

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

**GREAT SALT LAKE REVISIONS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Casey Snider**

Senate Sponsor: Scott D. Sandall

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**LONG TITLE**

**General Description:**

This bill addresses actions affecting the Great Salt Lake.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions related to severance taxes;
- ▶ exempts challenges to a distribution management plan from the Administrative Procedures Act;
- ▶ addresses mineral lease and royalty agreement provisions, including:
  - providing for the loss of certain rights for failure to use;
  - providing for royalty discounts under certain circumstances; and
  - providing for small projects;
- ▶ enacts the Great Salt Lake Preservation Act, including:
  - defining terms;
  - addressing management responsibilities;
  - requiring certain provisions within royalty agreements;
  - providing for acquisition of property interests or mineral estates, including through eminent domain;
  - requiring payment of royalties;



- 26 • permitting the division to acquire certain interests;
- 27 • addressing the Great Salt Lake as a multiple mineral development area; and
- 28 • addressing concurrent operations on the Great Salt Lake;
- 29 ▶ enacts the Great Salt Lake Distribution Management chapter, including:
- 30 • defining terms;
- 31 • directing the state engineer to develop a Great Salt Lake distribution
- 32 management plan related to water rights;
- 33 • providing for challenges to a distribution management plan;
- 34 • addressing the measurement of the volume and quality of water; and
- 35 • addressing the scope of the chapter;
- 36 ▶ amends provision regarding approval of a water right related application related to
- 37 the extraction of minerals or elements;
- 38 ▶ addresses rulemaking;
- 39 ▶ addresses eminent domain; and
- 40 ▶ makes technical and conforming changes.

41 **Money Appropriated in this Bill:**

42 This bill appropriates in fiscal year 2025:

- 43 ▶ to Department of Natural Resources - Forestry, Fire, and State Lands - Project
- 44 Management as a one-time appropriation:
- 45 • from the General Fund Restricted - Sovereign Lands Management, One-time,
- 46 \$500,000
- 47 ▶ to Department of Natural Resources - DNR Pass Through - DNR Pass Through as a
- 48 one-time appropriation:
- 49 • from the General Fund Restricted - Sovereign Lands Management, One-time,
- 50 \$300,000

51 **Other Special Clauses:**

52 This bill provides a special effective date.

53 **Utah Code Sections Affected:**

54 AMENDS:

- 55 [59-5-202](#), as last amended by Laws of Utah 2023, Chapter 208
- 56 [59-5-203](#), as last amended by Laws of Utah 2019, Chapter 466

- 57 [63G-4-102](#), as last amended by Laws of Utah 2023, Chapter 329
- 58 [65A-5-1](#), as last amended by Laws of Utah 2023, Chapters 205, 208 and 358
- 59 [65A-6-4](#), as last amended by Laws of Utah 2023, Chapter 208
- 60 [73-3-8](#), as last amended by Laws of Utah 2023, Chapter 253
- 61 [73-32-204](#), as enacted by Laws of Utah 2023, Chapter 205
- 62 [73-32-303](#), as last amended by Laws of Utah 2023, Chapter 208 and renumbered and
- 63 amended by Laws of Utah 2023, Chapter 205
- 64 [78B-6-501](#), as last amended by Laws of Utah 2023, Chapter 34
- 65 [78B-6-502](#), as renumbered and amended by Laws of Utah 2008, Chapter 3

66 ENACTS:

- 67 [65A-17-101](#), Utah Code Annotated 1953
- 68 [65A-17-103](#), Utah Code Annotated 1953
- 69 [65A-17-301](#), Utah Code Annotated 1953
- 70 [65A-17-302](#), Utah Code Annotated 1953
- 71 [65A-17-303](#), Utah Code Annotated 1953
- 72 [65A-17-304](#), Utah Code Annotated 1953
- 73 [73-33-101](#), Utah Code Annotated 1953
- 74 [73-33-102](#), Utah Code Annotated 1953
- 75 [73-33-201](#), Utah Code Annotated 1953
- 76 [73-33-202](#), Utah Code Annotated 1953
- 77 [73-33-203](#), Utah Code Annotated 1953

78 RENUMBERS AND AMENDS:

- 79 [65A-17-102](#), (Renumbered from 65A-10-202, as enacted by Laws of Utah 2023,
- 80 Chapter 208)
- 81 [65A-17-201](#), (Renumbered from 65A-10-203, as last amended by Laws of Utah 2023,
- 82 Chapter 205 and renumbered and amended by Laws of Utah 2023, Chapter 208)
- 83 [65A-17-202](#), (Renumbered from 65A-10-204, as enacted by Laws of Utah 2023,
- 84 Chapter 208)
- 85 [65A-17-203](#), (Renumbered from 65A-10-205, as enacted by Laws of Utah 2023,
- 86 Chapter 208)

87 REPEALS:

88 **65A-10-201**, as enacted by Laws of Utah 2023, Chapter 208

89

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

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

92 **59-5-202. Severance tax -- Rate -- Computation -- Annual exemption.**

93 (1) A person engaged in the business of mining or extracting metalliferous minerals in  
94 this state shall pay to the state a severance tax equal to 2.6% of the taxable value of all metals  
95 or metalliferous minerals sold or otherwise disposed of.

96 (2) If the metals or metalliferous minerals are shipped outside the state, this constitutes  
97 a sale, and the finished metals or the recoverable units of finished metals from the metalliferous  
98 minerals shipped are subject to the severance tax. If the metals or metalliferous minerals are  
99 stockpiled, the tax is not applicable until they are sold or shipped out of state. For purposes of  
100 the tax imposed by this chapter, uranium concentrates shall be considered to be finished metals.  
101 The owner of the metals or metalliferous minerals that are stockpiled shall report to the  
102 commission annually, in a form acceptable to the commission, the amount of metalliferous  
103 minerals so stockpiled. Metals or metalliferous minerals that are stockpiled for more than two  
104 years, however, are subject to the severance tax.

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

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

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

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

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

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

118 (ii) "Metalliferous compound" means a metalliferous mineral or a chloride compound

119 or salt containing a metalliferous mineral.

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

124 (c) A Great Salt Lake extraction operator shall pay to the state a severance tax equal to  
125 7.8% of the taxable value of the metalliferous compounds in a calendar year in which the  
126 Division of Forestry, Fire, and State Lands submits to the commission an order under Section  
127 [65A-17-302](#) indicating that the Great Salt Lake extraction operator has failed to pay a royalty  
128 rate in violation of Section [65A-17-302](#).

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

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

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

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

136 Section 2. Section **59-5-203** is amended to read:

137 **59-5-203. Determining taxable value.**

138 (1) Except as provided in Subsection (3), the basis for computing the gross proceeds,  
139 prior to those deductions or adjustments specified in this chapter, in determining the taxable  
140 value of the metals or metalliferous minerals sold or otherwise disposed of, in the order of  
141 priority, is as follows:

142 (a) If the metals or metalliferous mineral products are actually sold, the value of those  
143 metals or metalliferous mineral products shall be the gross amount the producer receives from  
144 that sale, provided that the metals or metalliferous mineral products are sold under a bona fide  
145 contract of sale between unaffiliated parties. In the case of a sale of uranium concentrates,  
146 gross proceeds shall be the gross amount the producer receives from the sale of processed  
147 uranium concentrate or "yellowcake," provided that the uranium concentrate is sold under a  
148 bona fide contract of sale between unaffiliated parties.

149 (b) (i) For purposes of a Great Salt Lake extraction operator, as defined in Section

150 59-5-202, if metals, metalliferous minerals, or metalliferous compounds are not sold, but are  
151 otherwise disposed of, the gross proceeds shall be the multiple of the recoverable units of  
152 finished or unfinished metals, or of the finished or unfinished metals contained in the  
153 metalliferous minerals or metalliferous compounds shipped, and the average daily price per  
154 unit of contained metals as quoted by an established authority for market prices of metals for  
155 the period during which the tax imposed by this chapter is due.

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

159 ~~[(b)]~~ (c) If the metals or metalliferous mineral products are not actually sold but are  
160 shipped, transported, or delivered out of state, the gross proceeds shall be the multiple of the  
161 recoverable units of finished metals, or of the finished metals contained in the metalliferous  
162 minerals shipped, and the average daily price per unit of contained metals as quoted by an  
163 established authority for market prices of metals for the period during which the tax imposed  
164 by this chapter is due. The established authority or authorities shall be designated by the  
165 commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative  
166 Rulemaking Act.

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

173 ~~[(d)]~~ (e) In the event of a sale of metals or metalliferous minerals between affiliated  
174 companies which is not a bona fide sale because the value received is not proportionate to the  
175 fair market value of the metals or metalliferous minerals or in the event that Subsection ~~[(1)(a);~~  
176 ~~(b); or (c)]~~ (1)(a), (b), (c), or (d) are not applicable, the commission shall determine the value of  
177 such metals or metalliferous minerals in an equitable manner by reference to an objective  
178 standard as specified in a rule adopted in accordance with the provisions of Title 63G, Chapter  
179 3, Utah Administrative Rulemaking Act.

180 (2) For all metals except beryllium, the taxable value of the metalliferous mineral sold

181 or otherwise disposed of is 30% of the gross proceeds received for the metals sold or otherwise  
182 disposed of by the producer of the metal.

183 (3) Notwithstanding Subsection (1) or (4), the taxable value of beryllium sold or  
184 otherwise disposed of by the producer of the beryllium is equal to 125% of the direct mining  
185 costs incurred in mining the beryllium.

186 (4) Except as provided in Subsection (3), if the metalliferous mineral sold or otherwise  
187 disposed of is sold or shipped out of state in the form of ore, then the taxable value is 80% of  
188 the gross proceeds.

189 Section 3. Section **63G-4-102** is amended to read:

190 **63G-4-102. Scope and applicability of chapter.**

191 (1) Except as set forth in Subsection (2), and except as otherwise provided by a statute  
192 superseding provisions of this chapter by explicit reference to this chapter, the provisions of  
193 this chapter apply to every agency of the state and govern:

194 (a) state agency action that determines the legal rights, duties, privileges, immunities,  
195 or other legal interests of an identifiable person, including agency action to grant, deny, revoke,  
196 suspend, modify, annul, withdraw, or amend an authority, right, or license; and

197 (b) judicial review of the action.

