

Senator Scott D. Sandall proposes the following substitute bill:

GREAT SALT LAKE REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: Scott D. Sandall

6	Cosponsors:	Steve Eliason	A. Cory Maloy
7	Nelson T. Abbott	Joseph Elison	Michael J. Petersen
8	Cheryl K. Acton	Matthew H. Gwynn	Thomas W. Peterson
9	Carl R. Albrecht	Katy Hall	Susan Pulsipher
10	Stewart E. Barlow	Ken Ivory	Judy Weeks Rohner
11	Kera Birkeland	Colin W. Jack	Mike Schultz
12	Bridger Bolinder	Tim Jimenez	Rex P. Shipp
13	Walt Brooks	Dan N. Johnson	Jeffrey D. Stenquist
14	Jefferson S. Burton	Marsha Judkins	Mark A. Strong
15	Kay J. Christofferson	Michael L. Kohler	R. Neil Walter
16	James Cobb	Trevor Lee	Raymond P. Ward
17	Paul A. Cutler	Anthony E. Loubet	Ryan D. Wilcox
18	Ariel Defay	Steven J. Lund	
19	James A. Dunnigan	Matt MacPherson	



LONG TITLE

General Description:

This bill addresses actions affecting the Great Salt Lake.

Highlighted Provisions:



- 25 This bill:
- 26 ▶ modifies provisions related to severance taxes including:
- 27 • distribution of severance taxes; and
- 28 • disclosure of certain severance tax information;
- 29 ▶ exempts challenges to a distribution management plan from the Administrative
- 30 Procedures Act;
- 31 ▶ addresses mineral lease and royalty agreement provisions, including:
- 32 • providing for the loss of certain rights for failure to use;
- 33 • providing for royalty discounts under certain circumstances; and
- 34 • providing for small projects;
- 35 ▶ enacts the Great Salt Lake Preservation Act, including:
- 36 • defining terms;
- 37 • addressing management responsibilities;
- 38 • requiring certain provisions within royalty agreements;
- 39 • providing for acquisition of property interests or mineral estates, including
- 40 through eminent domain;
- 41 • requiring payment of royalties;
- 42 • addressing the Great Salt Lake as a multiple mineral development area;
- 43 • addressing concurrent operations on the Great Salt Lake; and
- 44 • clarifying what constitutes waste;
- 45 ▶ enacts the Great Salt Lake Distribution Management chapter, including:
- 46 • defining terms;
- 47 • directing the state engineer to develop a Great Salt Lake distribution
- 48 management plan related to water rights;
- 49 • allowing for voluntary agreements;
- 50 • providing for challenges to a distribution management plan;
- 51 • addressing the measurement of the volume and quality of water; and
- 52 • addressing the scope of the chapter;
- 53 ▶ amends provision regarding approval of a water right related application related to
- 54 the extraction of minerals or elements;
- 55 ▶ addresses rulemaking;

- 56 ▶ addresses eminent domain; and
- 57 ▶ makes technical and conforming changes.

58 **Money Appropriated in this Bill:**

59 This bill appropriates in fiscal year 2025:

- 60 ▶ to Department of Natural Resources - Forestry, Fire, and State Lands - Project
61 Management as a one-time appropriation:

- 62 • from the General Fund Restricted - Sovereign Lands Management, One-time,
63 \$500,000

- 64 ▶ to Department of Natural Resources - Water Rights - Field Services as a one-time
65 appropriation:

- 66 • from the General Fund Restricted - Sovereign Lands Management, One-time,
67 \$300,000

68 **Other Special Clauses:**

69 This bill provides a special effective date.

70 **Utah Code Sections Affected:**

71 AMENDS:

- 72 **51-9-306**, as last amended by Laws of Utah 2023, Chapter 526
- 73 **51-9-307**, as last amended by Laws of Utah 2023, Chapter 537
- 74 **59-1-403**, as last amended by Laws of Utah 2023, Chapters 21, 52, 86, 259, and 329
- 75 **59-5-202**, as last amended by Laws of Utah 2023, Chapter 208
- 76 **59-5-203**, as last amended by Laws of Utah 2019, Chapter 466
- 77 **59-5-207**, as last amended by Laws of Utah 1995, Chapter 228
- 78 **59-5-215**, as last amended by Laws of Utah 2021, Chapter 401
- 79 **63G-4-102**, as last amended by Laws of Utah 2023, Chapter 329
- 80 **65A-5-1**, as last amended by Laws of Utah 2023, Chapters 205, 208 and 358
- 81 **65A-6-4**, as last amended by Laws of Utah 2023, Chapter 208
- 82 **73-3-8**, as last amended by Laws of Utah 2023, Chapter 253
- 83 **73-32-204**, as enacted by Laws of Utah 2023, Chapter 205
- 84 **73-32-303**, as last amended by Laws of Utah 2023, Chapter 208 and renumbered and
85 amended by Laws of Utah 2023, Chapter 205
- 86 **78B-6-501**, as last amended by Laws of Utah 2023, Chapter 34

87 **78B-6-502**, as renumbered and amended by Laws of Utah 2008, Chapter 3

88 ENACTS:

89 **65A-17-101**, Utah Code Annotated 1953

90 **65A-17-103**, Utah Code Annotated 1953

91 **65A-17-301**, Utah Code Annotated 1953

92 **65A-17-302**, Utah Code Annotated 1953

93 **65A-17-303**, Utah Code Annotated 1953

94 **65A-17-304**, Utah Code Annotated 1953

95 **65A-17-305**, Utah Code Annotated 1953

96 **65A-17-306**, Utah Code Annotated 1953

97 **73-33-101**, Utah Code Annotated 1953

98 **73-33-102**, Utah Code Annotated 1953

99 **73-33-201**, Utah Code Annotated 1953

100 **73-33-202**, Utah Code Annotated 1953

101 **73-33-203**, Utah Code Annotated 1953

102 RENUMBERS AND AMENDS:

103 **65A-17-102**, (Renumbered from 65A-10-202, as enacted by Laws of Utah 2023,
104 Chapter 208)

105 **65A-17-201**, (Renumbered from 65A-10-203, as last amended by Laws of Utah 2023,
106 Chapter 205 and renumbered and amended by Laws of Utah 2023, Chapter 208)

107 **65A-17-202**, (Renumbered from 65A-10-204, as enacted by Laws of Utah 2023,
108 Chapter 208)

109 **65A-17-203**, (Renumbered from 65A-10-205, as enacted by Laws of Utah 2023,
110 Chapter 208)

111 REPEALS:

112 **65A-10-201**, as enacted by Laws of Utah 2023, Chapter 208

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

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

116 **51-9-306. Deposit of certain severance tax revenue for specified state agencies.**

117 (1) As used in this section:

118 (a) "Aggregate annual revenue" means the aggregate annual revenue collected in a
119 fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and
120 Mining, after subtracting the amounts required to be distributed under Sections 51-9-305,
121 59-5-116, and 59-5-119 and under Subsection 59-5-202(5)(c).

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

126 (c) "Aggregate annual oil and gas revenue" means the aggregate annual revenue
127 collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 1, Oil and Gas
128 Severance Tax, after subtracting the amounts required to be distributed under Sections
129 51-9-305, 59-5-116, and 59-5-119.

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

133 (i) after subtracting the amounts required to be distributed under Sections 51-9-305,
134 59-5-116, and 59-5-119 and under Subsection 59-5-202(5)(c); and

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

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

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

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

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

147 (i) after subtracting the amounts required to be distributed under Sections 51-9-305,
148 59-5-116, and 59-5-119; and

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

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

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

- 157 (i) 2.75% of the first \$50,000,000 of the average aggregate annual revenue;
- 158 (ii) 1% of the next \$50,000,000 of the average aggregate annual revenue; and
- 159 (iii) .5% of the average aggregate annual revenue that exceeds \$100,000,000;

160 (b) to the Division of Water Quality Oil, Gas, and Mining Restricted Account, created
161 in Section 19-5-126, the following average aggregate annual revenue:

- 162 (i) .4% of the first \$50,000,000 of the average aggregate annual revenue;
- 163 (ii) .15% of the next \$50,000,000 of the average aggregate annual revenue; and
- 164 (iii) .08% of the average aggregate annual revenue that exceeds \$100,000,000;

165 (c) to the Division of Oil, Gas, and Mining Restricted Account, created in Section
166 40-6-23, the following:

- 167 (i) (A) 11.5% of the first \$50,000,000 of the average aggregate annual mining revenue;
- 168 (B) 3% of the next \$50,000,000 of the average aggregate annual mining revenue; and
- 169 (C) 1% of the average aggregate annual mining revenue that exceeds \$100,000,000;

170 and

171 (ii) (A) 18% of the first \$50,000,000 of the average aggregate annual oil and gas
172 revenue;

173 (B) 3% of the next \$50,000,000 of the average aggregate annual oil and gas revenue;

174 and

175 (C) 1% of the average aggregate annual oil and gas revenue that exceeds \$100,000,000;

176 and

177 (d) to the Utah Geological Survey Oil, Gas, and Mining Restricted Account, created in
178 Section 79-3-403, the following average aggregate annual revenue:

- 179 (i) 2.5% of the first \$50,000,000 of the average aggregate annual revenue;

- 180 (ii) 1% of the next \$50,000,000 of the average aggregate annual revenue; and
181 (iii) .5% of the average aggregate annual revenue that exceeds \$100,000,000.
- 182 (3) If the money collected in a fiscal year from the taxes imposed under Title 59,
183 Chapter 5, Severance Tax on Oil, Gas, and Mining, is insufficient to make the deposits
184 required by Subsection (2), the State Tax Commission shall deposit money collected in the
185 fiscal year as follows:
- 186 (a) to the Division of Air Quality Oil, Gas, and Mining Restricted Account, created in
187 Section 19-2a-106, the following revenue:
- 188 (i) 2.75% of the first \$50,000,000 of the aggregate annual revenue;
189 (ii) 1% of the next \$50,000,000 of the aggregate annual revenue; and
190 (iii) .5% of the aggregate annual revenue that exceeds \$100,000,000;
- 191 (b) to the Division of Water Quality Oil, Gas, and Mining Restricted Account, created
192 in Section 19-5-126, the following revenue:
- 193 (i) .4% of the first \$50,000,000 of the aggregate annual revenue;
194 (ii) .15% of the next \$50,000,000 of the aggregate annual revenue; and
195 (iii) .08% of the aggregate annual revenue that exceeds \$100,000,000;
- 196 (c) to the Division of Oil, Gas, and Mining Restricted Account, created in Section
197 40-6-23, the following:
- 198 (i) (A) 11.5% of the first \$50,000,000 of the aggregate annual mining revenue;
199 (B) 3% of the next \$50,000,000 of the aggregate annual mining revenue; and
200 (C) 1% of the aggregate annual mining revenue that exceeds \$100,000,000; and
201 (ii) (A) 18% of the first \$50,000,000 of the aggregate annual oil and gas revenue;
202 (B) 3% of the next \$50,000,000 of the aggregate annual oil and gas revenue; and
203 (C) 1% of the aggregate annual oil and gas revenue that exceeds \$100,000,000; and
204 (d) to the Utah Geological Survey Oil, Gas, and Mining Restricted Account, created in
205 Section 79-3-403, the following revenue:
- 206 (i) 2.5% of the first \$50,000,000 of the aggregate annual revenue;
207 (ii) 1% of the next \$50,000,000 of the aggregate annual revenue; and
208 (iii) .5% of the aggregate annual revenue that exceeds \$100,000,000.
- 209 (4) The severance tax revenues deposited under this section into restricted accounts for
210 the state agencies specified in Subsection (2) and appropriated from the restricted accounts

211 offset and supplant General Fund appropriations used to pay the costs of programs or projects
212 administered by the state agencies that are primarily related to oil, gas, and mining.

