution accounting tool that accounts
1899 for:
- 1900 (A) Great Salt Lake elevations;
- 1901 (B) Great Salt Lake salinity;
- 1902 (C) Great Salt Lake water rights;
- 1903 (D) the quantity of water in the Great Salt Lake; and

- 1904 (E) the quantity of water delivered to or in the Great Salt Lake under water rights
 1905 approved for beneficial use by a division as defined in Section 73-3-30;
 1906 (ii) prohibit Great Salt Lake water rights from diverting the quantity of water
 1907 accounted for under Subsection (4)(a)(i)(E); and
 1908 (iii) require physical measurement and annual reporting of diversion, depletion, and
 1909 return flow quantities of Great Salt Lake water rights.
- 1910 (b) Under a distribution management plan the state engineer may reduce the quantity of
 1911 water that an owner of a Great Salt Lake water right may divert from the Great Salt
 1912 Lake in accordance with the principles of prior appropriation.
- 1913 (5) (a) When adopting a distribution management plan, the state engineer may allow
 1914 water users to participate in a voluntary arrangement that compensates or otherwise
 1915 mitigates for the use of Great Salt Lake water rights.
- 1916 (b) The participants in a voluntary arrangement under this Subsection (5) shall
 1917 implement the voluntary arrangement consistent with other law.
- 1918 (c) The adoption of a voluntary arrangement under this Subsection (5) by less than all of
 1919 the owners of Great Salt Lake water rights does not affect the rights of those owners
 1920 of Great Salt Lake water rights who do not agree to the voluntary arrangement.
- 1921 (6) The existence of a distribution management plan does not preclude an otherwise eligible
 1922 person from filing an application or challenging a decision made by the state engineer
 1923 within the Great Salt Lake meander line, except that a person may challenge the
 1924 components of a distribution management plan only in a manner provided in Section
 1925 73-33-202.
- 1926 (7) A distribution management plan adopted or amended in accordance with this section is
 1927 exempt from Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1928 Section 29. Section **73-33-202** is enacted to read:
- 1929 **73-33-202 (Effective 05/01/24). Challenges to a distribution management plan.**
- 1930 (1) A person aggrieved by a distribution management plan may challenge any aspect of the
 1931 distribution management plan by filing a complaint within 60 days after the distribution
 1932 management plan takes effect in a court with jurisdiction:
- 1933 (a) under Title 78A, Judiciary and Judicial Administration; and
 1934 (b) notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, over a geographic
 1935 area bordering the Great Salt Lake.
- 1936 (2) In an action filed under this section, a court shall review de novo the distribution
 1937 management plan.

- 1938 (3) A person challenging a distribution management plan under this section shall join the
1939 state engineer as a defendant in that action.
- 1940 (4) (a) No later than 30 days after the day on which a person files an action challenging
1941 any aspect of a distribution management plan, the person filing the action shall
1942 publish notice of the action:
- 1943 (i) once a week for two consecutive weeks in a newspaper of general circulation in
1944 the county in which the court is located; and
- 1945 (ii) for two weeks in accordance with Section 45-1-101.
- 1946 (b) The notice required by Subsection (4)(a) shall:
- 1947 (i) identify the distribution management plan that the person is challenging;
1948 (ii) identify the case number assigned by the court;
1949 (iii) state that a person affected by the distribution management plan may petition the
1950 court to intervene in the action challenging the distribution management plan; and
1951 (iv) list the address of the clerk of the court in which the action is filed.
- 1952 (c) A person affected by a distribution management plan that is being challenged under
1953 this section may petition to intervene in the action in accordance with Utah Rules of
1954 Civil Procedure, Rule 24.
- 1955 Section 30. Section **73-33-203** is enacted to read:
- 1956 **73-33-203 (Effective 05/01/24). Measuring volume and quality of water.**
- 1957 (1) (a) A person diverting water under a Great Salt Lake water right shall:
- 1958 (i) measure through the use of a physical measurement and not estimate or calculate
1959 the water or brine diverted from the Great Salt Lake as part of the mineral or
1960 element extraction process;
- 1961 (ii) keep a record of the measurements described in Subsection (1)(a)(i); and
1962 (iii) report the measurements described in Subsection (1)(a)(i) to the Division of
1963 Water Rights in accordance with rules made by the Division of Water Rights
1964 under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1965 (b) A duty described in Subsection (1)(a) does not replace or modify any other duty to
1966 measure water under this title or rules made under this title.
- 1967 (2) A person diverting water under a Great Salt Lake water right shall:
- 1968 (a) measure the salinity of any discharge of water or brine from the person's operations
1969 into the Great Salt Lake in accordance with rules made by the Division of Forestry,
1970 Fire, and State Lands in accordance with Title 63G, Chapter 3, Utah Administrative
1971 Rulemaking Act;