198 (2) This chapter does not govern:

199 (a) the procedure for making agency rules, or judicial review of the procedure or rules;

200 (b) the issuance of a notice of a deficiency in the payment of a tax, the decision to  
201 waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the  
202 issuance of a tax assessment, except that this chapter governs an agency action commenced by  
203 a taxpayer or by another person authorized by law to contest the validity or correctness of the  
204 action;

205 (c) state agency action relating to extradition, to the granting of a pardon or parole, a  
206 commutation or termination of a sentence, or to the rescission, termination, or revocation of  
207 parole or probation, to the discipline of, resolution of a grievance of, supervision of,  
208 confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah  
209 State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction  
210 of the Office of Substance Use and Mental Health, or a person on probation or parole, or  
211 judicial review of the action;

212 (d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a  
213 student or teacher in a school or educational institution, or judicial review of the action;

214 (e) an application for employment and internal personnel action within an agency  
215 concerning its own employees, or judicial review of the action;

216 (f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah  
217 Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that  
218 this chapter governs an agency action commenced by the employer, licensee, or other person  
219 authorized by law to contest the validity or correctness of the citation or assessment;

220 (g) state agency action relating to management of state funds, the management and  
221 disposal of school and institutional trust land assets, and contracts for the purchase or sale of  
222 products, real property, supplies, goods, or services by or for the state, or by or for an agency of  
223 the state, except as provided in those contracts, or judicial review of the action;

224 (h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of  
225 Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution  
226 by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or  
227 Holding Companies, and Chapter 7, Governmental Immunity Act of Utah, or judicial review of  
228 the action;

229 (i) the initial determination of a person's eligibility for unemployment benefits, the  
230 initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers'  
231 Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial  
232 determination of a person's unemployment tax liability;

233 (j) state agency action relating to the distribution or award of a monetary grant to or  
234 between governmental units, or for research, development, or the arts, or judicial review of the  
235 action;

236 (k) the issuance of a notice of violation or order under Title 26B, Chapter 4, Part 1,  
237 Utah Emergency Medical Services System, Title 19, Chapter 2, Air Conservation Act, Title 19,  
238 Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19,  
239 Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act,  
240 Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used  
241 Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except  
242 that this chapter governs an agency action commenced by a person authorized by law to contest



243 the validity or correctness of the notice or order;

244 (l) state agency action, to the extent required by federal statute or regulation, to be  
245 conducted according to federal procedures;

246 (m) the initial determination of a person's eligibility for government or public  
247 assistance benefits;

248 (n) state agency action relating to wildlife licenses, permits, tags, and certificates of  
249 registration;

250 (o) a license for use of state recreational facilities;

251 (p) state agency action under Chapter 2, Government Records Access and Management  
252 Act, except as provided in Section 63G-2-603;

253 (q) state agency action relating to the collection of water commissioner fees and  
254 delinquency penalties, or judicial review of the action;

255 (r) state agency action relating to the installation, maintenance, and repair of headgates,  
256 caps, valves, or other water controlling works and weirs, flumes, meters, or other water  
257 measuring devices, or judicial review of the action;

258 (s) the issuance and enforcement of an initial order under Section 73-2-25;

259 (t) (i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and  
260 (ii) an action taken by the Division of Securities under a hearing conducted under  
261 Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange  
262 of securities described in Subsection 61-1-11.1(1);

263 (u) state agency action relating to water well driller licenses, water well drilling  
264 permits, water well driller registration, or water well drilling construction standards, or judicial  
265 review of the action;

266 (v) the issuance of a determination and order under Title 34A, Chapter 5, Utah  
267 Antidiscrimination Act;

268 (w) state environmental studies and related decisions by the Department of  
269 Transportation approving state or locally funded projects, or judicial review of the action;

270 (x) the suspension of operations under Subsection 32B-1-304(3); [or]

271 (y) the issuance of a determination of violation by the Governor's Office of Economic  
272 Opportunity under Section 11-41-104[.]; or

273 (z) a challenge to an aspect of a distribution management plan under Section

274 [73-33-202.](#)

275 (3) This chapter does not affect a legal remedy otherwise available to:

276 (a) compel an agency to take action; or

277 (b) challenge an agency's rule.

278 (4) This chapter does not preclude an agency, prior to the beginning of an adjudicative  
279 proceeding, or the presiding officer during an adjudicative proceeding from:

280 (a) requesting or ordering a conference with parties and interested persons to:

281 (i) encourage settlement;

282 (ii) clarify the issues;

283 (iii) simplify the evidence;

284 (iv) facilitate discovery; or

285 (v) expedite the proceeding; or

286 (b) granting a timely motion to dismiss or for summary judgment if the requirements of  
287 Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party,  
288 except to the extent that the requirements of those rules are modified by this chapter.

289 (5) (a) A declaratory proceeding authorized by Section [63G-4-503](#) is not governed by  
290 this chapter, except as explicitly provided in that section.

291 (b) Judicial review of a declaratory proceeding authorized by Section [63G-4-503](#) is  
292 governed by this chapter.

293 (6) This chapter does not preclude an agency from enacting a rule affecting or  
294 governing an adjudicative proceeding or from following the rule, if the rule is enacted  
295 according to the procedures outlined in Chapter 3, Utah Administrative Rulemaking Act, and if  
296 the rule conforms to the requirements of this chapter.

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

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

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

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

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

311 (11) Subsection (2)(w), regarding action taken based on state environmental studies  
312 and policies of the Department of Transportation, applies to any claim for which a court of  
313 competent jurisdiction has not issued a final unappealable judgment or order before May 14,  
314 2019.

315 Section 4. Section 65A-5-1 is amended to read:

316 **65A-5-1. Sovereign Lands Management Account.**

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

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

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

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

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

326 (d) fees deposited by the division; and

327 (e) amounts deposited into the account in accordance with Section 59-23-4.

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

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

333 (c) In appropriating money from the Sovereign Lands Management Account, the  
334 Legislature shall prefer appropriations that benefit the sovereign land from which the money is  
335 derived unless compelling circumstances require that money be appropriated for sovereign land

336 other than the sovereign land from which the money is derived.

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

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

341 **65A-6-4. Mineral leases -- Multiple leases on same land -- Rentals and royalties --**  
342 **Lease terms -- Great Salt Lake.**

343 (1) As used in this section:

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

345 (i) a rare earth element;

346 (ii) a trace element or mineral; or

347 (iii) a chemical compound that includes a rare earth element or trace element or  
348 mineral.

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

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

354 (i) lanthanum;

355 (ii) cerium;

356 (iii) praseodymium;

357 (iv) neodymium;

358 (v) samarium;

359 (vi) europium;

360 (vii) gadolinium;

361 (viii) terbium;

362 (ix) dysprosium;

363 (x) holmium;

364 (xi) erbium;

365 (xii) thulium;

366 (xiii) ytterbium;

367 (xiv) lutetium; and

368 (xv) yttrium.

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

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

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

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

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

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

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

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

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

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

396 (4) The primary term of a mineral lease may not exceed:

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

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

399 (5) (a) ~~[Subject]~~ In addition to the requirements of Chapter 17, Part 3, Mineral or  
400 Element Extraction, and subject to the other provisions of this Subsection (5), for a mineral  
401 lease or royalty agreement involving the extraction of ~~[minerals]~~ Great Salt Lake elements and  
402 minerals from brines in the Great Salt Lake, the division shall ensure that the following terms,  
403 as applicable, are included:

404 (i) an extraction operation or extraction method shall adhere to commercially viable  
405 technologies that minimize water depletion;

406 ~~[(ii) an extraction operation or extraction method shall mitigate for the total amount of~~  
407 ~~water depleted by providing water back into the Great Salt Lake that approximates the total~~  
408 ~~volume of water depleted;]~~

409 ~~[(iii)]~~ (ii) a provision authorizing the division to curtail or limit Great Salt Lake  
410 element or mineral production at any time the condition of the Great Salt Lake reaches the  
411 emergency trigger, as defined in Section ~~[65A-10-201]~~ 65A-17-101;

412 ~~[(iv)]~~ (iii) a provision authorizing the division to withdraw lands, operations, extraction  
413 methods, or technologies from Great Salt Lake element or mineral production or Great Salt  
414 Lake element or mineral operations; ~~[and]~~

415 ~~[(v)]~~ (iv) a provision allowing the division to require an existing operator to use  
416 commercially viable, innovative technologies to minimize water depletions caused by the  
417 planned mineral extraction as a condition of continued operations~~[-];~~ and

418 (v) a provision that provides for the reductions of the following after the primary term  
419 of a mineral lease or royalty agreement:

420 (A) the acreage subject to the mineral lease by the acreage the operator does not use to  
421 extract a Great Salt Lake element or mineral during the primary term of the mineral lease under  
422 conditions that do not constitute waste; and

423 (B) the volume of water that the operator may divert from the Great Salt Lake, by the  
424 volume of water that the operator does not use during the longer of the primary term of the  
425 mineral lease or seven years if the operator fails to use the volume of water for a beneficial use,  
426 except if the failure to use the volume of water is as a result of a reduction of water usage under  
427 Section 73-33-201.

428 ~~[(b) If as of May 3, 2023, an operator has a mineral lease but not a royalty agreement~~

429 involving the extraction of minerals from brines in the Great Salt Lake, the extraction operation  
430 or extraction method shall mitigate the total water depleted as provided in Subsection (5)(a)(ii)  
431 only to the extent that the extraction operation or extraction method increases total depletions  
432 as compared to an estimated 10-year average of depletions as estimated by the Division of  
433 Water Resources' water budget model beginning on January 1, 2013, and ending on December  
434 31, 2022.]