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

214 **51-9-307. New Severance Tax Revenue Special Revenue Fund.**

215 (1) As used in this section:

216 (a) "Fund" means the New Severance Tax Revenue Special Revenue Fund created in
217 this section.

218 (b) "New revenue" means revenue collected above \$100,000,000 from the taxes
219 imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, after subtracting
220 the amounts required to be distributed under Sections [51-9-305](#), [51-9-306](#), [59-5-116](#), [59-5-119](#),
221 and [59-5-121](#) and under Subsection [59-5-202\(5\)\(c\)](#).

222 (2) There is created a special revenue fund known as the "New Severance Tax
223 Revenue Special Revenue Fund" that consists of:

224 (a) money deposited by the State Tax Commission in accordance with this section; and

225 (b) interest earned on the money in the fund.

226 (3) Beginning July 1, 2021, the State Tax Commission shall deposit into the fund
227 100% of new revenue until the new revenue equals or exceeds \$200,000,000 in a fiscal year.

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

229 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

230 (1) As used in this section:

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

232 (i) the commission administers under:

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

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

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

236 (D) Section [19-6-805](#);

237 (E) Section [63H-1-205](#); or

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

239 and

240 (ii) with respect to which the commission distributes the revenue collected from the

241 tax, fee, or charge to a qualifying jurisdiction.

242 (b) "Qualifying jurisdiction" means:
243 (i) a county, city, town, or metro township;
244 (ii) the military installation development authority created in Section 63H-1-201; or
245 (iii) the Utah Inland Port Authority created in Section 11-58-201.
246 (2) (a) Any of the following may not divulge or make known in any manner any
247 information gained by that person from any return filed with the commission:
248 (i) a tax commissioner;
249 (ii) an agent, clerk, or other officer or employee of the commission; or
250 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
251 town.
252 (b) An official charged with the custody of a return filed with the commission is not
253 required to produce the return or evidence of anything contained in the return in any action or
254 proceeding in any court, except:
255 (i) in accordance with judicial order;
256 (ii) on behalf of the commission in any action or proceeding under:
257 (A) this title; or
258 (B) other law under which persons are required to file returns with the commission;
259 (iii) on behalf of the commission in any action or proceeding to which the commission
260 is a party; or
261 (iv) on behalf of any party to any action or proceeding under this title if the report or
262 facts shown by the return are directly involved in the action or proceeding.
263 (c) Notwithstanding Subsection (2)(b), a court may require the production of, and may
264 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
265 pertinent to the action or proceeding.
266 (3) This section does not prohibit:
267 (a) a person or that person's duly authorized representative from receiving a copy of
268 any return or report filed in connection with that person's own tax;
269 (b) the publication of statistics as long as the statistics are classified to prevent the
270 identification of particular reports or returns; and
271 (c) the inspection by the attorney general or other legal representative of the state of the
272 report or return of any taxpayer;

273 (i) who brings action to set aside or review a tax based on the report or return;
274 (ii) against whom an action or proceeding is contemplated or has been instituted under
275 this title; or

276 (iii) against whom the state has an unsatisfied money judgment.

277 (4) (a) Notwithstanding Subsection (2) and for purposes of administration, the
278 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
279 Rulemaking Act, provide for a reciprocal exchange of information with:

280 (i) the United States Internal Revenue Service; or

281 (ii) the revenue service of any other state.

282 (b) Notwithstanding Subsection (2) and for all taxes except individual income tax and
283 corporate franchise tax, the commission may by rule, made in accordance with Title 63G,
284 Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and
285 other written statements with the federal government, any other state, any of the political
286 subdivisions of another state, or any political subdivision of this state, except as limited by
287 Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal
288 government grant substantially similar privileges to this state.

289 (c) Notwithstanding Subsection (2) and for all taxes except individual income tax and
290 corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3,
291 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
292 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
293 due.

294 (d) Notwithstanding Subsection (2), the commission shall provide to the director of the
295 Division of Environmental Response and Remediation, as defined in Section 19-6-402, as
296 requested by the director of the Division of Environmental Response and Remediation, any
297 records, returns, or other information filed with the commission under Chapter 13, Motor and
298 Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program
299 participation fee.

300 (e) Notwithstanding Subsection (2), at the request of any person the commission shall
301 provide that person sales and purchase volume data reported to the commission on a report,
302 return, or other information filed with the commission under:

303 (i) Chapter 13, Part 2, Motor Fuel; or

304 (ii) Chapter 13, Part 4, Aviation Fuel.

305 (f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer,
306 as defined in Section 59-22-202, the commission shall report to the manufacturer:

307 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
308 manufacturer and reported to the commission for the previous calendar year under Section
309 59-14-407; and

310 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
311 manufacturer for which a tax refund was granted during the previous calendar year under
312 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

313 (g) Notwithstanding Subsection (2), the commission shall notify manufacturers,
314 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
315 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

316 (h) Notwithstanding Subsection (2), the commission may:

317 (i) provide to the Division of Consumer Protection within the Department of
318 Commerce and the attorney general data:

319 (A) reported to the commission under Section 59-14-212; or

320 (B) related to a violation under Section 59-14-211; and

321 (ii) upon request, provide to any person data reported to the commission under
322 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

323 (i) Notwithstanding Subsection (2), the commission shall, at the request of a committee
324 of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of
325 Planning and Budget, provide to the committee or office the total amount of revenues collected
326 by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period
327 specified by the committee or office.

328 (j) Notwithstanding Subsection (2), the commission shall make the directory required
329 by Section 59-14-603 available for public inspection.

330 (k) Notwithstanding Subsection (2), the commission may share information with
331 federal, state, or local agencies as provided in Subsection 59-14-606(3).

332 (l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of
333 Recovery Services within the Department of Health and Human Services any relevant
334 information obtained from a return filed under Chapter 10, Individual Income Tax Act,

335 regarding a taxpayer who has become obligated to the Office of Recovery Services.

336 (ii) The information described in Subsection (4)(l)(i) may be provided by the Office of
337 Recovery Services to any other state's child support collection agency involved in enforcing
338 that support obligation.

339 (m) (i) Notwithstanding Subsection (2), upon request from the state court
340 administrator, the commission shall provide to the state court administrator, the name, address,
341 telephone number, county of residence, and social security number on resident returns filed
342 under Chapter 10, Individual Income Tax Act.

343 (ii) The state court administrator may use the information described in Subsection
344 (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

345 (n) (i) As used in this Subsection (4)(n):

346 (A) "GO Utah office" means the Governor's Office of Economic Opportunity created in
347 Section 63N-1a-301.

348 (B) "Income tax information" means information gained by the commission that is
349 required to be attached to or included in a return filed with the commission under Chapter 7,
350 Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

351 (C) "Other tax information" means information gained by the commission that is
352 required to be attached to or included in a return filed with the commission except for a return
353 filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual
354 Income Tax Act.

355 (D) "Tax information" means income tax information or other tax information.

356 (ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection
357 (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the
358 GO Utah office all income tax information.

359 (B) For purposes of a request for income tax information made under Subsection
360 (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the
361 GO Utah office a person's address, name, social security number, or taxpayer identification
362 number.

363 (C) In providing income tax information to the GO Utah office, the commission shall
364 in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

365 (iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection

366 (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO
367 Utah office other tax information.

368 (B) Before providing other tax information to the GO Utah office, the commission
369 shall redact or remove any name, address, social security number, or taxpayer identification
370 number.

371 (iv) The GO Utah office may provide tax information received from the commission in
372 accordance with this Subsection (4)(n) only:

373 (A) as a fiscal estimate, fiscal note information, or statistical information; and

374 (B) if the tax information is classified to prevent the identification of a particular
375 return.

376 (v) (A) A person may not request tax information from the GO Utah office under Title
377 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO
378 Utah office received the tax information from the commission in accordance with this
379 Subsection (4)(n).

380 (B) The GO Utah office may not provide to a person that requests tax information in
381 accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the
382 GO Utah office provides in accordance with Subsection (4)(n)(iv).

383 (o) Notwithstanding Subsection (2), the commission may provide to the governing
384 board of the agreement or a taxing official of another state, the District of Columbia, the United
385 States, or a territory of the United States:

386 (i) the following relating to an agreement sales and use tax:

387 (A) information contained in a return filed with the commission;

388 (B) information contained in a report filed with the commission;

389 (C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

390 (D) a document filed with the commission; or

391 (ii) a report of an audit or investigation made with respect to an agreement sales and
392 use tax.

393 (p) Notwithstanding Subsection (2), the commission may provide information
394 concerning a taxpayer's state income tax return or state income tax withholding information to
395 the Driver License Division if the Driver License Division:

396 (i) requests the information; and

397 (ii) provides the commission with a signed release form from the taxpayer allowing the
398 Driver License Division access to the information.

399 (q) Notwithstanding Subsection (2), the commission shall provide to the Utah
400 Communications Authority, or a division of the Utah Communications Authority, the
401 information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and
402 63H-7a-502.

403 (r) Notwithstanding Subsection (2), the commission shall provide to the Utah
404 Educational Savings Plan information related to a resident or nonresident individual's
405 contribution to a Utah Educational Savings Plan account as designated on the resident or
406 nonresident's individual income tax return as provided under Section 59-10-1313.

407 (s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under
408 Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with
409 the Department of Health and Human Services or its designee with the adjusted gross income
410 of an individual if:

411 (i) an eligibility worker with the Department of Health and Human Services or its
412 designee requests the information from the commission; and

413 (ii) the eligibility worker has complied with the identity verification and consent
414 provisions of Sections 26B-3-106 and 26B-3-903.

415 (t) Notwithstanding Subsection (2), the commission may provide to a county, as
416 determined by the commission, information declared on an individual income tax return in
417 accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption
418 authorized under Section 59-2-103.

419 (u) Notwithstanding Subsection (2), the commission shall provide a report regarding
420 any access line provider that is over 90 days delinquent in payment to the commission of
421 amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless
422 Telecommunications Service Charges, to the board of the Utah Communications Authority
423 created in Section 63H-7a-201.

424 (v) Notwithstanding Subsection (2), the commission shall provide the Department of
425 Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the
426 previous calendar year under Section 59-24-103.5.

427 (w) Notwithstanding Subsection (2), the commission may, upon request, provide to the

428 Department of Workforce Services any information received under Chapter 10, Part 4,
429 Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

430 (x) Notwithstanding Subsection (2), the commission may provide the Public Service
431 Commission or the Division of Public Utilities information related to a seller that collects and
432 remits to the commission a charge described in Subsection 69-2-405(2), including the seller's
433 identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

434 (y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying
435 jurisdiction the collection data necessary to verify the revenue collected by the commission for
436 a distributed tax, fee, or charge collected within the qualifying jurisdiction.

437 (ii) In addition to the information provided under Subsection (4)(y)(i), the commission
438 shall provide a qualifying jurisdiction with copies of returns and other information relating to a
439 distributed tax, fee, or charge collected within the qualifying jurisdiction.

440 (iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief
441 executive officer or the chief executive officer's designee of the qualifying jurisdiction shall
442 submit a written request to the commission that states the specific information sought and how
443 the qualifying jurisdiction intends to use the information.

444 (B) The information described in Subsection (4)(y)(ii) is available only in official
445 matters of the qualifying jurisdiction.

446 (iv) Information that a qualifying jurisdiction receives in response to a request under
447 this subsection is:

448 (A) classified as a private record under Title 63G, Chapter 2, Government Records
449 Access and Management Act; and

450 (B) subject to the confidentiality requirements of this section.