- 1972 (b) keep a record of the measurements described in Subsection (2)(a); and
 1973 (c) report the measurements described in Subsection (2)(a) to the Division of Forestry,
 1974 Fire, and State Lands in accordance with rules made by the Division of Forestry, Fire,
 1975 and State Lands under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 1976 (3) (a) On or before June 1, 2025, the Division of Water Quality, in consultation with the
 1977 Division of Forestry, Fire, and State Lands, and in cooperation with the Great Salt
 1978 Lake commissioner pursuant to Section 73-32-203, shall make a rule, in accordance
 1979 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, setting a limit for
 1980 the salinity of water or brine that a person may discharge into the Great Salt Lake as
 1981 part of the mineral or element extraction process.
 1982 (b) If a person discharges water or brine that exceeds the limit imposed under Subsection
 1983 (3)(a), the Division of Water Quality may modify, revoke and reissue, or terminate
 1984 any permit issued by the Division of Water Quality related to the discharge.
 1985 (4) A person shall keep a record required under this section for a period of at least five
 1986 years from the day on which the record is made.

1987 Section 31. Section **78B-6-501** is amended to read:

1988 **78B-6-501 (Effective 05/01/24). Eminent domain -- Uses for which right may be**
 1989 **exercised -- Limitations on eminent domain.**

- 1990 (1) As used in this section^[5] :
- 1991 (a) ["century farm"] "Century farm" means real property that is:
 1992 [(a)] (i) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and
 1993 [(b)] (ii) owned or held by the same family for a continuous period of 100 years or
 1994 more.
- 1995 (b) "Mineral or element" means the same as that term is defined in Section 65A-17-101.
- 1996 (2) Except as provided in Subsections (3) and (4) and subject to the provisions of this part,
 1997 the right of eminent domain may be exercised on behalf of the following public uses:
- 1998 (a) all public uses authorized by the federal government;
- 1999 (b) public buildings and grounds for the use of the state, and all other public uses
 2000 authorized by the Legislature;
- 2001 (c) (i) public buildings and grounds for the use of any county, city, town, or board of
 2002 education;
- 2003 (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or
 2004 sewage, including to or from a development, for the use of the inhabitants of any
 2005 county, city, or town, or for the draining of any county, city, or town;

- 2006 (iii) the raising of the banks of streams, removing obstructions from streams, and
2007 widening, deepening, or straightening their channels;
- 2008 (iv) bicycle paths and sidewalks adjacent to paved roads;
- 2009 (v) roads, byroads, streets, and alleys for public vehicular use, including for access to
2010 a development; and
- 2011 (vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;
- 2012 (d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and
2013 turnpike roads, roads for transportation by traction engines or road locomotives,
2014 roads for logging or lumbering purposes, and railroads and street railways for public
2015 transportation;
- 2016 (e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for
2017 the supplying of persons, mines, mills, smelters or other works for the reduction of
2018 ores, with water for domestic or other uses, or for irrigation purposes, or for the
2019 draining and reclaiming of lands, or for solar evaporation ponds and other facilities
2020 for the recovery of minerals or elements in solution;
- 2021 (f) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places
2022 to access or facilitate the milling, smelting, or other reduction of ores, or the
2023 working of mines, quarries, coal mines, or mineral deposits including oil, gas, and
2024 minerals or elements in solution;
- 2025 (ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water
2026 from mills, smelters or other works for the reduction of ores, or from mines,
2027 quarries, coal mines or mineral deposits including minerals or elements in solution;
- 2028 (iii) mill dams;
- 2029 (iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or
2030 formation in any land for the underground storage of natural gas, and in
2031 connection with that, any other interests in property which may be required to
2032 adequately examine, prepare, maintain, and operate underground natural gas
2033 storage facilities;
- 2034 (v) subject to Subsection (5), solar evaporation ponds and other facilities for the
2035 recovery of minerals in solution; and
- 2036 (vi) any occupancy in common by the owners or possessors of different mines,
2037 quarries, coal mines, mineral deposits, mills, smelters, or other places for the
2038 reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse
2039 matter;