435 ~~[(e)]~~ (b) If under Subsection ~~[(5)(a)(v)]~~ (5)(a)(iv) the division requires an existing  
436 operator to use a commercially viable, innovative technology, the division may not require use  
437 of a technology not yet proven to be commercially viable on the Great Salt Lake and may not  
438 require implementation of the technology to begin until after a reasonable period determined by  
439 the division not to exceed ~~[five]~~ seven years.

440 (c) (i) If the volume of water that the operator may divert from the Great Salt Lake is  
441 reduced under Subsection (5)(a)(v), the division shall pursue a judicial action to declare all or a  
442 portion of the water right forfeited under Subsection 73-1-4(2).

443 (ii) If the division secures the reduction under this Subsection (5)(c), the division shall  
444 petition the state engineer to order a reversal of the application approval in accordance with the  
445 terms of the reduction or forfeiture of the water right.

446 (d) The division may issue a royalty agreement for scientific, demonstration, or a  
447 small-scale pilot production facility using technology determined by the division to be  
448 commercially viable without compliance of Subsection (5)(a) if the agreement:

449 (i) has a term of nine months or less; and

450 (ii) limits use of brines from the Great Salt Lake to a maximum of five acre-feet during  
451 the term of the agreement.

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

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

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

459 (iii) provides a base royalty rate;

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

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

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

466 (v) provides a reduced royalty rate from the royalty rate under Subsection (6)(a)(iii) if  
467 the prospective operator for the extraction of lithium demonstrates to the satisfaction of the  
468 division that the prospective operator has an agreement with a person who will process or  
469 manufacture an end product in this state using the lithium extracted by the prospective  
470 operator; and

471 [~~(v)~~] (vi) subject to Subsection (6)(e), provides for a royalty rate that is based on the  
472 highest market value prevailing at the time of the sale or disposal of the following:

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

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

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

477 (i) demonstrate commercial viability;

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

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

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

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

489 (e) The royalty rate described in Subsection (6)(a)(vi) may not be reassessed during the  
490 primary term of an initial royalty agreement issued under this section, but may be reassessed



491 upon the conclusion of the primary term.

492 (7) (a) ~~[An]~~ Except as provided in Subsection (7)(b), an operator who extracts a Great  
493 Salt Lake element or mineral from tailings from the production of Great Salt Lake elements or  
494 minerals from brines in the Great Salt Lake is subject to this section to the same extent as an  
495 operator producing a Great Salt Lake element or mineral from brines in the Great Salt Lake.

496 (b) An operator that, as of May 3, 2023, has an agreement to recover a Great Salt Lake  
497 element or mineral from existing tailings, discarded material, end-use products, or waste  
498 products produced from the evaporation and processing of Great Salt Lake brines is not subject  
499 to this section, except as to the payment of royalties set by the division under Subsection (6)(a).  
500 The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
501 Rulemaking Act, regarding the issuance and termination of a royalty agreement for mineral  
502 extraction from tailings, discarded material, end-use products, or waste products produced from  
503 the evaporation and processing of Great Salt Lake brines.

504 (c) An operator that, as of May 3, 2023, has an underlying agreement to recover a Great  
505 Salt Lake element or mineral shall obtain an additional agreement for any additional Great Salt  
506 Lake element or mineral produced from the tailings, discarded material, end-use products, or  
507 waste products newly produced under the underlying agreement. The additional agreement is  
508 subject to this section.

509 (8) The division shall annually report to the Natural Resources, Agriculture, and  
510 Environmental Quality Appropriations Subcommittee regarding the amount of money collected  
511 under this section from royalties provided for in Subsection (6).

512 (9) (a) In the issuance of royalty agreements for the extraction of lithium from the  
513 Great Salt Lake, the division shall prioritize applicants that:

514 ~~[(a)]~~ (i) do not use evaporative concentration of Great Salt Lake brines in any stage of  
515 the extractive process; and

516 ~~[(b)]~~ (ii) use commercially viable extractive processes.

517 (b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah  
518 Administrative Rulemaking Act, creating a process for implementing this Subsection (9).

519 (10) Except in relationship to mineral leases related to the Great Salt Lake, the division  
520 shall make rules regarding the continuation of a mineral lease after the primary term has  
521 expired, which shall provide that a mineral lease shall continue so long as:

522 (a) the mineral covered by the lease is being produced in paying quantities, as defined  
523 in Section 65A-17-101, from:

524 (i) the leased premises;

525 (ii) lands pooled, communitized, or unitized with the leased premises; or

526 (iii) lands constituting an approved mining or drilling unit with respect to the leased  
527 premises; or

528 (b) (i) the lessee is engaged in diligent operations, exploration, research, or  
529 development which is reasonably calculated to advance development or production of the  
530 mineral covered by the lease from:

531 (A) the leased premises;

532 (B) lands pooled, communitized, or unitized with the leased premises; or

533 (C) lands constituting an approved mining or drilling unit with respect to the leased  
534 premises; and

535 (ii) the lessee pays a minimum royalty.

536 (11) For the purposes of Subsection (10), diligent operations with respect to oil, gas,  
537 and other hydrocarbon leases may include cessation of operations not in excess of 90 days in  
538 duration.

539 (12) (a) The division shall study and analyze each mineral lease and mineral royalty  
540 agreement issued on the Great Salt Lake and compare and evaluate whether the mineral leases  
541 and royalty agreements are representative of current market conditions. As part of this study,  
542 the division shall:

543 (i) make the following determinations for mineral leases:

544 (A) whether the entire surface area described within the mineral lease is being used;

545 and

546 (B) whether the annual lease payments are representative of current market conditions;

547 and

548 (ii) for royalty agreements, perform studies and comparative analyses to determine  
549 whether the state is receiving royalty rates consistent with current market conditions.

550 (b) By no later than the 2023 November interim meeting, the division shall report the  
551 division's findings of the study required by this Subsection (12) to the Natural Resources,  
552 Agriculture, and Environment Interim Committee.

553           (13) The provisions in this section related to extraction of a Great Salt Lake element or  
554 mineral under a mineral lease or royalty agreement apply to a mineral lease or royalty  
555 agreement in effect on May 1, 2024, and any mineral lease or royalty agreement entered into  
556 after May 1, 2024.

557           Section 6. Section **65A-17-101** is enacted to read:

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

559   **Part 1. General Provisions**

560                   **65A-17-101. Definitions.**

561                   As used in this chapter:

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

564                   (2) "Common source of supply" means the mineral or element estate contained within  
565 the Great Salt Lake meander line.

566                   (3) "Correlative right" means the opportunity of each commercially viable owner to  
567 extract a portion of a common source of supply, subject to the state's sovereign lands  
568 management responsibilities, without the occurrence of waste.

569                   (4) "Emergency trigger" means the salinity levels of the Gilbert Bay of the Great Salt  
570 Lake do not satisfy the ecological conditions required for healthy brine shrimp and brine fly  
571 reproduction.

572                   (5) "Great Salt Lake elevation" means the elevation of the Great Salt Lake as measured  
573 by the United States Geological Survey gauging station 10010000 located at Saltair Boat  
574 Harbor, Utah.

575                   (6) "Great Salt Lake meander line" means the official meander line, completed in 1966,  
576 of the Great Salt Lake unless otherwise established by court order or negotiated boundary  
577 settlement.

578                   (7) "Great Salt Lake salinity" means the salinity of the Great Salt Lake as measured by  
579 the United States Geological Survey in Gilbert Bay.

580                   (8) "Healthy physical and ecological condition" means that Gilbert Bay of the Great  
581 Salt Lake has sustained salinity levels that satisfy the ecological conditions required for healthy  
582 brine shrimp and brine fly reproduction.

583                   (9) "Mineral or element" means:

- 584 (a) a rare earth element;
- 585 (b) a trace element or mineral;
- 586 (c) a chemical compound that includes a rare earth element or trace element or mineral;

587 or

- 588 (d) a mineral or element that is attached, embedded to, or is a by-product of another
- 589 mineral or element.

590 (10) "Mitigation plan" means an agreement entered into on or after May 1, 2024,

591 among the operators and the division for resolving issues arising from concurrent operations.

592 (11) "Multiple mineral development area" means an area involving the management of

593 various surface and sub-surface resources so that they are used in the combination that will best

594 meet present and future needs.

595 (12) "Natural resources of the Great Salt Lake" means the biota, water resources, water

596 quality, the fishery and recreational resources, the wetlands and wildlife resources, and any

597 other naturally occurring resource on the Great Salt Lake.

598 (13) "Operator" means a person qualified to do business in the state pursuing the

599 extraction of minerals or elements from the Great Salt Lake.

600 (14) "Paying quantities" means the revenue generated from the sale of the mineral or

601 element being produced exceeds the costs associated with obtaining the mineral or element,

602 including any royalty obligation.

603 (15) "Public trust assets" means the same as that term is defined in Section [65A-1-1](#).

604 (16) "UP causeway breach" means a breach in the 21-mile Union Pacific Railroad

605 causeway across the Great Salt Lake that separates the Great Salt Lake into Gunnison Bay and

606 Gilbert Bay.

607 (17) (a) Except as provided in Subsection (17)(b), "waste" means:

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

- 610 (ii) an unnecessary depletion, diminishment, or reduction of the quantity or quality of a
- 611 mineral or element; or

- 612 (iii) imprudent and uneconomical operations.

- 613 (b) "Waste" does not include a mineral or element that cannot be extracted in paying
- 614 quantities through commercially viable technology available at the time of extraction and:

615 (i) that has not been nominated under Subsection 65A-6-4(6)(a); or  
616 (ii) for which the division has not established a royalty rate in rule.

617 Section 7. Section **65A-17-102**, which is renumbered from Section 65A-10-202 is  
618 renumbered and amended to read:

619 ~~[65A-10-202]~~. **65A-17-102. Legislative findings.**

620 The Legislature finds that:

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

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

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

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

631 Section 8. Section **65A-17-103** is enacted to read:

632 **65A-17-103. Application of chapter.**

633 This chapter applies to a mineral lease or royalty agreement in effect on May 1, 2024, or  
634 the mineral or element extraction process engaged in on May 1, 2024, and any mineral lease or  
635 royalty agreement entered into after May 1, 2024, or mineral or element extraction process  
636 engaged in after May 1, 2024.