451 (z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic
452 Beverage Services Commission, upon request, with taxpayer status information related to state
453 tax obligations necessary to comply with the requirements described in Section 32B-1-203.

454 (aa) Notwithstanding Subsection (2), the commission shall inform the Department of
455 Workforce Services, as soon as practicable, whether an individual claimed and is entitled to
456 claim a federal earned income tax credit for the year requested by the Department of Workforce
457 Services if:

458 (i) the Department of Workforce Services requests this information; and

459 (ii) the commission has received the information release described in Section
460 [35A-9-604](#).

461 (bb) (i) As used in this Subsection (4)(bb), "unclaimed property administrator" means
462 the administrator or the administrator's agent, as those terms are defined in Section [67-4a-102](#).

463 (ii) (A) Notwithstanding Subsection (2), upon request from the unclaimed property
464 administrator and to the extent allowed under federal law, the commission shall provide the
465 unclaimed property administrator the name, address, telephone number, county of residence,
466 and social security number or federal employer identification number on any return filed under
467 Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

468 (B) The unclaimed property administrator may use the information described in
469 Subsection (4)(aa)(ii)(A) only for the purpose of returning unclaimed property to the property's
470 owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

471 (iii) The unclaimed property administrator is subject to the confidentiality provisions of
472 this section with respect to any information the unclaimed property administrator receives
473 under this Subsection (4)(aa).

474 (cc) Notwithstanding Subsection (2), the commission shall provide the total amount of
475 revenues collected by the commission under Subsection [59-5-202\(5\)](#):

476 (i) at the request of a committee of the Legislature, the Office of the Legislative Fiscal
477 Analyst, or the Governor's Office of Planning and Budget, to the committee or office for the
478 time period specified by the committee or office; and

479 (ii) to the Division of Finance for purposes of the Division of Finance administering
480 Subsection [59-5-202\(5\)](#).

481 (5) (a) Each report and return shall be preserved for at least three years.

482 (b) After the three-year period provided in Subsection (5)(a) the commission may
483 destroy a report or return.

484 (6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

485 (b) If the individual described in Subsection (6)(a) is an officer or employee of the
486 state, the individual shall be dismissed from office and be disqualified from holding public
487 office in this state for a period of five years thereafter.

488 (c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting
489 information in accordance with Subsection (4)(n)(iii), or an individual who requests

490 information in accordance with Subsection (4)(n)(v):

491 (i) is not guilty of a class A misdemeanor; and

492 (ii) is not subject to:

493 (A) dismissal from office in accordance with Subsection (6)(b); or

494 (B) disqualification from holding public office in accordance with Subsection (6)(b).

495 (d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the
496 Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative
497 Organization, an individual described in Subsection (2):

498 (i) is not guilty of a class A misdemeanor; and

499 (ii) is not subject to:

500 (A) dismissal from office in accordance with Subsection (6)(b); or

501 (B) disqualification from holding public office in accordance with Subsection (6)(b).

502 (7) Except as provided in Section 59-1-404, this part does not apply to the property tax.
503 Section 4. Section 59-5-202 is amended to read:

504 **59-5-202. Severance tax -- Rate -- Computation -- Annual exemption.**

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

508 (2) If the metals or metalliferous minerals are shipped outside the state, this constitutes
509 a sale, and the finished metals or the recoverable units of finished metals from the metalliferous
510 minerals shipped are subject to the severance tax. If the metals or metalliferous minerals are
511 stockpiled, the tax is not applicable until they are sold or shipped out of state. For purposes of
512 the tax imposed by this chapter, uranium concentrates shall be considered to be finished metals.
513 The owner of the metals or metalliferous minerals that are stockpiled shall report to the
514 commission annually, in a form acceptable to the commission, the amount of metalliferous
515 minerals so stockpiled. Metals or metalliferous minerals that are stockpiled for more than two
516 years, however, are subject to the severance tax.

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

519 (4) These taxes are in addition to all other taxes provided by law and are delinquent,
520 unless otherwise deferred, on June 1 next succeeding the calendar year when the metalliferous

521 mineral is produced and sold or delivered.

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

523 (i) "Great Salt Lake element or mineral" means a metalliferous mineral, metal, ore,
524 chloride compound, potash, or salt mined or extracted from the brines of the Great Salt Lake.

525 (ii) "Great Salt Lake elevation" means the same as that term is defined in Section
526 65A-17-101.

527 ~~[(†)]~~ (iii) "Great Salt Lake extraction operator" means a person who~~[(A)]~~ is engaged in
528 the business of mining or extracting Great Salt Lake elements or minerals or metalliferous
529 [minerals] compounds from the brine of the Great Salt Lake~~[-and].~~

530 ~~[(B) enters into a mineral lease with the Division of Forestry, Fire, and State Lands on~~
531 ~~or after May 3, 2023, or as of July 1, 2020, had a mineral lease with the Division of Forestry,~~
532 ~~Fire, and State Lands, but not a royalty agreement for a metalliferous mineral, chloride~~
533 ~~compound, or salt.]~~

534 (iv) For purposes of each tax imposed under Subsection (5)(b), "incremental revenue"
535 means the difference between the sum of the revenue collected for the fiscal year from each of
536 the tax rates imposed under Subsection (5)(b) and the revenue collected for the fiscal year from
537 the tax rate imposed under Subsection (1).

538 ~~[(†)]~~ (v) "Metalliferous compound" means a metalliferous mineral or a chloride
539 compound or salt containing a metalliferous mineral.

540 (b) Notwithstanding the exclusion for chloride compounds or salts from the definition
541 of metalliferous minerals under Section 59-5-201~~[-]~~ and in lieu of the severance tax imposed
542 under Subsection (1), beginning with calendar year ~~[2024]~~ 2025, a Great Salt Lake extraction
543 operator shall pay to the state a severance tax in accordance with ~~[this part for the mining of a~~
544 ~~metalliferous compound:]~~ the following:

545 (i) for a Great Salt Lake extraction operator that is not a party or a third-party
546 beneficiary to a voluntary arrangement under Subsection 73-33-201(5)(a), a severance tax
547 equal to 7.8% of the taxable value of Great Salt Lake elements or minerals or metalliferous
548 compounds sold or otherwise disposed of;

549 (ii) for a Great Salt Lake extraction operator that is not a party or a third-party
550 beneficiary to a voluntary arrangement under Subsection 73-33-201(5)(a), but does not use
551 evaporative concentrations of Great Salt Lake brines in any stage of the extractive process, a

552 severance tax equal to 2.6% of the taxable value of Great Salt Lake elements or minerals or
553 metalliferous compounds sold or otherwise disposed of; or

554 (iii) for a Great Salt Lake extraction operator that is a party or a third-party beneficiary
555 to a voluntary arrangement under Subsection 73-33-201(5)(a):

556 (A) a severance tax equal to 2.6% of the taxable value of Great Salt Lake elements or
557 minerals sold or otherwise disposed of, if the Great Salt Lake elements or minerals are
558 extracted during a calendar year when the Great Salt Lake elevation recorded pursuant to
559 Section 65A-17-306 was at or above 4,198 feet in the prior calendar year; or

560 (B) a severance tax does not apply to the taxable value of Great Salt Lake elements or
561 minerals sold or otherwise disposed of, if those Great Salt Lake elements or minerals are sold
562 or otherwise disposed of in a calendar year when the Great Salt Lake elevation recorded
563 pursuant to Section 65A-17-306 was below 4,198 feet in the prior calendar year; and

564 (iv) notwithstanding Subsection (5)(b)(iii), for a Great Salt Lake extraction operator
565 that is a party or third-party beneficiary to a voluntary arrangement under Subsection
566 73-33-201(5)(a), a severance tax equal to 2.6% of the taxable value of a metalliferous
567 compound sold or otherwise disposed of under a royalty agreement issued under Subsection
568 65A-6-4(2)(d), entered into on or after May 1, 2024.

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

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

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

577 ~~(c)~~ (d) This Subsection (5) may not be interpreted to:

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

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

581 ~~(d)~~ (e) A person extracting metalliferous minerals, including a metalliferous
582 compound, from the brine of the Great Salt Lake is subject to the payment of a royalty

583 agreement under Section [65A-6-4](#) and the payment of a severance tax under this part.

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

585 **59-5-203. Determining taxable value.**

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

590 (a) If the metals ~~[or]~~, metalliferous mineral products, or metalliferous compounds are
591 actually sold, the value of those metals ~~[or]~~, metalliferous mineral products, or metalliferous
592 compounds shall be the gross amount the producer receives from that sale, provided that the
593 metals ~~[or]~~, metalliferous mineral products, or metalliferous compounds are sold under a bona
594 fide contract of sale between unaffiliated parties. In the case of a sale of uranium concentrates,
595 gross proceeds shall be the gross amount the producer receives from the sale of processed
596 uranium concentrate or "yellowcake," provided that the uranium concentrate is sold under a
597 bona fide contract of sale between unaffiliated parties.

598 (b) (i) For purposes of a Great Salt Lake extraction operator, as defined in Section
599 [59-5-202](#), if metals, metalliferous minerals, or metalliferous compounds are not sold, but are
600 otherwise disposed of, the gross proceeds shall be the multiple of the recoverable units of
601 finished or unfinished metals, or of the finished or unfinished metals contained in the
602 metalliferous minerals or metalliferous compounds shipped, and the average daily price per
603 unit of contained metals as quoted by an established authority for market prices of metals for
604 the period during which the tax imposed by this chapter is due.

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

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

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

616 ~~[(e)]~~ (d) In the case of metals ~~[or]~~, metalliferous minerals, or metalliferous compounds
617 not sold, but otherwise disposed of, for which there is no established authority for market
618 prices of metals for the period during which the tax imposed by this chapter is due, gross
619 proceeds is determined by allocating to the state the same proportion of the producer's total
620 sales of metals ~~[or]~~, metalliferous minerals, or metalliferous compounds sold or otherwise
621 disposed of as the producer's total Utah costs bear to the total costs associated with sale or
622 disposal of the metal or metalliferous mineral.

623 ~~[(d)]~~ (e) In the event of a sale of metals ~~[or]~~, metalliferous minerals, or metalliferous
624 compounds between affiliated companies which is not a bona fide sale because the value
625 received is not proportionate to the fair market value of the metals ~~[or]~~, metalliferous minerals,
626 metalliferous compounds or in the event that Subsection ~~[(1)(a), (b), or (c)]~~ (1)(a), (b), (c), or
627 (d) are not applicable, the commission shall determine the value of such metals ~~[or]~~,
628 metalliferous minerals, or metalliferous compounds in an equitable manner by reference to an
629 objective standard as specified in a rule adopted in accordance with the provisions of Title
630 63G, Chapter 3, Utah Administrative Rulemaking Act.

631 (2) For all metals except beryllium, the taxable value of the metalliferous mineral sold
632 or otherwise disposed of is 30% of the gross proceeds received for the metals sold or otherwise
633 disposed of by the producer of the metal.

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

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

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

641 **59-5-207. Date tax due -- Extensions -- Installment payments -- Penalty on**
642 **delinquencies -- Audit.**

643 (1) The tax imposed by this chapter is due and payable on or before June 1 of the year
644 next succeeding the calendar year when the mineral is produced and sold or delivered.

645 (2) The commission may, for good cause shown upon a written application by the
646 taxpayer, extend the time of payment of the whole or any part of the tax for a period not to
647 exceed six months. If an extension is granted, interest at the rate and in the manner prescribed
648 in Section [59-1-402](#) shall be charged and added to the amount of the deferred payment of the
649 tax.