- 2040 (g) byroads leading from a highway to:
2041 (i) a residence; or
2042 (ii) a farm;
- 2043 (h) telecommunications, electric light and electric power lines, sites for electric light and
2044 power plants, or sites for the transmission of broadcast signals from a station licensed
2045 by the Federal Communications Commission in accordance with 47 C.F.R. Part 73
2046 and that provides emergency broadcast services;
- 2047 (i) sewage service for:
2048 (i) a city, a town, or any settlement of not fewer than 10 families;
2049 (ii) a public building belonging to the state; or
2050 (iii) a college or university;
- 2051 (j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and
2052 storing water for the operation of machinery for the purpose of generating and
2053 transmitting electricity for power, light or heat;
- 2054 (k) cemeteries and public parks; and
- 2055 (l) sites for mills, smelters or other works for the reduction of ores and necessary to their
2056 successful operation, including the right to take lands for the discharge and natural
2057 distribution of smoke, fumes, and dust, produced by the operation of works, provided
2058 that the powers granted by this section may not be exercised in any county where the
2059 population exceeds 20,000, or within one mile of the limits of any city or
2060 incorporated town nor unless the proposed condemner has the right to operate by
2061 purchase, option to purchase or easement, at least 75% in value of land acreage
2062 owned by persons or corporations situated within a radius of four miles from the mill,
2063 smelter or other works for the reduction of ores; nor beyond the limits of the
2064 four-mile radius; nor as to lands covered by contracts, easements, or agreements
2065 existing between the condemner and the owner of land within the limit and providing
2066 for the operation of such mill, smelter, or other works for the reduction of ores; nor
2067 until an action shall have been commenced to restrain the operation of such mill,
2068 smelter, or other works for the reduction of ores.
- 2069 (3) The right of eminent domain may not be exercised on behalf of the following uses:
2070 (a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking,
2071 hiking, bicycling, equestrian use, or other recreational uses, or whose primary
2072 purpose is as a foot path, equestrian trail, bicycle path, or walkway;
- 2073 (b) (i) a public park whose primary purpose is:

- 2074 (A) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use;
 2075 or
 2076 (B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or
 2077 equestrian use; or
 2078 (ii) a public park established on real property that is:
 2079 (A) a century farm; and
 2080 (B) located in a county of the first class.
- 2081 (4) (a) The right of eminent domain may not be exercised within a migratory bird
 2082 production area created on or before December 31, 2020, under Title 23A, Chapter
 2083 13, Migratory Bird Production Area, except as follows:
 2084 (i) subject to Subsection (4)(b), an electric utility may condemn land within a
 2085 migratory bird production area located in a county of the first class only for the
 2086 purpose of installing buried power lines;
 2087 (ii) an electric utility may condemn land within a migratory bird production area in a
 2088 county other than a county of the first class to install:
 2089 (A) buried power lines; or
 2090 (B) a new overhead transmission line that is parallel to and abutting an existing
 2091 overhead transmission line or collocated within an existing overhead
 2092 transmission line right of way; or
 2093 (iii) the Department of Transportation may exercise eminent domain for the purpose
 2094 of the construction of the West Davis Highway.
- 2095 (b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the electric
 2096 utility shall demonstrate that:
 2097 (i) the proposed condemnation would not have an unreasonable adverse effect on the
 2098 preservation, use, and enhancement of the migratory bird production area; and
 2099 (ii) there is no reasonable alternative to constructing the power line within the
 2100 boundaries of a migratory bird production area.
- 2101 (5) (a) For the purpose of solar evaporation ponds and other facilities for the recovery of
 2102 minerals in solution on or from the Great Salt Lake, a public use includes removal or
 2103 extinguishment, by a state entity, in whole or in part, on Great Salt Lake sovereign
 2104 lands of:
 2105 (i) a solar evaporation pond;
 2106 (ii) improvements, property, easements, or rights-of-way appurtenant to a solar
 2107 evaporation pond, including a lease hold; or