637 Section 9. Section **65A-17-201**, which is renumbered from Section 65A-10-203 is  
638 renumbered and amended to read:

639 **Part 2. Management**

640 ~~[65A-10-203]~~. **65A-17-201. Great Salt Lake -- Management responsibilities**  
641 **of the division.**

642 The division has the following powers and duties:

643 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
644 Administrative Rulemaking Act, for the management of the Great Salt Lake that recognize the  
645 division's duty to manage public trust assets and balance the following ~~[public trust values and]~~

646 public interest benefits and policies:

647 (a) strategies to effectively and efficiently manage the Great Salt Lake based on the  
648 Great Salt Lake's fluctuating lake levels;

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

651 (i) migratory and shorebirds habitats;

652 (ii) wetlands;

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

654 (iv) brine shrimp;

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

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

657 (vii) search and rescue efforts;

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

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

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

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

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

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

666 (i) maintain and protect state, federal, and private marshlands, rookeries, and wildlife  
667 refuges.

668 (2) (a) The division shall prepare and maintain a comprehensive management plan for  
669 the Great Salt Lake that is consistent with:

670 (i) the ~~[public trust values]~~ management duty and public interest benefits described in  
671 Subsection (1) ~~[and]~~;

672 (ii) policies established by rule made under Subsection (1) ~~[;]~~; and

673 (iii) the Great Salt Lake strategic plan adopted under Section [73-32-204](#).

674 (b) The comprehensive management plan described in this section shall integrate the  
675 land within the Great Salt Lake meander line regardless of whether the land has been excluded  
676 from water within the Great Salt Lake because of a berm or other infrastructure on sovereign

677 land associated with the Great Salt Lake.

678 (c) The division shall prepare the comprehensive management plan in consultation  
679 with the Great Salt Lake commissioner.

680 (3) The division may employ personnel and purchase equipment and supplies that the  
681 Legislature authorizes through appropriations for the purposes of this chapter and Chapter 10,  
682 Management of Sovereign Lands.

683 (4) The division may initiate studies of the Great Salt Lake and the Great Salt Lake's  
684 related resources.

685 (5) The division may publish scientific and technical information concerning the Great  
686 Salt Lake.

687 (6) The division shall define the Great Salt Lake's flood plain.

688 (7) The division may qualify for, accept, and administer grants, gifts, or other funds  
689 from the federal government and other sources, for carrying out any functions under this  
690 chapter and Chapter 10, Management of Sovereign Lands.

691 (8) The division shall determine the need for public works and utilities for the lake  
692 area.

693 (9) The division may implement the comprehensive plan described in Subsection (2)  
694 through state and local entities or agencies.

695 (10) The division shall coordinate the activities of the various divisions within the  
696 Department of Natural Resources with respect to the Great Salt Lake.

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

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

701 (13) The division shall administer Section [~~65A-10-204~~] 65A-17-202 when the Great  
702 Salt Lake emergency trigger is reached.

703 (14) (a) The division shall manage the adaptive management berm in the UP causeway  
704 breach to ~~[manage salinity to protect the ecosystem of Gilbert Bay. Unless salinity conditions~~  
705 ~~in Gilbert Bay warrant raising the adaptive management berm, the policy of the state is to keep~~  
706 ~~the UP causeway breach open so as to allow the exchange of water between Gilbert and~~  
707 ~~Gunnison Bays.]~~ keep salinity of Gilbert Bay within target ranges, raising and lowering the

708 adaptive management berm as needed to achieve that goal.

709 (b) In pursuing the goal described in Subsection (14)(a), the division shall:

710 (i) consider and weigh the other management objectives enumerated in this section,  
711 including the preservation of Gunnison Bay;

712 (ii) raise the adaptive management berm if the Great Salt Lake elevation is 4,190 feet  
713 or lower; and

714 (iii) comply with a plan and schedule required by Subsection (14)(c).

715 (c) Before raising the adaptive management berm, the division shall have a plan and  
716 schedule to lower the adaptive management berm by no later than nine months after raising the  
717 adaptive management berm, with an objective of equalizing the elevations of Gilbert Bay and  
718 Gunnison Bay to be within six feet of each other.

719 (d) The division will consult with the Great Salt Lake commissioner:

720 (i) before modifying the adaptive management berm; and

721 (ii) concerning the adoption of the plan and schedule described in Subsection (14)(c).

722 (15) Notwithstanding a statute to the contrary and except for activities that interfere  
723 with the authority granted the state engineer under Title 73, Water and Irrigation, the division  
724 may construct, operate, modify, or maintain infrastructure related to protecting the Great Salt  
725 Lake and may engage in planning and provide staff to manage the infrastructure.

726 ~~[(15)]~~ (16) The division may perform acts other than those described in Subsections (1)  
727 through ~~[(14)]~~ (15) that are reasonably necessary to carry out this chapter and Chapter 10,  
728 Management of Sovereign Lands.

729 (17) The division shall complete an analysis to determine the infrastructure and  
730 engineering needs related to salinity management and the improvement of hydrology within  
731 the Great Salt Lake meander line.

732 (18) The division shall consult with the Division of Wildlife Resources to identify  
733 projects on sovereign lands that benefit wildlife habitat through the improved flow of water and  
734 management of both native and invasive plant species.

735 ~~[(16)]~~ (19) This ~~[part]~~ chapter may not be interpreted to override, supersede, or modify  
736 any water right within the state, or the role and authority of the state engineer.

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



739 ~~[65A-10-204]~~. 65A-17-202. **Emergency management responsibilities of the**  
740 **division.**

- 741 (1) When the Great Salt Lake reaches the emergency trigger, the division:
- 742 (a) may construct, operate, modify, and maintain the adaptive management berm;
- 743 (b) may construct, operate, modify, and maintain one or more additional berms, dikes,  
744 structures, or management systems consistent with the authority granted in this title;
- 745 (c) may enter into agreements as necessary to provide for all or a portion of a berm,  
746 dike, system, or structure;
- 747 (d) is exempt from Title 63G, Chapter 6a, Utah Procurement Code, when acting to  
748 manage the Great Salt Lake under this section;
- 749 (e) is not liable for a third-party claim resulting from the division's actions to manage  
750 the Great Salt Lake under this section;
- 751 (f) may decline to issue a new permit, authorization, or agreement and may curtail  
752 mineral or element production for leases that contain provisions contemplating curtailment or  
753 similar contractual remedies;
- 754 (g) may implement mineral lease withdrawal over one or more of the following:
- 755 (i) portions of the Great Salt Lake;
- 756 (ii) specific methods of extraction; or
- 757 (iii) specific Great Salt Lake elements or minerals as defined in Section 65A-6-4; and
- 758 (h) may require the implementation of one or more of the following:
- 759 (i) extraction methods that are non-depletive in nature;
- 760 (ii) mitigation to offset depletion; or
- 761 (iii) innovative extraction technologies.
- 762 (2) The division shall make rules in accordance with Title 63G, Chapter 3, Utah  
763 Administrative Rulemaking Act, providing for the procedures the division shall follow in  
764 taking an action described in Subsection (1).

765 Section 11. Section **65A-17-203**, which is renumbered from Section 65A-10-205 is  
766 renumbered and amended to read:

767 ~~[65A-10-205]~~. 65A-17-203. **Force majeure.**

- 768 (1) For purposes of managing the Great Salt Lake, the division may treat the fact that  
769 the Great Salt Lake has reached the emergency trigger as a triggering event for the purposes of

770 invoking a force majeure provision in a contract, mineral lease, or royalty agreement.

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

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

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

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

788 Section 12. Section **65A-17-301** is enacted to read:

789 **Part 3. Mineral or Element Extraction**

790 **65A-17-301. General royalty agreement provisions -- State action regarding**  
791 **evaporation ponds and leaseholds.**

792 (1) In addition to the requirements of Section [65A-6-4](#), the division shall ensure that a  
793 royalty agreement:

794 (a) obligates the lessee to prevent waste to the common source of supply;

795 (b) obligates the lessee to extract minerals or elements in a manner that avoids waste to  
796 any natural resources of the Great Salt Lake;

797 (c) contains terms and conditions wherein the lessee agrees to preserve and conserve  
798 ecological integrity and healthy salinity levels; and

799 (d) contains terms and conditions wherein the lessee represents and warrants full  
800 compliance, at the lessee's sole expense, with the management decisions and instructions of the

801 division and director for preservation of minerals or elements and natural resources of the  
802 Great Salt Lake.

803 (2) The division may acquire the property interest in land or a mineral estate for a solar  
804 evaporation pond on sovereign lands and an improvement, property, easement, or right-of-way  
805 appurtenant to the solar evaporation pond by any lawful means, including eminent domain, as  
806 described in Sections [78B-6-501](#) and [78B-6-502](#).

807 Section 13. Section **65A-17-302** is enacted to read:

808 **65A-17-302. Minerals or elements extracted from the Great Salt Lake subject to**  
809 **royalty rate.**

810 (1) An operator who removes or extracts a mineral or element from the Great Salt Lake  
811 and does not return the mineral or element to the Great Salt Lake shall compensate the division  
812 for the value of the mineral or element at the royalty rate established by the division by rule  
813 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if a  
814 royalty rate has been established, except that this Subsection (1) only applies to the extent that  
815 the mineral or element:

816 (a) has been nominated under Subsection [65A-6-4\(6\)\(a\)](#) or for which the division has  
817 established a royalty rate in rule; and

818 (b) can be extracted in paying quantities through a commercially viable technology  
819 available at the time of extraction.

820 (2) (a) The division shall require an operator that removes or extracts a mineral or  
821 element from the Great Salt Lake to annually certify to the division by no later than May 1  
822 whether the operator is in compliance with Subsection (1). The certification by the operator  
823 shall:

824 (i) state the operator's name and taxpayer identification number;

825 (ii) list the amount of each mineral or element that the operator has removed or  
826 extracted from the Great Salt Lake in the previous calendar year; and

827 (iii) include other information as determined by the division by rule made in  
828 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

829 (b) The operator shall submit the certificate on a form provided by the division and  
830 approved by the State Tax Commission.