650 (3) Every taxpayer subject to this chapter whose total tax obligation for the preceding
651 calendar year was \$3,000 or more shall pay the taxes assessed under this chapter in quarterly
652 installments. Each installment shall be based on the estimated gross value received by the
653 taxpayer during the quarter preceding the date on which the installment is due.

654 (4) The quarterly installments are due as follows:

655 (a) for January 1 through March 31, on or before June 1;

656 (b) for April 1 through June 30, on or before September 1;

657 (c) for July 1 through September 30, on or before December 1; and

658 (d) for October 1 through December 31, on or before March 1 of the next year.

659 (5) (a) If the taxpayer fails to report and pay any tax when due, the taxpayer is subject
660 to the penalties provided under Section [59-1-401](#), unless otherwise provided in Subsection (6).

661 (b) An underpayment exists if less than 80% of the tax due for a quarter is paid.

662 (6) The penalty for failure to pay the tax due or underpayment of tax may not be
663 assessed if the taxpayer's quarterly tax installment payment equals 25% of the tax reported and
664 paid by the taxpayer for the preceding taxable year.

665 (7) There shall be no interest added to any estimated tax payments subject to a penalty
666 under this section.

667 (8) The commission may conduct audits to determine whether any tax is owed under
668 this section.

669 (9) For purposes of a Great Salt Lake extraction operator under Subsection
670 [59-5-202](#)(5), the Division of Forestry, Fire, and State Lands shall provide the commission by
671 January 15 of each year the information required by Section [65A-17-306](#), that the commission
672 shall use to determine the amount due and payable on June 1 of the year next succeeding the
673 calendar year.

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

675 **59-5-215. Disposition of taxes collected -- Credit to General Fund.**

676 Except as provided in Section 51-9-305, 51-9-306, or 51-9-307, or Subsection
677 59-5-202(5), a tax imposed and collected under Section 59-5-202 shall be paid to the
678 commission, promptly remitted to the state treasurer, and credited to the General Fund.

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

680 **63G-4-102. Scope and applicability of chapter.**

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

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

687 (b) judicial review of the action.

688 (2) This chapter does not govern:

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

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

695 (c) state agency action relating to extradition, to the granting of a pardon or parole, a
696 commutation or termination of a sentence, or to the rescission, termination, or revocation of
697 parole or probation, to the discipline of, resolution of a grievance of, supervision of,
698 confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah
699 State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction
700 of the Office of Substance Use and Mental Health, or a person on probation or parole, or
701 judicial review of the action;

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

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

706 (f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah

707 Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that
708 this chapter governs an agency action commenced by the employer, licensee, or other person
709 authorized by law to contest the validity or correctness of the citation or assessment;

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

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

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

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

726 (k) the issuance of a notice of violation or order under Title 26B, Chapter 4, Part 1,
727 Utah Emergency Medical Services System, Title 19, Chapter 2, Air Conservation Act, Title 19,
728 Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19,
729 Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act,
730 Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used
731 Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except
732 that this chapter governs an agency action commenced by a person authorized by law to contest
733 the validity or correctness of the notice or order;

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

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

- 738 (n) state agency action relating to wildlife licenses, permits, tags, and certificates of
739 registration;
- 740 (o) a license for use of state recreational facilities;
- 741 (p) state agency action under Chapter 2, Government Records Access and Management
742 Act, except as provided in Section [63G-2-603](#);
- 743 (q) state agency action relating to the collection of water commissioner fees and
744 delinquency penalties, or judicial review of the action;
- 745 (r) state agency action relating to the installation, maintenance, and repair of headgates,
746 caps, valves, or other water controlling works and weirs, flumes, meters, or other water
747 measuring devices, or judicial review of the action;
- 748 (s) the issuance and enforcement of an initial order under Section [73-2-25](#);
- 749 (t) (i) a hearing conducted by the Division of Securities under Section [61-1-11.1](#); and
750 (ii) an action taken by the Division of Securities under a hearing conducted under
751 Section [61-1-11.1](#), including a determination regarding the fairness of an issuance or exchange
752 of securities described in Subsection [61-1-11.1\(1\)](#);
- 753 (u) state agency action relating to water well driller licenses, water well drilling
754 permits, water well driller registration, or water well drilling construction standards, or judicial
755 review of the action;
- 756 (v) the issuance of a determination and order under Title 34A, Chapter 5, Utah
757 Antidiscrimination Act;
- 758 (w) state environmental studies and related decisions by the Department of
759 Transportation approving state or locally funded projects, or judicial review of the action;
- 760 (x) the suspension of operations under Subsection [32B-1-304\(3\)](#); [or]
- 761 (y) the issuance of a determination of violation by the Governor's Office of Economic
762 Opportunity under Section [11-41-104](#)[?]; or
- 763 (z) a challenge to an aspect of a distribution management plan under Section
764 [73-33-202](#).
- 765 (3) This chapter does not affect a legal remedy otherwise available to:
- 766 (a) compel an agency to take action; or
- 767 (b) challenge an agency's rule.
- 768 (4) This chapter does not preclude an agency, prior to the beginning of an adjudicative

769 proceeding, or the presiding officer during an adjudicative proceeding from:

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

771 (i) encourage settlement;

772 (ii) clarify the issues;

773 (iii) simplify the evidence;

774 (iv) facilitate discovery; or

775 (v) expedite the proceeding; or

776 (b) granting a timely motion to dismiss or for summary judgment if the requirements of

777 Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party,

778 except to the extent that the requirements of those rules are modified by this chapter.

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

781 (b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is
782 governed by this chapter.

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

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

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

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

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

798 (10) Notwithstanding any other provision of this section, this chapter does not apply to
799 a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent

800 expressly provided in Section [19-1-301.5](#).

801 (11) Subsection (2)(w), regarding action taken based on state environmental studies
802 and policies of the Department of Transportation, applies to any claim for which a court of
803 competent jurisdiction has not issued a final unappealable judgment or order before May 14,
804 2019.

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

806 **65A-5-1. Sovereign Lands Management Account.**

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

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

810 (a) the revenues derived from sovereign lands, except for revenues deposited into the
811 Great Salt Lake Account under Section [73-32-304](#);

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

814 (c) revenues derived from the Great Salt Lake Preservation support special group
815 license plate described in Sections [41-1a-418](#) and [41-1a-422](#);

816 (d) fees deposited by the division; ~~and~~

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

818 (f) amounts deposited into the account in accordance with Section [59-5-202](#).

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

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

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

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

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

832 **65A-6-4. Mineral leases -- Multiple leases on same land -- Rentals and royalties --**

833 **Lease terms -- Great Salt Lake.**

834 (1) As used in this section:

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

836 (i) a rare earth element;

837 (ii) a trace element or mineral; or

838 (iii) a chemical compound that includes a rare earth element or trace element or

839 mineral.

840 (b) "Operator" means, for purposes of provisions applicable to the extraction of a Great

841 Salt Lake element or mineral, a person qualified to do business in the state who is pursuing the

842 extraction of a Great Salt Lake element or mineral.

843 [~~(b)~~] (c) "Rare earth element" is one of the following ores, minerals, or elements

844 located in the brines or the sovereign lands of the Great Salt Lake:

845 (i) lanthanum;

846 (ii) cerium;

847 (iii) praseodymium;

848 (iv) neodymium;

849 (v) samarium;

850 (vi) europium;

851 (vii) gadolinium;

852 (viii) terbium;

853 (ix) dysprosium;

854 (x) holmium;

855 (xi) erbium;

856 (xii) thulium;

857 (xiii) ytterbium;

858 (xiv) lutetium; and

859 (xv) yttrium.

860 [~~(c)~~] (d) "Trace element or mineral" means an element or mineral that is located in the

861 brines or the sovereign lands of the Great Salt Lake that is not in production by July 1, 2020,

862 and for which the state has not received a royalty payment by July 1, 2020.

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

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

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

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

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

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

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

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

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

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

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

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

890 (5) (a) [~~Subject~~] In addition to the requirements of Chapter 17, Part 3, Mineral or
891 Element Extraction, and subject to the other provisions of this Subsection (5), for a mineral
892 lease or royalty agreement involving the extraction of [~~minerals~~] Great Salt Lake elements and

893 minerals from brines in the Great Salt Lake, the division shall ensure that the following terms,
894 as applicable, are included:

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

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

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

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

906 [~~(v)~~] (iv) a provision allowing the division to require an existing operator to use
907 commercially viable, innovative technologies to minimize water depletions caused by the
908 planned mineral extraction as a condition of continued operations[;] if the technology:

909 (A) has been successfully implemented on a commercial scale in similar
910 circumstances;

911 (B) has been shown to be economically viable; and

912 (C) is reasonably compatible with the operator's overall extraction process; and

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

915 (A) the acreage subject to the mineral lease by the acreage the operator does not use to
916 extract a Great Salt Lake element or mineral during the primary term of the mineral lease under
917 conditions that do not constitute waste, as defined in Section [65A-17-101](#); and

918 (B) the volume of water that the operator may divert from the Great Salt Lake, by the
919 volume of water that the operator does not use during the longer of the primary term of the
920 mineral lease or seven years if the operator fails to use the volume of water for a beneficial use,
921 except if the failure to use the volume of water is as a result of a reduction of water usage under
922 Section [73-33-201](#) or is excused under Section [73-1-4](#).

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

924 involving the extraction of minerals from brines in the Great Salt Lake, the extraction operation
925 or extraction method shall mitigate the total water depleted as provided in Subsection (5)(a)(ii)
926 only to the extent that the extraction operation or extraction method increases total depletions
927 as compared to an estimated 10-year average of depletions as estimated by the Division of
928 Water Resources' water budget model beginning on January 1, 2013, and ending on December
929 31, 2022.]

930 ~~[(e)]~~ (b) If under Subsection ~~[(5)(a)(v)]~~ (5)(a)(iv) the division requires an existing
931 operator to use a commercially viable, innovative technology, the division may not require use
932 of a technology not yet proven to be commercially viable on the Great Salt Lake and may not
933 require implementation of the technology to begin until after a reasonable period determined by
934 the division [not to exceed five years] that is at least five years but does not exceed seven years.

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

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

941 (iii) Nothing in this Subsection (5) modifies or otherwise affects Section 73-1-4 or
942 73-3-30.

943 (6) (a) Before issuing a royalty agreement under Subsection (2)(d), the division may
944 require an operator to engage in a feasibility assessment and may issue a royalty agreement
945 without compliance of Subsection (5)(a) if the agreement:

946 (i) has a term of 12 months or less; and

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

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

951 ~~[(6)]~~ (7) (a) Upon nomination from a prospective operator, the division shall by rule,
952 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish
953 a royalty rate and calculation methodology for a Great Salt Lake element or mineral that:

954 (i) provides for a full and fair return to the state from the production of the Great Salt

955 Lake element or mineral;

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

958 (iii) provides a base royalty rate;

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

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

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

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

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

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

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

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

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

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

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

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

985 (d) An operator who as of July 1, 2020, had a mineral lease with the division but not a

986 royalty agreement and who is subject to a severance tax under Subsection 59-5-202(5) shall pay
987 a royalty under this section in addition to the severance tax.

988 (e) The royalty rate described in Subsection (7)(a)(vi) may not be reassessed during the
989 primary term of an initial royalty agreement issued under this section, but may be reassessed
990 upon the conclusion of the primary term.

991 ~~[(7)]~~ (8) (a) ~~[An]~~ Except as provided in Subsection (8)(b), an operator who extracts a
992 Great Salt Lake element or mineral from tailings from the production of Great Salt Lake
993 elements or minerals from brines in the Great Salt Lake is subject to this section to the same
994 extent as an operator producing a Great Salt Lake element or mineral from brines in the Great
995 Salt Lake.