2108 (iii) other facilities for the recovery of minerals or elements in solution.
 2109 (b) The public use under this Subsection (5) is in the furtherance of the benefits to public
 2110 trust assets attributable to the Great Salt Lake under Section 65A-1-1.

2111 Section 32. Section **78B-6-502** is amended to read:

2112 **78B-6-502 (Effective 05/01/24). Estates and rights that may be taken.**

2113 The following estates and rights in lands are subject to being taken for public use:

- 2114 (1) a fee simple, when taken for:
- 2115 (a) public buildings or grounds;
 - 2116 (b) permanent buildings;
 - 2117 (c) reservoirs and dams, and permanent flooding occasioned by them;
 - 2118 (d) any permanent flood control structure affixed to the land;
 - 2119 (e) an outlet for a flow, a place for the deposit of debris or tailings of a mine, mill,
 - 2120 smelter, or other place for the reduction of ores; and
 - 2121 (f) subject to Subsection 78B-6-501(5), solar evaporation ponds and other facilities for
 2122 the recovery of minerals in solution, except when the surface ground is underlaid
 2123 with minerals, coal, or other deposits sufficiently valuable to justify extraction, only a
 2124 perpetual easement may be taken over the surface ground over the deposits;
- 2125 (2) an easement, when taken for any other use; and
- 2126 (3) the right of entry upon and occupation of lands, with the right to take from those lands
 2127 earth, gravel, stones, trees, and timber as necessary for a public use.

2128 Section 33. **Repealer.**

2129 This bill repeals:

2130 Section **65A-10-201, (Effective 05/01/24)Definitions.**

2131 Section 34. **FY 2025 Appropriation.**

2132 The following sums of money are appropriated for the fiscal year beginning July 1,
 2133 2024, and ending June 30, 2025. These are additions to amounts previously appropriated
 2134 for fiscal year 2025.

2135 Subsection 34(a) **Operating and Capital Budgets**

2136 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
 2137 Legislature appropriates the following sums of money from the funds or accounts
 2138 indicated for the use and support of the government of the state of Utah.

2139 ITEM 1 To Department of Natural Resources - Forestry, Fire, and State Lands

2140 From General Fund Restricted - Sovereign Lands

2141 Management, One-time

\$500,000

2142 Schedule of Programs:

2143 Project Management \$500,000

2144 The Legislature intends that the money appropriated under this item be used to fund the

2145 analysis required by Subsection 65A-17-201(17), renumbered and amended by this bill.

2146 The Legislature intends that the appropriation be nonlapsing.

2147 ITEM 2 To Department of Natural Resources - Water Rights

2148 From General Fund Restricted - Sovereign Lands

2149 Management, One-time \$300,000

2150 Schedule of Programs:

2151 Field Services \$300,000

2152 The Legislature intends that the money appropriated under this item be used to fund

2153 costs associated with developing a distribution management plan. The Legislature

2154 intends that the appropriation be nonlapsing.

2155 Section 35. **Effective date.**

2156 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

2157 (2) The actions affecting the following sections take effect on January 1, 2025:

2158 (a) Section 51-9-306;

2159 (b) Section 51-9-307;

2160 (c) Section 59-1-403;

2161 (d) Section 59-5-202;

2162 (e) Section 59-5-203;

2163 (f) Section 59-5-207; and

2164 (g) Section 59-5-215.