831 (3) (a) If the division finds that an operator has violated Subsection (1), the division

832 shall issue the operator an order that:

833 (i) finds that the operator is in violation of Subsection (1);

834 (ii) states the mineral or element for which the operator has failed to pay the royalty  
835 rate;

836 (iii) states the amount of the mineral or element that was removed or extracted but for  
837 which the operator failed to pay the royalty rate;

838 (iv) orders the payment of the applicable royalty; and

839 (v) provides the taxable value of the mineral or element, as described in Subsection  
840 59-5-203(1)(b).

841 (b) The operator may appeal an order issued under this Subsection (3) in accordance  
842 with Title 63G, Chapter 4, Administrative Procedures Act.

843 (4) By no later than August 1 the division shall submit a copy of an order issued under  
844 Subsection (3) to the State Tax Commission, which applies to the calendar year in which the  
845 order is issued.

846 (5) The division may take an enforcement action against an operator in violation of this  
847 section.

848 Section 14. Section **65A-17-303** is enacted to read:

849 **65A-17-303. Multiple mineral development area -- Cooperative agreements --**

850 **Correlative right protection -- Withdrawn from or incapable of mineral development.**

851 (1) (a) The division shall manage the Great Salt Lake below the Great Salt Lake  
852 meander line as a multiple mineral development area to:

853 (i) prevent waste;

854 (ii) ensure the greatest ultimate recovery of minerals or elements;

855 (iii) protect correlative rights of owners having rights to a common source of supply  
856 and the division's duty to manage public trust assets; and

857 (iv) encourage new and emergent technologies to protect the Great Salt Lake's overall  
858 ecological integrity while ensuring the greatest possible recovery for operators and the state.

859 (b) An operator shall conduct operations to comply with rules made in accordance with  
860 Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

861 (i) governing individual operations; and

862 (ii) made for the multiple mineral development area.

863 (2) (a) As a condition of the division issuing a lease or royalty agreement and of  
864 continued operations, the division shall require an operator to enter into and maintain a  
865 cooperative agreement with the persons with correlative rights in a common source of supply  
866 for a mineral or element in the Great Salt Lake.

867 (b) After submitting an application with the division to obtain a lease or royalty  
868 agreement, a person shall:

869 (i) obtain a list from the division of all operators existing at the time of application; and

870 (ii) notify each operator on the list of the person's intention to enter into a cooperative  
871 agreement.

872 (c) A cooperative agreement shall meet the requirements of Subsection [65A-17-304\(1\)](#),  
873 shall provide that the rights and obligations contained in the cooperative agreement are subject  
874 to the division's duty to manage public trust assets, and shall address:

875 (i) how the operators can conduct concurrent or simultaneous operations without  
876 unreasonably interfering with existing and separate operations while also preventing undue  
877 waste;

878 (ii) recognition of other operator's vested mineral or element interests so that  
879 operations may be conducted in a manner that will result in the maximum recovery of minerals  
880 or elements with the minimum adverse effect on the ultimate maximum recovery of other  
881 minerals or elements;

882 (iii) terms and conditions for establishing a mitigation plan for when one operator,  
883 either intentionally or unintentionally, interferes with or damages the mineral or element rights  
884 or mineral or element interests of another operator;

885 (iv) terms and conditions for establishing a mitigation plan with the division that would  
886 limit unreasonable mineral estate interference, waste, or negative impacts to natural resources  
887 of the Great Salt Lake;

888 (v) the protection of natural resources of the Great Salt Lake without unnecessary cost  
889 to the operations of another operator, unless there is compensation for increased operational  
890 costs;

891 (vi) the extent and limits of liability when one operator interferes with or damages the  
892 mineral or element rights or mineral or element interests of another operator;

893 (vii) the coordination and locations of access to operations;

894 (viii) any assessment of costs resulting from concurrent operations within the Great  
895 Salt Lake;

896 (ix) the mitigation of surface impacts, including:

897 (A) the location of a mineral or element extraction intake or discharge facility;

898 (B) phased or coordinated surface occupancy to each operator to access and develop  
899 the operator's respective mineral or element estate or mineral or element interest with the least  
900 disruption of operations and damage to minerals or elements or natural resources directly,  
901 indirectly, or through waste; and

902 (C) limitations of mineral or element operations in areas where impacts to correlative  
903 rights or to natural resources of the Great Salt Lake are significant or most acute, as determined  
904 by the operators or the division;

905 (x) the mitigation of impacts to a subsurface or hydrologically connected aquifer  
906 including, use of any underground well or aquifer in any portion of extraction or processing;

907 (xi) the scope and extent of how geological, engineering, product, and water use data is  
908 disclosed or exchanged;

909 (xii) how any joint reclamation obligation or plan is to be achieved or coordinated;

910 (xiii) how bonding will be obtained and coordinated on any lands impacted, disturbed,  
911 or developed in relation to mineral or element extraction and processing activities;

912 (xiv) terms and conditions indemnifying the state, the division, and any of the state's or  
913 division's directors, officers, agents, or employees from any and all damage or liability of any  
914 kind resulting from any stage or mineral or element extraction operations or any stage of  
915 mineral or element processing;

916 (xv) terms and conditions for the full compliance with a royalty rate reduction to which  
917 an operator is entitled;

918 (xvi) a schedule of how the operators plan to collectively curtail production if the  
919 emergency trigger is reached and a curtailment of production is required; and

920 (xvii) any other term or condition outlining cooperative efforts consistent with the  
921 multiple mineral development area and plans or rules of the division, made in accordance with  
922 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

923 (d) The parties to a cooperative agreement described in Subsection (2)(a) shall present  
924 the cooperative agreement to the division and the director may approve the agreement if the

925 cooperative agreement:

926 (i) is in the public interest;

927 (ii) increases ultimate recovery of minerals or elements and prevention of waste of  
928 minerals or elements;

929 (iii) protects the correlative rights of each owner; and

930 (iv) meets the requirements of Subsection 65A-17-304(1).

931 (e) On the director's approval of the cooperative agreement, the division becomes a  
932 signator to the cooperative agreement.

933 (f) A cooperative agreement described in this Subsection (2) may not be held or  
934 construed to violate a statute relating to trusts, monopolies, or contracts and combinations in  
935 restraint of trade, if the agreement is approved by the director.

936 (g) The failure to submit an agreement to the division for approval may not for that  
937 reason imply or constitute evidence that the agreement or operations conducted pursuant to the  
938 agreement are in violation of laws relating to trusts, monopolies, or restraint of trade.

939 (h) An operator may not obstruct the ability of another operator to enter into a  
940 cooperative agreement.

941 (i) A mitigation plan with the division shall be implemented in conjunction with the  
942 Division of Water Rights.

943 (3) The division may at any time determine that certain areas within the multiple  
944 mineral development area are withdrawn from mineral development or incapable of mineral  
945 development.

946 Section 15. Section **65A-17-304** is enacted to read:

947 **65A-17-304. Concurrent operations -- Breach, disagreement, or conflict --**

948 **Disputes.**

949 (1) Two or more operators may conduct concurrent operations on the Great Salt Lake  
950 under a cooperative agreement upon stipulation and agreement that the operations can be:

951 (a) conducted simultaneously without unreasonably interfering with the value of the  
952 resources being produced;

953 (b) conducted simultaneously without unreasonably interfering with natural resources  
954 of the Great Salt Lake; and

955 (c) conducted without unreasonably interfering with, or unnecessarily raising the cost

956 of operations of another operator, unless the other affected operator is compensated for  
957 increased costs or diminished returns.

958 (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
959 Administrative Rulemaking Act, providing for the procedures the division and operators shall  
960 follow to:

961 (a) assist in the resolution of disputes that may arise during the formation of a  
962 cooperative agreement;

963 (b) cure a breach of a mitigation plan; or

964 (c) resolve a continued disagreement or conflict regarding continued negative impacts  
965 to biota or chemistry due to continuing concurrent operations.

966 Section 16. Section 73-3-8 is amended to read:

967 **73-3-8. Approval or rejection of application -- Requirements for approval --**  
968 **Application for specified period of time -- Filing of royalty contract for removal of salt or**  
969 **minerals -- Request for agency action.**

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

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

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

976 (iii) the proposed plan:

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

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

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

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

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

985 (b) If the state engineer, because of information in the state engineer's possession  
986 obtained either by the state engineer's own investigation or otherwise, has reason to believe that



987 an application will interfere with the water's more beneficial use for irrigation, municipal and  
988 industrial, domestic or culinary, stock watering, power or mining development, or  
989 manufacturing, or will unreasonably affect public recreation or the natural stream environment,  
990 or will prove detrimental to the public welfare, the state engineer shall withhold approval or  
991 rejection of the application until the state engineer has investigated the matter.

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

993 (2) (a) An application to appropriate water for industrial, power, mining development,  
994 manufacturing purposes, agriculture, or municipal purposes may be approved for a specific and  
995 certain period from the time the water is placed to beneficial use under the application, but in  
996 no event may an application be granted for a period of time less than that ordinarily needed to  
997 satisfy the essential and primary purpose of the application or until the water is no longer  
998 available as determined by the state engineer.

999 (b) At the expiration of the period fixed by the state engineer the water shall revert to  
1000 the public and is subject to appropriation as provided by this title.

1001 (c) No later than 60 calendar days before the expiration date of the fixed time period,  
1002 the state engineer shall send notice by mail or by any form of electronic communication  
1003 through which receipt is verifiable, to the applicant of record.

1004 (d) Except as provided by Subsection (2)(e), the state engineer may extend any limited  
1005 water right upon a showing that:

1006 (i) the essential purpose of the original application has not been satisfied;

1007 (ii) the need for an extension is not the result of any default or neglect by the applicant;

1008 and

1009 (iii) the water is still available.

1010 (e) An extension may not exceed the time necessary to satisfy the primary purpose of  
1011 the original application.

1012 (f) A request for extension of the fixed time period must be filed in writing in the  
1013 office of the state engineer on or before the expiration date of the application.