996 (b) An operator that, as of May 3, 2023, has an agreement to recover a Great Salt Lake
997 element or mineral from existing tailings, discarded material, end-use products, or waste
998 products produced from the evaporation and processing of Great Salt Lake brines is not subject
999 to this section, except as to the payment of royalties set by the division under Subsection (7)(a).
1000 The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
1001 Rulemaking Act, regarding the issuance and termination of a royalty agreement for mineral
1002 extraction from tailings, discarded material, end-use products, or waste products produced from
1003 the evaporation and processing of Great Salt Lake brines.

1004 (c) An operator that, as of May 3, 2023, has an underlying agreement to recover a Great
1005 Salt Lake element or mineral shall obtain an additional agreement for any additional Great Salt
1006 Lake element or mineral produced from the tailings, discarded material, end-use products, or
1007 waste products newly produced under the underlying agreement. The additional agreement is
1008 subject to this section.

1009 ~~[(8)]~~ (9) The division shall annually report to the Natural Resources, Agriculture, and
1010 Environmental Quality Appropriations Subcommittee regarding the amount of money collected
1011 under this section from royalties provided for in Subsection ~~[(6)]~~ (7).

1012 ~~[(9)]~~ (10) (a) In the issuance of royalty agreements for the extraction of lithium from
1013 the Great Salt Lake, the division shall prioritize applicants that~~[-(a)]~~ do not use evaporative
1014 concentration of Great Salt Lake brines in any stage of the extractive process~~[-and]~~
1015 ~~[(b) use commercially viable extractive processes].~~

1016 (b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah

1017 Administrative Rulemaking Act, creating a process for implementing this Subsection (10).

1018 [~~(10)~~] (11) Except in relationship to mineral leases related to the Great Salt Lake, the
1019 division shall make rules regarding the continuation of a mineral lease after the primary term
1020 has expired, which shall provide that a mineral lease shall continue so long as:

1021 (a) the mineral covered by the lease is being produced in paying quantities from:

1022 (i) the leased premises;

1023 (ii) lands pooled, communitized, or unitized with the leased premises; or

1024 (iii) lands constituting an approved mining or drilling unit with respect to the leased
1025 premises; or

1026 (b) (i) the lessee is engaged in diligent operations, exploration, research, or
1027 development which is reasonably calculated to advance development or production of the
1028 mineral covered by the lease from:

1029 (A) the leased premises;

1030 (B) lands pooled, communitized, or unitized with the leased premises; or

1031 (C) lands constituting an approved mining or drilling unit with respect to the leased
1032 premises; and

1033 (ii) the lessee pays a minimum royalty.

1034 [~~(11)~~] (12) For the purposes of Subsection [~~(10)~~] (11), diligent operations with respect
1035 to oil, gas, and other hydrocarbon leases may include cessation of operations not in excess of
1036 90 days in duration.

1037 [~~(12)~~] (13) (a) The division shall study and analyze each mineral lease and mineral
1038 royalty agreement issued on the Great Salt Lake and compare and evaluate whether the mineral
1039 leases and royalty agreements are representative of current market conditions. As part of this
1040 study, the division shall:

1041 (i) make the following determinations for mineral leases:

1042 (A) whether the entire surface area described within the mineral lease is being used;

1043 and

1044 (B) whether the annual lease payments are representative of current market conditions;

1045 and

1046 (ii) for royalty agreements, perform studies and comparative analyses to determine
1047 whether the state is receiving royalty rates consistent with current market conditions.

1048 (b) By no later than the 2023 November interim meeting, the division shall report the
1049 division's findings of the study required by this Subsection [~~(12)~~] (13) to the Natural Resources,
1050 Agriculture, and Environment Interim Committee.

1051 (14) The division may make rules, in accordance with Title 63G, Chapter 3, Utah
1052 Administrative Rulemaking Act, for implementing this section.

1053 (15) The provisions in this section related to extraction of a Great Salt Lake element or
1054 mineral under a mineral lease or royalty agreement apply to a mineral lease or royalty
1055 agreement in effect on May 1, 2024, and any mineral lease or royalty agreement entered into
1056 after May 1, 2024.

1057 Section 11. Section **65A-17-101** is enacted to read:

1058 **CHAPTER 17. GREAT SALT LAKE PRESERVATION ACT**

1059 **Part 1. General Provisions**

1060 **65A-17-101. Definitions.**

1061 As used in this chapter:

1062 (1) "Adaptive management berm" means a berm installed in the UP causeway breach
1063 to manage salinity to protect the ecosystem of Gilbert Bay.

1064 (2) "Commercially viable technology" means a technology that:

1065 (a) has been successfully implemented on a commercial scale in similar conditions;

1066 (b) is shown to be economically viable; and

1067 (c) is reasonably compatible with the operator's overall extraction process.

1068 (3) "Common source of supply" means the mineral or element estate contained within
1069 the Great Salt Lake meander line.

1070 (4) "Correlative right" means the opportunity of each operator to extract a portion of a
1071 common source of supply, subject to the state's sovereign lands management responsibilities,
1072 without the occurrence of waste.

1073 (5) "Emergency trigger" means the salinity levels of the Gilbert Bay of the Great Salt
1074 Lake do not satisfy the ecological conditions required for healthy brine shrimp and brine fly
1075 reproduction.

1076 (6) "Great Salt Lake elevation" means the elevation of the Great Salt Lake as measured
1077 by the United States Geological Survey gauging station 10010000 located at Saltair Boat
1078 Harbor, Utah.

1079 (7) "Great Salt Lake meander line" means the official meander line, completed in 1966,
1080 of the Great Salt Lake unless otherwise established by court order or negotiated boundary
1081 settlement.

1082 (8) "Great Salt Lake salinity" means the salinity of the Great Salt Lake as measured by
1083 the United States Geological Survey in Gilbert Bay.

1084 (9) "Healthy physical and ecological condition" means that Gilbert Bay of the Great
1085 Salt Lake has sustained salinity levels that satisfy the ecological conditions required for healthy
1086 brine shrimp and brine fly reproduction.

1087 (10) "Mineral or element" means:

1088 (a) a rare earth element;

1089 (b) a trace element or mineral;

1090 (c) a chemical compound that includes a rare earth element or trace element or mineral;

1091 or

1092 (d) a mineral or element that is attached, embedded to, or is a by-product of another
1093 mineral or element.

1094 (11) "Mitigation plan" means an agreement entered into on or after May 1, 2024,
1095 among the operators and the division for resolving issues arising from concurrent operations.

1096 (12) "Multiple mineral development area" means an area involving the management of
1097 various surface and sub-surface resources so that they are used in the combination that will best
1098 meet present and future needs.

1099 (13) "Natural resources of the Great Salt Lake" means the biota, water resources, water
1100 quality, the fishery and recreational resources, the wetlands and wildlife resources, and any
1101 other naturally occurring resource on the Great Salt Lake.

1102 (14) "Operator" means a person qualified to do business in the state pursuing the
1103 extraction of minerals or elements from the Great Salt Lake.

1104 (15) "Paying quantities" means the revenue generated from the sale of the mineral or
1105 element being produced exceeds the costs associated with obtaining the mineral or element,
1106 including any royalty obligation.

1107 (16) "Public trust assets" means the same as that term is defined in Section [65A-1-1](#).

1108 (17) "UP causeway breach" means a breach in the 21-mile Union Pacific Railroad
1109 causeway across the Great Salt Lake that separates the Great Salt Lake into Gunnison Bay and

1110 Gilbert Bay.

1111 (18) (a) Except as provided in Subsection (18)(b) and subject to Section [65A-17-305](#),

1112 "waste" means:

1113 (i) the failure of an operation to provide the state with a full and fair return on each

1114 separately identified mineral or element;

1115 (ii) an unnecessary depletion, diminishment, or reduction of the quantity or quality of a

1116 mineral or element; or

1117 (iii) imprudent and uneconomical operations.

1118 (b) "Waste" does not include extraction or removal of a mineral or element that cannot

1119 be extracted in paying quantities through commercially viable technology and:

1120 (i) that has not been nominated under Subsection [65A-6-4\(6\)\(a\)](#); or

1121 (ii) for which the division has not established a royalty rate in rule.

1122 Section 12. Section **65A-17-102**, which is renumbered from Section 65A-10-202 is

1123 renumbered and amended to read:

1124 ~~**[65A-10-202].**~~ **65A-17-102. Legislative findings.**

1125 The Legislature finds that:

1126 (1) under Section [65A-10-1](#) the division, as the manager of sovereign lands, has a duty
1127 to serve the public interest in managing the Great Salt Lake;

1128 (2) the Great Salt Lake is a critical resource owned and managed by the state;

1129 (3) the lake levels of the Great Salt Lake have reached historic lows, requiring action
1130 by the state to address significant risks and minimize dangers to protect the ecological integrity
1131 of the Great Salt Lake, the state's environment in general, and the welfare of the state's citizens;
1132 and

1133 (4) the management of the Great Salt Lake under this ~~[part]~~ chapter, especially if the
1134 emergency trigger is reached, is reasonable and necessary to serve important public purposes
1135 and no reasonable alternative meets the interests described in Subsection (3).

1136 Section 13. Section **65A-17-103** is enacted to read:

1137 **65A-17-103. Application of chapter.**

1138 This chapter applies to a mineral lease or royalty agreement in effect on May 1, 2024, or
1139 the mineral or element extraction process engaged in on May 1, 2024, and any mineral lease or
1140 royalty agreement entered into after May 1, 2024, or mineral or element extraction process

1141 engaged in after May 1, 2024.

1142 Section 14. Section **65A-17-201**, which is renumbered from Section 65A-10-203 is
1143 renumbered and amended to read:

1144 **Part 2. Management**

1145 ~~[65A-10-203]~~. **65A-17-201. Great Salt Lake -- Management responsibilities**
1146 **of the division.**

1147 The division has the following powers and duties:

1148 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
1149 Administrative Rulemaking Act, for the management of the Great Salt Lake that recognize the
1150 division's duty to manage public trust assets and balance the following [~~public trust values and~~]
1151 public interest benefits and policies:

1152 (a) strategies to effectively and efficiently manage the Great Salt Lake based on the
1153 Great Salt Lake's fluctuating lake levels;

1154 (b) development of the Great Salt Lake that balances, in a manner that promotes a
1155 healthy physical and ecological condition:

1156 (i) migratory and shorebirds habitats;

1157 (ii) wetlands;

1158 (iii) brines, minerals or elements, chemicals, and petro-chemicals;

1159 (iv) brine shrimp;

1160 (v) the protection of wildlife and wildlife habitat;

1161 (vi) the protection of recreational access and facilities; and

1162 (vii) search and rescue efforts;

1163 (c) promote water quality management for the Great Salt Lake and the Great Salt
1164 Lake's tributary streams;

1165 (d) public access to the Great Salt Lake for recreation, hunting, and fishing;

1166 (e) temperature moderation, a stable role in the water cycle, and dust mitigation;

1167 (f) maintain the Great Salt Lake's flood plain as a hazard zone;

1168 (g) maintain the Great Salt Lake and the marshes as important shorebirds, waterfowl,
1169 and other waterbird flyway system;

1170 (h) promote and maintain recreation areas on and surrounding the Great Salt Lake; and

1171 (i) maintain and protect state, federal, and private marshlands, rookeries, and wildlife

1172 refuges.

1173 (2) (a) The division shall prepare and maintain a comprehensive management plan for
1174 the Great Salt Lake that is consistent with:

1175 (i) the ~~[public trust values]~~ management duty and public interest benefits described in
1176 Subsection (1) ~~[and]~~;

1177 (ii) policies established by rule made under Subsection (1)~~[-]~~; and

1178 (iii) the Great Salt Lake strategic plan adopted under Section 73-32-204.

1179 (b) The comprehensive management plan described in this section shall integrate the
1180 land within the Great Salt Lake meander line regardless of whether the land has been excluded
1181 from water within the Great Salt Lake because of a berm or other infrastructure on sovereign
1182 land associated with the Great Salt Lake.

1183 (c) The division shall prepare the comprehensive management plan in consultation
1184 with the Great Salt Lake commissioner.

1185 (3) The division may employ personnel and purchase equipment and supplies that the
1186 Legislature authorizes through appropriations for the purposes of this chapter and Chapter 10,
1187 Management of Sovereign Lands.

1188 (4) The division may initiate studies of the Great Salt Lake and the Great Salt Lake's
1189 related resources.

1190 (5) The division may publish scientific and technical information concerning the Great
1191 Salt Lake.

1192 (6) The division shall define the Great Salt Lake's flood plain.

1193 (7) The division may qualify for, accept, and administer grants, gifts, or other funds
1194 from the federal government and other sources, for carrying out any functions under this
1195 chapter and Chapter 10, Management of Sovereign Lands.

1196 (8) The division shall determine the need for public works and utilities for the lake
1197 area.

1198 (9) The division may implement the comprehensive plan described in Subsection (2)
1199 through state and local entities or agencies.

1200 (10) The division shall coordinate the activities of the various divisions within the
1201 Department of Natural Resources with respect to the Great Salt Lake.

1202 (11) The division shall retain and encourage the continued activity of the Great Salt

1203 Lake technical team.

1204 (12) The division shall administer Chapter 16, Great Salt Lake Watershed
1205 Enhancement Program.

1206 (13) The division shall administer Section [~~65A-10-204~~] 65A-17-202 when the Great
1207 Salt Lake emergency trigger is reached.

1208 (14) (a) The division shall manage the adaptive management berm in the UP causeway
1209 breach to [~~manage salinity to protect the ecosystem of Gilbert Bay. Unless salinity conditions~~
1210 ~~in Gilbert Bay warrant raising the adaptive management berm, the policy of the state is to keep~~
1211 ~~the UP causeway breach open so as to allow the exchange of water between Gilbert and~~
1212 ~~Gunnison Bays.~~] keep salinity of Gilbert Bay within target ranges, raising and lowering the
1213 adaptive management berm as needed to achieve that goal.

1214 (b) In pursuing the goal described in Subsection (14)(a), the division shall:

1215 (i) consider the other management objectives enumerated in this section, including the
1216 preservation of Gunnison Bay;

1217 (ii) raise the adaptive management berm if the Great Salt Lake elevation is 4,190 feet
1218 or lower; and

1219 (iii) comply with a plan and schedule required by Subsection (14)(c).

1220 (c) Before raising the adaptive management berm, the division shall have a plan and
1221 schedule to lower the adaptive management berm by no later than nine months after raising the
1222 adaptive management berm, with an objective of equalizing the elevations of Gilbert Bay and
1223 Gunnison Bay to be within two feet of each other.

1224 (d) The division will consult with the Great Salt Lake commissioner:

1225 (i) before modifying the adaptive management berm; and

1226 (ii) concerning the adoption of the plan and schedule described in Subsection (14)(c).

1227 (15) Notwithstanding a statute to the contrary and except for activities that interfere
1228 with the authority granted the state engineer under Title 73, Water and Irrigation, the division
1229 may construct, operate, modify, or maintain infrastructure related to protecting the Great Salt
1230 Lake and adjacent wetlands and may engage in planning and provide staff to manage the
1231 infrastructure.

1232 [~~(15)~~] (16) The division may perform acts other than those described in Subsections (1)
1233 through [~~(14)~~] (15) that are reasonably necessary to carry out this chapter and Chapter 10,

1234 Management of Sovereign Lands.

1235 (17) The division shall complete an analysis to determine the infrastructure and
1236 engineering needs related to salinity management within the Great Salt Lake meander line.

1237 (18) The division shall consult with the Division of Wildlife Resources to identify
1238 projects on sovereign lands that benefit wildlife habitat through the improved flow of water and
1239 management of both native and invasive plant species.

1240 [~~16~~] (19) This [~~part~~] chapter may not be interpreted to override, supersede, or modify
1241 any water right within the state, or the role and authority of the state engineer.

1242 Section 15. Section **65A-17-202**, which is renumbered from Section 65A-10-204 is
1243 renumbered and amended to read:

1244 ~~[65A-10-204]~~. **65A-17-202. Emergency management responsibilities of the**
1245 **division.**

1246 (1) When the Great Salt Lake reaches the emergency trigger, the division:

1247 (a) may construct, operate, modify, and maintain the adaptive management berm;

1248 (b) may construct, operate, modify, and maintain one or more additional berms, dikes,
1249 structures, or management systems consistent with the authority granted in this title;

1250 (c) may enter into agreements as necessary to provide for all or a portion of a berm,
1251 dike, system, or structure;

1252 (d) is exempt from Title 63G, Chapter 6a, Utah Procurement Code, when acting to
1253 manage the Great Salt Lake under this section;

1254 (e) is not liable for a third-party claim resulting from the division's actions to manage
1255 the Great Salt Lake under this section;

1256 (f) may decline to issue a new permit, authorization, or agreement and may curtail
1257 mineral or element production for leases that contain provisions contemplating curtailment or
1258 similar contractual remedies;

1259 (g) may implement mineral lease withdrawal over one or more of the following:

1260 (i) portions of the Great Salt Lake;

1261 (ii) specific methods of extraction; or

1262 (iii) specific Great Salt Lake elements or minerals as defined in Section 65A-6-4; and

1263 (h) may require the implementation of one or more of the following:

1264 (i) extraction methods that are non-depletive in nature;

1265 (ii) mitigation to offset depletion; or
1266 (iii) innovative extraction technologies.

1267 (2) The division shall make rules in accordance with Title 63G, Chapter 3, Utah
1268 Administrative Rulemaking Act, providing for the procedures the division shall follow in
1269 taking an action described in Subsection (1).

1270 Section 16. Section **65A-17-203**, which is renumbered from Section 65A-10-205 is
1271 renumbered and amended to read:

1272 ~~**65A-10-205.**~~ **65A-17-203. Force majeure.**

1273 (1) For purposes of managing the Great Salt Lake, the division may treat the fact that
1274 the Great Salt Lake has reached the emergency trigger as a triggering event for the purposes of
1275 invoking a force majeure provision in a contract, mineral lease, or royalty agreement.

1276 (2) In addition to the standard mechanisms whereby performance is excused by
1277 invocation of a force majeure provision, the division shall include language in a contract,
1278 mineral lease, or royalty agreement whereby the division may curtail or prohibit mineral or
1279 element production that results in a net depletion of water.

1280 (3) The division shall allow an operator to continue processing brines that have already
1281 been extracted from the Great Salt Lake that are residing in the operator's process, and selling
1282 products derived from brines that have already been extracted at the time the force majeure is
1283 invoked.

1284 (4) The division shall include standard mechanisms to promptly waive force majeure
1285 once salinity conditions improve by declining below the emergency trigger threshold.

1286 (5) If the division invokes a force majeure provision in a contract, mineral lease, or
1287 royalty agreement, the effected operator is relieved from performance of any contractual
1288 provision requiring production to hold the contract, mineral lease, or royalty agreement for a
1289 maximum of two years. If the conditions creating the emergency trigger persist beyond a
1290 two-year period, the division shall terminate the contract, mineral lease, or royalty agreement
1291 and require the operator to engage in new contractual agreements whereby the operator
1292 represents and warrants that future operations will not amount to a net depletion of water.

1293 Section 17. Section **65A-17-301** is enacted to read:

1294 **Part 3. Mineral or Element Extraction**

1295 **65A-17-301. General royalty agreement provisions -- State action regarding**

1296 **evaporation ponds and leaseholds.**

1297 (1) In addition to the requirements of Section 65A-6-4, the division shall ensure that a
1298 royalty agreement:

1299 (a) obligates the lessee to extract minerals or elements in a manner that prevents waste
1300 to the common source of supply;

1301 (b) obligates the lessee to extract minerals or elements in a manner that avoids negative
1302 impacts to any natural resources of the Great Salt Lake;

1303 (c) contains terms and conditions wherein the lessee agrees to extract minerals or
1304 elements in a manner that preserves and conserves ecological integrity and healthy salinity
1305 levels; and

1306 (d) contains terms and conditions wherein the lessee represents and warrants full
1307 compliance, at the lessee's sole expense, with the management decisions and instructions of the
1308 division and director for preservation of minerals or elements and natural resources of the
1309 Great Salt Lake.

1310 (2) (a) The division may acquire the property interest in land or a mineral estate for a
1311 solar evaporation pond on sovereign lands and an improvement, property, easement, or
1312 right-of-way appurtenant to the solar evaporation pond by any lawful means, including eminent
1313 domain, as described in Sections 78B-6-501 and 78B-6-502.

1314 (b) The division may not implement this Subsection (2) to acquire a property interest in
1315 land or a mineral estate that is not in or on sovereign land.

1316 (c) The division may not implement this Subsection (2) on property interests in land or
1317 mineral estates held by an operator who, in an agreement with the division, has relinquished
1318 property interests in land or mineral estates.

1319 (d) Only the division may implement this Subsection (2).

1320 Section 18. Section **65A-17-302** is enacted to read:

1321 **65A-17-302. Minerals or elements extracted from the Great Salt Lake subject to**
1322 **royalty rate.**

1323 (1) An operator who removes or extracts a mineral or element from the Great Salt Lake
1324 and does not return the mineral or element to the Great Salt Lake shall compensate the division
1325 for the value of the mineral or element at the royalty rate established by the division by rule
1326 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if a

1327 royalty rate has been established, except that this Subsection (1) only applies to the extent that
1328 the mineral or element:

1329 (a) has been nominated under Subsection 65A-6-4(6)(a) or for which the division has
1330 established a royalty rate in rule; and

1331 (b) can be extracted in paying quantities through a commercially viable technology
1332 after a reasonable period determined by the division, that is at least five years but does not
1333 exceed seven years, from the day on which the division determines that the technology is a
1334 commercially viable technology.

1335 (2) (a) The division shall require an operator that removes or extracts a mineral or
1336 element from the Great Salt Lake to annually certify to the division by no later than May 1
1337 whether the operator is in compliance with Subsection (1). The certification by the operator
1338 shall:

1339 (i) state the operator's name;

1340 (ii) list the amount of each mineral or element that the operator has removed or
1341 extracted from the Great Salt Lake in the previous calendar year; and

1342 (iii) include other information as determined by the division by rule made in
1343 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1344 (b) The operator shall submit the certificate on a form provided by the division.

1345 (3) (a) If the division finds that an operator has violated Subsection (1), the division
1346 shall issue the operator an order that:

1347 (i) finds that the operator is in violation of Subsection (1);

1348 (ii) states the mineral or element for which the operator has failed to pay the royalty
1349 rate;

1350 (iii) states the amount of the mineral or element that was removed or extracted but for
1351 which the operator failed to pay the royalty rate; and

1352 (iv) orders the payment of the applicable royalty.

1353 (b) The operator may seek review of an order issued under this Subsection (3) in
1354 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1355 (4) The division may take an enforcement action against an operator in violation of this
1356 section.

1357 Section 19. Section **65A-17-303** is enacted to read:

1358 65A-17-303. Multiple mineral development area -- Cooperative agreements --
1359 Correlative right protection -- Withdrawn from or incapable of mineral development.