1014 (3) (a) Before the approval of any application [~~for the appropriation of~~] to divert water  
1015 from navigable lakes or streams of the state that contemplates the recovery of salts and other  
1016 minerals or elements, as defined in Section [65A-17-101](#), therefrom by precipitation or  
1017 otherwise, the applicant shall file with the state engineer a copy of:

- 1018            (i) a contract for the payment of royalties to the state[-]; and  
1019            (ii) any mineral lease.
- 1020            (b) The approval of an application shall be [~~revoked~~] reversed if the applicant fails to  
1021 comply with terms of the royalty contract or mineral lease.
- 1022            (4) (a) The state engineer shall investigate all temporary change applications.
- 1023            (b) The state engineer shall:
- 1024            (i) approve the temporary change if the state engineer finds there is reason to believe  
1025 that the temporary change will not impair an existing right; and
- 1026            (ii) deny the temporary change if the state engineer finds there is reason to believe the  
1027 temporary change would impair an existing right.
- 1028            (5) (a) With respect to a change application for a permanent or fixed time change:
- 1029            (i) the state engineer shall follow the same procedures provided in this title for  
1030 approving an application to appropriate water; and
- 1031            (ii) the rights and duties of a change applicant are the same as the rights and duties of a  
1032 person who applies to appropriate water under this title.
- 1033            (b) The state engineer may waive notice for a permanent or fixed time change  
1034 application if the application only involves a change in point of diversion of 660 feet or less.
- 1035            (c) The state engineer may condition approval of a change application to prevent an  
1036 enlargement of the quantity of water depleted by the nature of the proposed use when compared  
1037 with the nature of the currently approved use of water proposed to be changed.
- 1038            (d) A condition described in Subsection (5)(c) may not include a reduction in the  
1039 currently approved diversion rate of water under the water right identified in the change  
1040 application solely to account for the difference in depletion under the nature of the proposed  
1041 use when compared with the nature of the currently approved use.
- 1042            (6) (a) Except as provided in Subsection (6)(b), the state engineer shall reject a  
1043 permanent or fixed time change application if the person proposing to make the change is  
1044 unable to meet the burden described in Subsection [73-3-3\(5\)](#).
- 1045            (b) If otherwise proper, the state engineer may approve a change application upon one  
1046 or more of the following conditions:
- 1047            (i) for part of the water involved;
- 1048            (ii) that the applicant acquire a conflicting right; or

1049 (iii) that the applicant provide and implement a plan approved by the state engineer to  
1050 mitigate impairment of an existing right.

1051 (c) (i) There is a rebuttable presumption of quantity impairment, as defined in Section  
1052 73-3-3, to the extent that, for a period of at least seven consecutive years, a portion of the right  
1053 identified in a change application has not been:

1054 (A) diverted from the approved point of diversion; or

1055 (B) beneficially used at the approved place of use.

1056 (ii) The rebuttable presumption described in Subsection (6)(c)(i) does not apply if the  
1057 beneficial use requirement is excused by:

1058 (A) Subsection 73-1-4(2)(e);

1059 (B) an approved nonuse application under Subsection 73-1-4(2)(b);

1060 (C) Subsection 73-3-30(7); or

1061 (D) the passage of time under Subsection 73-1-4(2)(c)(i).

1062 (d) The state engineer may not consider quantity impairment based on the conditions  
1063 described in Subsection (6)(c) unless the issue is raised in a:

1064 (i) timely protest that identifies which of the protestant's existing rights the protestant  
1065 reasonably believes will experience quantity impairment; or

1066 (ii) written notice provided by the state engineer to the applicant within 90 days after  
1067 the change application is filed.

1068 (e) The written notice described in Subsection (6)(d)(ii) shall:

1069 (i) specifically identify an existing right the state engineer reasonably believes may  
1070 experience quantity impairment; and

1071 (ii) be mailed to the owner of an identified right, as shown by the state engineer's  
1072 records, if the owner has not protested the change application.

1073 (f) The state engineer is not required to include all rights the state engineer believes  
1074 may be impaired by the proposed change in the written notice described in Subsection  
1075 (6)(d)(ii).

1076 (g) The owner of a right who receives the written notice described in Subsection  
1077 (6)(d)(ii) may not become a party to the administrative proceeding if the owner has not filed a  
1078 timely protest.

1079 (h) If a change applicant, the protestants, and the persons identified by the state

1080 engineer under Subsection (6)(d)(ii) come to a written agreement regarding how the issue of  
1081 quantity impairment shall be mitigated, the state engineer may incorporate the terms of the  
1082 agreement into a change application approval.

1083 Section 17. Section **73-32-204** is amended to read:

1084 **73-32-204. Strategic plan.**

1085 (1) (a) In accordance with this section, the commissioner shall prepare a strategic plan  
1086 and obtain the approval of the governor of that strategic plan.

1087 (b) A strategic plan prepared by the commissioner may not be implemented until the  
1088 governor approves the strategic plan, except as provided in Subsection (5).

1089 (2) The commissioner shall base the strategic plan on a holistic approach that balances  
1090 the diverse interests related to the health of the Great Salt Lake, and includes provisions  
1091 concerning:

1092 (a) coordination of efforts related to the Great Salt Lake;

1093 (b) a sustainable water supply for the Great Salt Lake, while balancing competing  
1094 needs;

1095 (c) human health and quality of life;

1096 (d) a healthy ecosystem;

1097 (e) economic development;

1098 (f) water conservation, including municipal and industrial uses and agricultural uses;

1099 (g) water and land use planning;

1100 (h) regional water sharing; and

1101 (i) other provisions that the commissioner determines would be for the benefit of the  
1102 Great Salt Lake.

1103 (3) (a) The commissioner shall obtain the approval of the governor of an initial  
1104 strategic plan by no later than December 31, 2023.

1105 (b) On or before November 30, 2023, the commissioner shall submit an initial strategic  
1106 plan to the governor, speaker of the House of Representatives, and the president of the Senate.

1107 (c) The governor shall approve the strategic plan by no later than December 31, 2023,  
1108 if the governor determines that the initial strategic plan satisfies this chapter.

1109 (d) By no later than January 15, 2024, the commissioner shall provide the following a  
1110 copy of the initial strategic plan approved by the governor under Subsection (3)(c):

- 1111 (i) the Natural Resources, Agriculture, and Environment Interim Committee;  
1112 (ii) the department;  
1113 (iii) the Department of Environmental Quality; and  
1114 (iv) the Department of Agriculture and Food.
- 1115 (4) The governor may approve a strategic plan only after consulting with the speaker of  
1116 the House of Representatives and the president of the Senate.
- 1117 (5) Once a strategic plan is approved by the governor, the commissioner may make  
1118 substantive changes to the strategic plan without the approval of the governor, except that the  
1119 commissioner shall:
- 1120 (a) inform the governor, the speaker of the House of Representatives, and the president  
1121 of the Senate of a substantive change to the strategic plan; and
- 1122 (b) submit the strategic plan every five years for the approval of the governor in a  
1123 process that is consistent with Subsection (3).
- 1124 (6) The commissioner may work with the Division of Forestry, Fire, and State Lands in  
1125 coordinating the comprehensive management plan created under Section [~~65A-10-203~~]  
1126 [65A-17-201](#) with the strategic plan.
- 1127 Section 18. Section ~~73-32-303~~ is amended to read:
- 1128 **73-32-303. Duties of the council.**
- 1129 (1) (a) The council shall advise the persons listed in Subsection (1)(b) on the  
1130 sustainable use, protection, and development of the Great Salt Lake in terms of balancing:
- 1131 (i) sustainable use;  
1132 (ii) environmental health; and  
1133 (iii) reasonable access for existing and future development.
- 1134 (b) The council shall advise, as provided in Subsection (1)(a):
- 1135 (i) the governor;  
1136 (ii) the Department of Natural Resources;  
1137 (iii) the Department of Environmental Quality; and  
1138 (iv) the commissioner.
- 1139 (2) The council shall assist the Division of Forestry, Fire, and State Lands in the  
1140 Division of Forestry, Fire, and State Land's responsibilities for the Great Salt Lake described in  
1141 Sections [~~65A-10-203 and 65A-10-204~~] [65A-17-201](#) and [65A-17-202](#).

- 1142 (3) The council:  
1143 (a) may recommend appointments to the Great Salt Lake technical team created by the  
1144 Division of Forestry, Fire, and State Lands; and  
1145 (b) shall receive and use technical support from the Great Salt Lake technical team.  
1146 (4) The council shall assist the department, the Department of Environmental Quality,  
1147 and their applicable boards in accomplishing their responsibilities for the Great Salt Lake.  
1148 (5) The council shall report annually to the Natural Resources, Agriculture, and  
1149 Environmental Quality Appropriations Subcommittee on the council's activities.

1150 Section 19. Section **73-33-101** is enacted to read:

1151 **CHAPTER 33. GREAT SALT LAKE DISTRIBUTION MANAGEMENT**

1152 **Part 1. General Provisions**

1153 **73-33-101. Definitions.**

1154 As used in this chapter:

- 1155 (1) "Distribution management plan" means a plan adopted by the state engineer in  
1156 accordance with Section [73-33-201](#).  
1157 (2) "Great Salt Lake Comprehensive Management Plan" means the plan adopted by a  
1158 record of decision by the Division of Forestry, Fire, and State Lands for the management of the  
1159 Great Salt Lake.  
1160 (3) "Great Salt Lake meander line" means the same as that term is defined in Section  
1161 [65A-17-101](#).  
1162 (4) "Great Salt Lake water right" means a water right that allows for the diversion of  
1163 surface water or groundwater from a point below the Great Salt Lake meander line and that  
1164 contemplates the recovery of salts or another mineral or element, as defined in Section  
1165 [65A-17-101](#), from the water resource by precipitation or otherwise.  
1166 (5) "Great Salt Lake watershed" means the drainage area for the Great Salt Lake, the  
1167 Bear River watershed, the Jordan River watershed, the Utah Lake watershed, the Weber River  
1168 watershed, and the West Desert watershed.