1360 (1) (a) The division shall manage the Great Salt Lake below the Great Salt Lake
1361 meander line as a multiple mineral development area to:

1362 (i) prevent waste;

1363 (ii) ensure the greatest ultimate recovery of minerals or elements;

1364 (iii) protect correlative rights of owners having rights to a common source of supply
1365 and the division's duty to manage public trust assets; and

1366 (iv) encourage new and emergent technologies to protect the Great Salt Lake's overall
1367 ecological integrity while ensuring the greatest possible recovery for operators and the state.

1368 (b) The division may make rules, in accordance with Title 63G, Chapter 3,
1369 Administrative Rulemaking Act, to implement Subsection (1)(a) and any related defined terms
1370 in Section [65A-17-101](#).

1371 (c) An operator shall conduct operations to comply with the rules made under
1372 Subsection (1)(b) and other rules made in accordance with Title 63G, Chapter 3, Utah
1373 Administrative Rulemaking Act:

1374 (i) governing individual operations; and

1375 (ii) made for the multiple mineral development area.

1376 (2) (a) As a condition of the division issuing a lease or royalty agreement on or after
1377 May 1, 2024, and of continued operations, the division shall require an operator to enter into
1378 and maintain a cooperative agreement with the persons with correlative rights in a common
1379 source of supply for a mineral or element in the Great Salt Lake.

1380 (b) After submitting an application with the division to obtain a lease or royalty
1381 agreement, a person shall:

1382 (i) obtain a list from the division of all operators existing at the time of application; and

1383 (ii) notify each operator on the list of the person's intention to enter into a cooperative
1384 agreement.

1385 (c) A cooperative agreement shall meet the requirements of Subsection [65A-17-304\(1\)](#),
1386 shall provide that the rights and obligations contained in the cooperative agreement are subject
1387 to the division's duty to manage public trust assets, and shall address:

1388 (i) how the operators may conduct concurrent or simultaneous operations without

1389 unreasonably interfering with existing and separate operations while also preventing undue
1390 waste;

1391 (ii) recognition of other operator's vested mineral or element interests so that
1392 operations may be conducted in a manner that will result in the maximum recovery of minerals
1393 or elements with the minimum adverse effect on the ultimate maximum recovery of other
1394 minerals or elements;

1395 (iii) terms and conditions for establishing a mitigation plan for when one operator,
1396 either intentionally or unintentionally, interferes with or damages the mineral or element rights
1397 or mineral or element interests of another operator;

1398 (iv) terms and conditions for establishing a mitigation plan with the division that would
1399 limit unreasonable mineral estate interference, waste, or negative impacts to natural resources
1400 of the Great Salt Lake;

1401 (v) the protection of natural resources of the Great Salt Lake without unnecessary cost
1402 to the operations of another operator, unless there is compensation for increased operational
1403 costs;

1404 (vi) the coordination and locations of access to operations;

1405 (vii) any assessment of costs resulting from concurrent operations within the Great Salt
1406 Lake;

1407 (viii) the mitigation of surface impacts, including:

1408 (A) the location of a mineral or element extraction intake or discharge facility;

1409 (B) phased or coordinated surface occupancy to each operator to access and develop
1410 the operator's respective mineral or element estate or mineral or element interest with the least
1411 disruption of operations and damage to Great Salt Lake elements or minerals, as defined in
1412 Section 65A-6-4, or natural resources directly, indirectly, or through waste; and

1413 (C) limitations of mineral or element operations in areas where impacts to correlative
1414 rights or to natural resources of the Great Salt Lake are significant or most acute, as determined
1415 by the operators or the division;

1416 (ix) the scope and extent of how geological, engineering, product, and water use data is
1417 disclosed or exchanged;

1418 (x) how any joint reclamation obligation or plan is to be achieved or coordinated;

1419 (xi) how bonding will be obtained and coordinated on any lands impacted, disturbed,

1420 or developed in relation to mineral or element extraction and processing activities;
1421 (xii) terms and conditions indemnifying the state, the division, and any of the state's or
1422 division's directors, officers, agents, or employees from any and all damage or liability of any
1423 kind resulting from any stage or mineral or element extraction operations or any stage of
1424 mineral or element processing;
1425 (xiii) terms and conditions for the full compliance with a royalty rate reduction to
1426 which an operator is entitled;
1427 (xiv) a schedule of how the operators plan to collectively curtail production if the
1428 emergency trigger is reached and a curtailment of production is required; and
1429 (xv) any other term or condition outlining cooperative efforts consistent with the
1430 multiple mineral development area and plans or rules of the division, made in accordance with
1431 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
1432 (d) The parties to a cooperative agreement described in Subsection (2)(a) shall present
1433 the cooperative agreement to the division and the director may approve the agreement if the
1434 cooperative agreement:
1435 (i) is in the public interest;
1436 (ii) prevents waste of minerals or elements;
1437 (iii) protects the correlative rights of each owner; and
1438 (iv) meets the requirements of Subsection [65A-17-304\(1\)](#).
1439 (e) On the director's approval of the cooperative agreement, the division becomes a
1440 signator to the cooperative agreement.
1441 (f) A cooperative agreement described in this Subsection (2) may not be held or
1442 construed to violate a statute relating to trusts, monopolies, or contracts and combinations in
1443 restraint of trade, if the agreement is approved by the director.
1444 (g) The failure to submit an agreement to the division for approval may not for that
1445 reason imply or constitute evidence that the agreement or operations conducted pursuant to the
1446 agreement are in violation of laws relating to trusts, monopolies, or restraint of trade.
1447 (h) (i) An operator may not unreasonably delay, condition, or decline to enter into a
1448 cooperative agreement.
1449 (ii) A negotiation period of 60 days from the date notice is given under Subsection
1450 (2)(b)(ii) is presumed to be reasonable.

1451 (i) A mitigation plan with the division shall be implemented in conjunction with the
1452 Division of Water Rights.

1453 (3) The division may at any time determine that certain areas within the multiple
1454 mineral development area are withdrawn from mineral development or incapable of mineral
1455 development.

1456 Section 20. Section **65A-17-304** is enacted to read:

1457 **65A-17-304. Concurrent operations -- Breach, disagreement, or conflict --**
1458 **Disputes.**

1459 (1) Two or more operators may conduct concurrent operations on the Great Salt Lake
1460 under a cooperative agreement upon stipulation and agreement that the operations can be:

1461 (a) conducted simultaneously without unreasonably interfering with the value of the
1462 resources being produced;

1463 (b) conducted simultaneously without unreasonably interfering with natural resources
1464 of the Great Salt Lake; and

1465 (c) conducted without unreasonably interfering with, or unnecessarily raising the cost
1466 of operations of another operator, unless the other affected operator is compensated for
1467 increased costs or diminished returns.

1468 (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
1469 Administrative Rulemaking Act, providing for the procedures the division and operators shall
1470 follow to:

1471 (a) enable the division to enforce applicable statutes and rules on operators, including
1472 the issuance of notices of violation or cessation orders;

1473 (b) assist in the timely resolution of disputes that may arise during the formation of a
1474 cooperative agreement;

1475 (c) cure a breach of a mitigation plan; or

1476 (d) resolve a continued disagreement or conflict regarding continued negative impacts
1477 to biota or chemistry due to continuing concurrent operations.

1478 (3) If any dispute between operators under Subsection (2) has not been resolved
1479 through an informal administrative dispute resolution process created by the division, the
1480 division shall resolve the dispute by a final record of decision to be issued no more than 30
1481 days after notice to the division by an aggrieved operator that informal dispute resolution has

1482 been unsuccessful.

1483 Section 21. Section **65A-17-305** is enacted to read:

1484 **65A-17-305. Waste.**

1485 An operator is considered to not waste a mineral or element if the operator implements
1486 a commercially viable technology to extract the mineral or element after a reasonable period
1487 determined by the division, that is at least five years but does not exceed seven years, from the
1488 day on which the division determines that the technology is a commercially viable technology.

1489 Section 22. Section **65A-17-306** is enacted to read:

1490 **65A-17-306. Certification of eligibility for tax rates.**

1491 (1) As used in this section:

1492 (a) "Great Salt Lake element or mineral" means the same as that term is defined in
1493 Subsection [59-5-202\(5\)](#).

1494 (b) "Great Salt Lake extraction operator" means the same as that term is defined in
1495 Subsection [59-5-202\(5\)](#).

1496 (2) (a) A Great Salt Lake extraction operator shall by no later than December 31 of
1497 each year certify to the division for purposes of a severance tax imposed under Subsection
1498 [59-5-202\(5\)](#), the information listed in Subsection (2)(b).

1499 (b) The Great Salt Lake extraction operator shall certify the following for the calendar
1500 year ending on the date the Great Salt Lake extraction operator submits the certification:

1501 (i) the Great Salt Lake extraction operator's name;

1502 (ii) the Great Salt Lake extraction operator's tax identification number;

1503 (iii) whether at the time a Great Salt Lake element or mineral is extracted, the Great
1504 Salt Lake extraction operator is a party or a third-party beneficiary to a voluntary arrangement
1505 under Subsection [73-33-201\(5\)\(a\)](#);

1506 (iv) if the Great Salt Lake extraction operator is not a party or third-party beneficiary to
1507 a voluntary arrangement under Subsection [73-33-201\(5\)\(a\)](#), whether the Great Salt Lake
1508 extraction operator uses evaporative concentrations of Great Salt Lake brines in any stage of
1509 the Great Salt Lake extraction operator's extractive process;

1510 (v) whether the Great Salt Lake extraction operator extracted a Great Salt Lake element
1511 or mineral when the Great Salt Lake elevation recorded under Subsection (3) is at or above
1512 4,198 feet, and what the Great Salt Lake element or mineral extracted was; and

1513 (vi) other information as determined by the division by rule made in accordance with
1514 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1515 (c) A Great Salt Lake extraction operator shall submit the certification on a form
1516 provided by the division and approved by the State Tax Commission.

1517 (3) The division shall record the Great Salt Lake elevation for purposes of this section
1518 and Subsection 59-5-202(5) as of June 15 to be applied during the next succeeding calendar
1519 year.

1520 (4) The division shall forward to the State Tax Commission by no later than the
1521 January 15 immediately following the calendar year for which a certification is required:

1522 (a) the Great Salt Lake elevation level recorded under Subsection (3);

1523 (b) a list of the Great Salt Lake extraction operators who are subject to a severance tax
1524 under Subsection 59-5-202(5);

1525 (c) the Great Salt Lake extraction operator's tax identification number for each Great
1526 Salt Lake extraction operator listed in Subsection (4)(b); and

1527 (d) for each Great Salt Lake extraction operator subject to a severance tax under
1528 Subsection 59-5-202(5):

1529 (i) each Great Salt Lake element or mineral or metalliferous compound extracted by the
1530 Great Salt Lake extraction operator that is subject to the severance tax; and

1531 (ii) the rate of severance tax that is to be imposed under Subsection 59-5-202(5).

1532 (5) The division may audit a certification submitted under this section for completeness
1533 and accuracy.

1534 (6) The division may take an enforcement action against a Great Salt Lake extraction
1535 operator who violates this section.