1169 Section 20. Section **73-33-102** is enacted to read:

1170 **73-33-102. Scope of chapter.**

- 1171 (1) A person may not interpret this chapter as requiring the development,  
1172 implementation, or consideration of a distribution management plan as a prerequisite or

1173 condition to the exercise of the state engineer's enforcement powers under other law, including  
1174 powers granted under Section 73-2-25.

1175 (2) This chapter applies to Great Salt Lake water rights that were approved or perfected  
1176 on or before May 1, 2024, and Great Salt Lake water rights approved or perfected after May 1,  
1177 2024, including use under a Great Salt Lake water right of water for the mineral or element  
1178 extraction process.

1179 Section 21. Section 73-33-201 is enacted to read:

1180 **Part 2. Distribution Management Plan**

1181 **73-33-201. Great Salt Lake distribution management plan.**

1182 (1) The state engineer shall regulate the measurement, appropriation, apportionment,  
1183 and distribution of water within the Great Salt Lake meander line by adopting a distribution  
1184 management plan by no later than October 1, 2025, that establishes:

1185 (a) consistent with Section 73-33-203, requirements for the measurement,  
1186 quantification, and reporting of diversions, depletions, and return flows associated with Great  
1187 Salt Lake water rights; and

1188 (b) procedures for the apportionment and distribution of Great Salt Lake water rights.

1189 (2) (a) In developing a distribution management plan under this section, the state  
1190 engineer may consider:

1191 (i) the hydrology of the Great Salt Lake watershed as it affects Great Salt Lake water  
1192 rights;

1193 (ii) the physical characteristics of the Great Salt Lake;

1194 (iii) the Great Salt Lake elevation;

1195 (iv) the Great Salt Lake salinity;

1196 (v) the strategic plan prepared by the Great Salt Lake commissioner and approved by  
1197 the governor under Section 73-32-204;

1198 (vi) the measurement, appropriation, apportionment, and distribution of Great Salt  
1199 Lake water rights;

1200 (vii) the quantity of water approved for beneficial use within the Great Salt Lake  
1201 meander line by a division as defined in Section 73-3-30;

1202 (viii) the quantity of water within the Great Salt Lake;

1203 (ix) the Great Salt Lake Comprehensive Management Plan;

1204 (x) the different types of beneficial uses of Great Salt Lake water rights; and  
1205 (xi) other relevant factors such as the economic viability impacts.  
1206 (b) The state engineer shall base the distribution management plan on the principles of  
1207 prior appropriation and multiple use sustained yield, with multiple use defined in Section  
1208 65A-1-1, as the principles relate to the reasonable preservation or enhancement of the Great  
1209 Salt Lake's natural aquatic environment.  
1210 (c) The state engineer shall use the best available information to administer Great Salt  
1211 Lake water rights to achieve the objectives of the distribution management plan.  
1212 (d) As hydrologic conditions change or additional information becomes available, the  
1213 state engineer may revise the distribution management plan by following the procedures of  
1214 Subsection (3).  
1215 (3) (a) To adopt or amend a distribution management plan for the Great Salt Lake, the  
1216 state engineer shall:  
1217 (i) give notice pursuant to Subsection (3)(b) at least 30 days before the first public  
1218 meeting held in accordance with Subsection (3)(a)(ii):  
1219 (A) that the state engineer proposes to adopt or amend a distribution management plan;  
1220 and  
1221 (B) stating the location, date, and time of each public meeting to be held in accordance  
1222 with Subsection (3)(a)(ii);  
1223 (ii) hold one or more public meetings to:  
1224 (A) present data, studies, or reports that the state engineer intends to consider in  
1225 preparing the distribution management plan;  
1226 (B) address items that may be included in the distribution management plan; and  
1227 (C) receive public comments and other information presented at the public meeting;  
1228 (iii) receive and consider written comments concerning the proposed distribution  
1229 management plan from any person for a period determined by the state engineer of not less  
1230 than 60 days after the day on which the notice required by Subsection (3)(a)(i) is given;  
1231 (iv) at least 60 days before final adoption of the distribution management plan, publish  
1232 notice:  
1233 (A) that a draft of the distribution management plan has been proposed; and  
1234 (B) specifying where a copy of the draft distribution management plan may be



1235 reviewed;  
1236 (v) promptly provide a copy of the draft distribution management plan in printed or  
1237 electronic form to each entity listed in Subsection (3)(b)(iii) that requests a copy in writing; and  
1238 (vi) provide notice of the adoption of the distribution management plan.  
1239 (b) The state engineer shall ensure that a notice required by this section:  
1240 (i) is published:  
1241 (A) once a week for two consecutive weeks in a newspaper of general circulation in  
1242 each county that includes any land below the Great Salt Lake meander line; and  
1243 (B) for two weeks in accordance with Section [45-1-101](#);  
1244 (ii) is published conspicuously on the state engineer's website; and  
1245 (iii) is mailed to water right owners of record in the state engineer's office of Great Salt  
1246 Lake water rights.  
1247 (c) A notice required by this section is effective upon substantial compliance with  
1248 Subsection (3)(b).  
1249 (d) A distribution management plan takes effect on the date notice of adoption is  
1250 completed under Subsection (3)(b) or on a later date when specified in the distribution  
1251 management plan.  
1252 (4) (a) In accordance with the distribution management plan, the state engineer shall  
1253 establish a priority schedule that apportions Great Salt Lake water rights based on relative  
1254 priority among Great Salt Lake water rights and:  
1255 (i) develop an apportionment schedule and distribution accounting tool that accounts  
1256 for:  
1257 (A) Great Salt Lake elevations;  
1258 (B) Great Salt Lake salinity;  
1259 (C) Great Salt Lake water rights;  
1260 (D) the quantity of water in the Great Salt Lake; and  
1261 (E) the quantity of water delivered to the Great Salt Lake under water rights approved  
1262 for beneficial use by a division as defined in Section [73-3-30](#);  
1263 (ii) prohibit Great Salt Lake water rights from diverting the quantity of water accounted  
1264 for under Subsection (4)(a)(i)(C); and  
1265 (iii) require physical measurement and annual reporting of diversion, depletion, and

1266 return flow quantities of Great Salt Lake water rights.

1267 (b) Under a distribution management plan the state engineer may reduce the quantity of  
1268 water that an owner of a Great Salt Lake water right may divert from the Great Salt Lake in  
1269 accordance with the principles of prior appropriation.

1270 (5) (a) When adopting a distribution management plan, the state engineer may allow  
1271 water users to participate in a voluntary arrangement that compensates or otherwise mitigates  
1272 for the use of Great Salt Lake water rights.

1273 (b) The participants in a voluntary arrangement under this Subsection (5) shall  
1274 implement the voluntary arrangement consistent with other law.

1275 (c) The adoption of a voluntary arrangement under this Subsection (5) by less than all  
1276 of the owners of Great Salt Lake water rights does not affect the rights of those owners of Great  
1277 Salt Lake water rights who do not agree to the voluntary arrangement.

1278 (6) The existence of a distribution management plan does not preclude an otherwise  
1279 eligible person from filing an application or challenging a decision made by the state engineer  
1280 within the Great Salt Lake meander line, except that a person may challenge the components of  
1281 a distribution management plan only in a manner provided in Section [73-33-202](#).

1282 (7) A distribution management plan adopted or amended in accordance with this  
1283 section is exempt from Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1284 Section 22. Section **73-33-202** is enacted to read:

1285 **73-33-202. Challenges to a distribution management plan.**

1286 (1) A person aggrieved by a distribution management plan may challenge any aspect of  
1287 the distribution management plan by filing a complaint within 60 days after the distribution  
1288 management plan takes effect in a court with jurisdiction:

1289 (a) under Title 78A, Judiciary and Judicial Administration; and

1290 (b) notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, over a geographic  
1291 area bordering the Great Salt Lake.

1292 (2) In an action filed under this section, a court shall review de novo the distribution  
1293 management plan.

1294 (3) A person challenging a distribution management plan under this section shall join  
1295 the state engineer as a defendant in that action.

1296 (4) (a) No later than 30 days after the day on which a person files an action challenging

1297 any aspect of a distribution management plan, the person filing the action shall publish notice  
1298 of the action:

1299 (i) once a week for two consecutive weeks in a newspaper of general circulation in the  
1300 county in which the court is located; and

1301 (ii) for two weeks in accordance with Section [45-1-101](#).

1302 (b) The notice required by Subsection (4)(a) shall:

1303 (i) identify the distribution management plan that the person is challenging;

1304 (ii) identify the case number assigned by the court;

1305 (iii) state that a person affected by the distribution management plan may petition the  
1306 court to intervene in the action challenging the distribution management plan; and

1307 (iv) list the address of the clerk of the court in which the action is filed.

1308 (c) A person affected by a distribution management plan that is being challenged under  
1309 this section may petition to intervene in the action in accordance with Utah Rules of Civil  
1310 Procedure, Rule 24.

1311 Section 23. Section **73-33-203** is enacted to read:

1312 **73-33-203. Measuring volume and quality of water.**

1313 (1) (a) A person diverting water under a Great Salt Lake water right shall:

1314 (i) measure through the use of a physical measurement and not estimate or calculate the  
1315 water or brine diverted from the Great Salt Lake as part of the mineral or element extraction  
1316 process;

1317 (ii) keep a record of the measurements described in Subsection (1)(a)(i); and

1318 (iii) report the measurements described in Subsection (1)(a)(i) to the Division of Water  
1319 Rights in accordance with rules made by the Division of Water Rights under Title 63G,  
1320 Chapter 3, Utah Administrative Rulemaking Act.

1321 (b) A duty described in Subsection (1)(a) does not replace or modify any other duty to  
1322 measure water under this title or rules made under this title.

1323 (2) A person diverting water under a Great Salt Lake water right shall:

1324 (a) measure the salinity of any discharge of water or brine from the person's operations  
1325 into the Great Salt Lake in accordance with rules made by the Division of Forestry, Fire, and  
1326 State Lands in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1327 (b) keep a record of the measurements described in Subsection (2)(a); and

1328 (c) report the measurements described in Subsection (2)(a) to the Division of Forestry,  
1329 Fire, and State Lands in accordance with rules made by the Division of Forestry, Fire, and State  
1330 Lands under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1331 (3) (a) After consulting with the Division of Water Quality, the Division of Forestry,  
1332 Fire, and State Lands shall make a rule, in accordance with Title 63G, Chapter 3, Utah  
1333 Administrative Rulemaking Act, setting a standard for the salinity of water or brine that a  
1334 person may discharge into the Great Salt Lake as part of the mineral or element extraction  
1335 process.

1336 (b) If a person discharges water or brine that exceeds the standard imposed under  
1337 Subsection (3)(a), the Division of Water Quality may revoke any permit issued by the Division  
1338 of Water Quality related to the discharge.

1339 (4) A person shall keep a record required under this section for a period of at least five  
1340 years from the day on which the record is made.

1341 Section 24. Section **78B-6-501** is amended to read:

1342 **78B-6-501. Eminent domain -- Uses for which right may be exercised --**  
1343 **Limitations on eminent domain.**

1344 (1) As used in this section<sup>[;]</sup>:

1345 (a) [~~"century farm"~~] "Century farm" means real property that is:

1346 [~~(a)~~] (i) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

1347 [~~(b)~~] (ii) owned or held by the same family for a continuous period of 100 years or  
1348 more.

1349 (b) "Mineral or element" means the same as that term is defined in Section  
1350 [65A-17-101](#).

1351 (2) Except as provided in Subsections (3) and (4) and subject to the provisions of this  
1352 part, the right of eminent domain may be exercised on behalf of the following public uses:

1353 (a) all public uses authorized by the federal government;

1354 (b) public buildings and grounds for the use of the state, and all other public uses  
1355 authorized by the Legislature;

1356 (c) (i) public buildings and grounds for the use of any county, city, town, or board of  
1357 education;

1358 (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or

1359 sewage, including to or from a development, for the use of the inhabitants of any county, city,  
1360 or town, or for the draining of any county, city, or town;

1361 (iii) the raising of the banks of streams, removing obstructions from streams, and  
1362 widening, deepening, or straightening their channels;

1363 (iv) bicycle paths and sidewalks adjacent to paved roads;

1364 (v) roads, byroads, streets, and alleys for public vehicular use, including for access to a  
1365 development; and

1366 (vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;

1367 (d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank  
1368 and turnpike roads, roads for transportation by traction engines or road locomotives, roads for  
1369 logging or lumbering purposes, and railroads and street railways for public transportation;

1370 (e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes  
1371 for the supplying of persons, mines, mills, smelters or other works for the reduction of ores,  
1372 with water for domestic or other uses, or for irrigation purposes, or for the draining and  
1373 reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of  
1374 minerals or elements in solution;

1375 (f) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places  
1376 to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines,  
1377 quarries, coal mines, or mineral deposits including oil, gas, and minerals or elements in  
1378 solution;

1379 (ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water  
1380 from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal  
1381 mines or mineral deposits including minerals or elements in solution;

1382 (iii) mill dams;

1383 (iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or  
1384 formation in any land for the underground storage of natural gas, and in connection with that,  
1385 any other interests in property which may be required to adequately examine, prepare,  
1386 maintain, and operate underground natural gas storage facilities;

1387 (v) solar evaporation ponds and other facilities for the recovery of minerals in solution,  
1388 which for the Great Salt Lake includes construction, removal, or extinguishment, in whole or in  
1389 part, by a state entity of:

- 1390           (A) a solar evaporation pond;  
1391           (B) improvements, property, easements, or rights-of-way appurtenant to a solar  
1392 evaporation pond, including a lease hold; or  
1393           (C) other facilities for the recovery of minerals or elements in solution; and  
1394           (vi) any occupancy in common by the owners or possessors of different mines,  
1395 quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores,  
1396 or any place for the flow, deposit or conduct of tailings or refuse matter;  
1397           (g) byroads leading from a highway to:  
1398           (i) a residence; or  
1399           (ii) a farm;  
1400           (h) telecommunications, electric light and electric power lines, sites for electric light  
1401 and power plants, or sites for the transmission of broadcast signals from a station licensed by  
1402 the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that  
1403 provides emergency broadcast services;  
1404           (i) sewage service for:  
1405           (i) a city, a town, or any settlement of not fewer than 10 families;  
1406           (ii) a public building belonging to the state; or  
1407           (iii) a college or university;  
1408           (j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and  
1409 storing water for the operation of machinery for the purpose of generating and transmitting  
1410 electricity for power, light or heat;  
1411           (k) cemeteries and public parks; and  
1412           (l) sites for mills, smelters or other works for the reduction of ores and necessary to  
1413 their successful operation, including the right to take lands for the discharge and natural  
1414 distribution of smoke, fumes, and dust, produced by the operation of works, provided that the  
1415 powers granted by this section may not be exercised in any county where the population  
1416 exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the  
1417 proposed condemner has the right to operate by purchase, option to purchase or easement, at  
1418 least 75% in value of land acreage owned by persons or corporations situated within a radius of  
1419 four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits  
1420 of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing

1421 between the condemner and the owner of land within the limit and providing for the operation  
1422 of such mill, smelter, or other works for the reduction of ores; nor until an action shall have  
1423 been commenced to restrain the operation of such mill, smelter, or other works for the  
1424 reduction of ores.

1425 (3) The right of eminent domain may not be exercised on behalf of the following uses:

1426 (a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking,  
1427 hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a  
1428 foot path, equestrian trail, bicycle path, or walkway;

1429 (b) (i) a public park whose primary purpose is:

1430 (A) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or

1431 (B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or  
1432 equestrian use; or

1433 (ii) a public park established on real property that is:

1434 (A) a century farm; and

1435 (B) located in a county of the first class.

1436 (4) (a) The right of eminent domain may not be exercised within a migratory bird  
1437 production area created on or before December 31, 2020, under Title 23A, Chapter 13,  
1438 Migratory Bird Production Area, except as follows:

1439 (i) subject to Subsection (4)(b), an electric utility may condemn land within a migratory  
1440 bird production area located in a county of the first class only for the purpose of installing  
1441 buried power lines;

1442 (ii) an electric utility may condemn land within a migratory bird production area in a  
1443 county other than a county of the first class to install:

1444 (A) buried power lines; or

1445 (B) a new overhead transmission line that is parallel to and abutting an existing  
1446 overhead transmission line or collocated within an existing overhead transmission line right of  
1447 way; or

1448 (iii) the Department of Transportation may exercise eminent domain for the purpose of  
1449 the construction of the West Davis Highway.

1450 (b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the  
1451 electric utility shall demonstrate that:

1452 (i) the proposed condemnation would not have an unreasonable adverse effect on the  
1453 preservation, use, and enhancement of the migratory bird production area; and

1454 (ii) there is no reasonable alternative to constructing the power line within the  
1455 boundaries of a migratory bird production area.

1456 Section 25. Section **78B-6-502** is amended to read:

1457 **78B-6-502. Estates and rights that may be taken.**

1458 The following estates and rights in lands are subject to being taken for public use:

1459 (1) a fee simple, when taken for:

1460 (a) public buildings or grounds;

1461 (b) permanent buildings;

1462 (c) reservoirs and dams, and permanent flooding occasioned by them;

1463 (d) any permanent flood control structure affixed to the land;

1464 (e) an outlet for a flow, a place for the deposit of debris or tailings of a mine, mill,  
1465 smelter, or other place for the reduction of ores; and

1466 (f) solar evaporation ponds and other facilities for the recovery of minerals in  
1467 solution[;];

1468 (i) except when the surface ground is underlaid with minerals, coal, or other deposits  
1469 sufficiently valuable to justify extraction, only a perpetual easement may be taken over the  
1470 surface ground over the deposits; and

1471 (ii) which for the Great Salt Lake includes construction, removal, or extinguishment, in  
1472 whole or in part, by a state entity of:

1473 (A) a solar evaporation pond;

1474 (B) improvements, property, easements, or rights-of-way appurtenant to a solar  
1475 evaporation pond, including a lease hold; or

1476 (C) other facilities for the recovery of minerals or elements in solution;

1477 (2) an easement, when taken for any other use; and

1478 (3) the right of entry upon and occupation of lands, with the right to take from those  
1479 lands earth, gravel, stones, trees, and timber as necessary for a public use.

1480 Section 26. **Repealer.**

1481 This bill repeals:

1482 Section **65A-10-201, Definitions.**



1483 Section 27. **FY 2025 Appropriation.**

1484 The following sums of money are appropriated for the fiscal year beginning July 1,  
1485 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for  
1486 fiscal year 2025.

1487 Subsection 27(a). **Operating and Capital Budgets.**

1488 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the  
1489 Legislature appropriates the following sums of money from the funds or accounts indicated for  
1490 the use and support of the government of the state of Utah.

1491 ITEM 1 To Department of Natural Resources - DNR Pass Through

1492 From General Fund Restricted - Sovereign Lands Management, \$300,000  
One-time

1493 Schedule of Programs:

1494 DNR Pass Through \$300,000

1495 The Legislature intends that the money appropriated in this item pass through to the Division of  
1496 Water Rights to pay for initial costs of developing a distribution management plan. The  
1497 Legislature intends that the appropriation be nonlapsing.

1498 ITEM 2 To Department of Natural Resources - Forestry, Fire, and State Lands

1499 From General Fund Restricted - Sovereign Lands Management, \$500,000  
One-time

1500 Schedule of Programs:

1501 Project Management \$500,000

1502 The Legislature intends that the money appropriated under this item be used to fund the  
1503 analysis required by Subsection [65A-17-201](#)(17), renumbered and amended by this bill. The  
1504 Legislature intends that the appropriation be nonlapsing.

1505 Section 28. **Effective date.**

1506 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

1507 (2) The actions affecting Sections [59-5-202](#) (Effective 01/01/25), and [59-5-203](#)  
1508 (Effective 01/01/25), take effect on January 1, 2025.