1536 Section 23. Section 73-3-8 is amended to read:

1537 **73-3-8. Approval or rejection of application -- Requirements for approval --**
1538 **Application for specified period of time -- Filing of royalty contract for removal of salt or**
1539 **minerals -- Request for agency action.**

1540 (1) (a) It shall be the duty of the state engineer to approve an application if there is
1541 reason to believe that:

1542 (i) for an application to appropriate, there is unappropriated water in the proposed
1543 source;

- 1544 (ii) the proposed use will not impair existing rights or interfere with the more
1545 beneficial use of the water;
- 1546 (iii) the proposed plan:
- 1547 (A) is physically and economically feasible, unless the application is filed by the
1548 United States Bureau of Reclamation; and
- 1549 (B) would not prove detrimental to the public welfare;
- 1550 (iv) the applicant has the financial ability to complete the proposed works;
- 1551 (v) the application was filed in good faith and not for purposes of speculation or
1552 monopoly; and
- 1553 (vi) if applicable, the application complies with a groundwater management plan
1554 adopted under Section 73-5-15.
- 1555 (b) If the state engineer, because of information in the state engineer's possession
1556 obtained either by the state engineer's own investigation or otherwise, has reason to believe that
1557 an application will interfere with the water's more beneficial use for irrigation, municipal and
1558 industrial, domestic or culinary, stock watering, power or mining development, or
1559 manufacturing, or will unreasonably affect public recreation or the natural stream environment,
1560 or will prove detrimental to the public welfare, the state engineer shall withhold approval or
1561 rejection of the application until the state engineer has investigated the matter.
- 1562 (c) If an application does not meet the requirements of this section, it shall be rejected.
- 1563 (2) (a) An application to appropriate water for industrial, power, mining development,
1564 manufacturing purposes, agriculture, or municipal purposes may be approved for a specific and
1565 certain period from the time the water is placed to beneficial use under the application, but in
1566 no event may an application be granted for a period of time less than that ordinarily needed to
1567 satisfy the essential and primary purpose of the application or until the water is no longer
1568 available as determined by the state engineer.
- 1569 (b) At the expiration of the period fixed by the state engineer the water shall revert to
1570 the public and is subject to appropriation as provided by this title.
- 1571 (c) No later than 60 calendar days before the expiration date of the fixed time period,
1572 the state engineer shall send notice by mail or by any form of electronic communication
1573 through which receipt is verifiable, to the applicant of record.
- 1574 (d) Except as provided by Subsection (2)(e), the state engineer may extend any limited

1575 water right upon a showing that:

- 1576 (i) the essential purpose of the original application has not been satisfied;
- 1577 (ii) the need for an extension is not the result of any default or neglect by the applicant;

1578 and

- 1579 (iii) the water is still available.

1580 (e) An extension may not exceed the time necessary to satisfy the primary purpose of
1581 the original application.

1582 (f) A request for extension of the fixed time period must be filed in writing in the
1583 office of the state engineer on or before the expiration date of the application.

1584 (3) (a) Before the approval of any application [~~for the appropriation of~~] to divert water
1585 from navigable lakes or streams of the state that contemplates the recovery of salts and other
1586 minerals or elements, as defined in Section 65A-17-101, therefrom by precipitation or
1587 otherwise, the applicant shall file with the state engineer a copy of:

1588 (i) a contract for the payment of royalties to the state[-]; and

1589 (ii) any mineral lease.

1590 (b) The approval of an application shall be [~~revoked~~] reversed if the applicant fails to
1591 comply with terms of the royalty contract or mineral lease.

1592 (4) (a) The state engineer shall investigate all temporary change applications.

1593 (b) The state engineer shall:

1594 (i) approve the temporary change if the state engineer finds there is reason to believe
1595 that the temporary change will not impair an existing right; and

1596 (ii) deny the temporary change if the state engineer finds there is reason to believe the
1597 temporary change would impair an existing right.

1598 (5) (a) With respect to a change application for a permanent or fixed time change:

1599 (i) the state engineer shall follow the same procedures provided in this title for
1600 approving an application to appropriate water; and

1601 (ii) the rights and duties of a change applicant are the same as the rights and duties of a
1602 person who applies to appropriate water under this title.

1603 (b) The state engineer may waive notice for a permanent or fixed time change
1604 application if the application only involves a change in point of diversion of 660 feet or less.

1605 (c) The state engineer may condition approval of a change application to prevent an

1606 enlargement of the quantity of water depleted by the nature of the proposed use when compared
1607 with the nature of the currently approved use of water proposed to be changed.

1608 (d) A condition described in Subsection (5)(c) may not include a reduction in the
1609 currently approved diversion rate of water under the water right identified in the change
1610 application solely to account for the difference in depletion under the nature of the proposed
1611 use when compared with the nature of the currently approved use.

1612 (6) (a) Except as provided in Subsection (6)(b), the state engineer shall reject a
1613 permanent or fixed time change application if the person proposing to make the change is
1614 unable to meet the burden described in Subsection 73-3-3(5).

1615 (b) If otherwise proper, the state engineer may approve a change application upon one
1616 or more of the following conditions:

1617 (i) for part of the water involved;

1618 (ii) that the applicant acquire a conflicting right; or

1619 (iii) that the applicant provide and implement a plan approved by the state engineer to
1620 mitigate impairment of an existing right.

1621 (c) (i) There is a rebuttable presumption of quantity impairment, as defined in Section
1622 73-3-3, to the extent that, for a period of at least seven consecutive years, a portion of the right
1623 identified in a change application has not been:

1624 (A) diverted from the approved point of diversion; or

1625 (B) beneficially used at the approved place of use.

1626 (ii) The rebuttable presumption described in Subsection (6)(c)(i) does not apply if the
1627 beneficial use requirement is excused by:

1628 (A) Subsection 73-1-4(2)(e);

1629 (B) an approved nonuse application under Subsection 73-1-4(2)(b);

1630 (C) Subsection 73-3-30(7); or

1631 (D) the passage of time under Subsection 73-1-4(2)(c)(i).

1632 (d) The state engineer may not consider quantity impairment based on the conditions
1633 described in Subsection (6)(c) unless the issue is raised in a:

1634 (i) timely protest that identifies which of the protestant's existing rights the protestant
1635 reasonably believes will experience quantity impairment; or

1636 (ii) written notice provided by the state engineer to the applicant within 90 days after

1637 the change application is filed.

1638 (e) The written notice described in Subsection (6)(d)(ii) shall:

1639 (i) specifically identify an existing right the state engineer reasonably believes may
1640 experience quantity impairment; and

1641 (ii) be mailed to the owner of an identified right, as shown by the state engineer's
1642 records, if the owner has not protested the change application.

1643 (f) The state engineer is not required to include all rights the state engineer believes
1644 may be impaired by the proposed change in the written notice described in Subsection
1645 (6)(d)(ii).

1646 (g) The owner of a right who receives the written notice described in Subsection
1647 (6)(d)(ii) may not become a party to the administrative proceeding if the owner has not filed a
1648 timely protest.

1649 (h) If a change applicant, the protestants, and the persons identified by the state
1650 engineer under Subsection (6)(d)(ii) come to a written agreement regarding how the issue of
1651 quantity impairment shall be mitigated, the state engineer may incorporate the terms of the
1652 agreement into a change application approval.

1653 Section 24. Section **73-32-204** is amended to read:

1654 **73-32-204. Strategic plan.**

1655 (1) (a) In accordance with this section, the commissioner shall prepare a strategic plan
1656 and obtain the approval of the governor of that strategic plan.

1657 (b) A strategic plan prepared by the commissioner may not be implemented until the
1658 governor approves the strategic plan, except as provided in Subsection (5).

1659 (2) The commissioner shall base the strategic plan on a holistic approach that balances
1660 the diverse interests related to the health of the Great Salt Lake, and includes provisions
1661 concerning:

1662 (a) coordination of efforts related to the Great Salt Lake;

1663 (b) a sustainable water supply for the Great Salt Lake, while balancing competing
1664 needs;

1665 (c) human health and quality of life;

1666 (d) a healthy ecosystem;

1667 (e) economic development;

1668 (f) water conservation, including municipal and industrial uses and agricultural uses;

1669 (g) water and land use planning;

1670 (h) regional water sharing; and

1671 (i) other provisions that the commissioner determines would be for the benefit of the

1672 Great Salt Lake.

1673 (3) (a) The commissioner shall obtain the approval of the governor of an initial

1674 strategic plan by no later than December 31, 2023.

1675 (b) On or before November 30, 2023, the commissioner shall submit an initial strategic

1676 plan to the governor, speaker of the House of Representatives, and the president of the Senate.

1677 (c) The governor shall approve the strategic plan by no later than December 31, 2023,

1678 if the governor determines that the initial strategic plan satisfies this chapter.

1679 (d) By no later than January 15, 2024, the commissioner shall provide the following a

1680 copy of the initial strategic plan approved by the governor under Subsection (3)(c):

1681 (i) the Natural Resources, Agriculture, and Environment Interim Committee;

1682 (ii) the department;

1683 (iii) the Department of Environmental Quality; and

1684 (iv) the Department of Agriculture and Food.

1685 (4) The governor may approve a strategic plan only after consulting with the speaker of

1686 the House of Representatives and the president of the Senate.

1687 (5) Once a strategic plan is approved by the governor, the commissioner may make

1688 substantive changes to the strategic plan without the approval of the governor, except that the

1689 commissioner shall:

1690 (a) inform the governor, the speaker of the House of Representatives, and the president

1691 of the Senate of a substantive change to the strategic plan; and

1692 (b) submit the strategic plan every five years for the approval of the governor in a

1693 process that is consistent with Subsection (3).

1694 (6) The commissioner may work with the Division of Forestry, Fire, and State Lands in

1695 coordinating the comprehensive management plan created under Section [~~65A-10-203~~]

1696 65A-17-201 with the strategic plan.

1697 Section 25. Section **73-32-303** is amended to read:

1698 **73-32-303. Duties of the council.**

1699 (1) (a) The council shall advise the persons listed in Subsection (1)(b) on the
1700 sustainable use, protection, and development of the Great Salt Lake in terms of balancing:

- 1701 (i) sustainable use;
- 1702 (ii) environmental health; and
- 1703 (iii) reasonable access for existing and future development.

1704 (b) The council shall advise, as provided in Subsection (1)(a):

- 1705 (i) the governor;
- 1706 (ii) the Department of Natural Resources;
- 1707 (iii) the Department of Environmental Quality; and
- 1708 (iv) the commissioner.

1709 (2) The council shall assist the Division of Forestry, Fire, and State Lands in the
1710 Division of Forestry, Fire, and State Land's responsibilities for the Great Salt Lake described in
1711 Sections [~~65A-10-203 and 65A-10-204~~] 65A-17-201 and 65A-17-202.

1712 (3) The council:

1713 (a) may recommend appointments to the Great Salt Lake technical team created by the
1714 Division of Forestry, Fire, and State Lands; and

1715 (b) shall receive and use technical support from the Great Salt Lake technical team.

1716 (4) The council shall assist the department, the Department of Environmental Quality,
1717 and their applicable boards in accomplishing their responsibilities for the Great Salt Lake.

1718 (5) The council shall report annually to the Natural Resources, Agriculture, and
1719 Environmental Quality Appropriations Subcommittee on the council's activities.

1720 Section 26. Section **73-33-101** is enacted to read:

1721 **CHAPTER 33. GREAT SALT LAKE DISTRIBUTION MANAGEMENT**

1722 **Part 1. General Provisions**

1723 **73-33-101. Definitions.**

1724 As used in this chapter:

1725 (1) "Distribution management plan" means a plan adopted by the state engineer in
1726 accordance with Section [73-33-201](#).

1727 (2) "Great Salt Lake Comprehensive Management Plan" means the plan adopted by a
1728 record of decision by the Division of Forestry, Fire, and State Lands for the management of the
1729 Great Salt Lake.

1730 (3) "Great Salt Lake meander line" means the same as that term is defined in Section
1731 65A-17-101.

1732 (4) "Great Salt Lake water right" means a water right that allows for the diversion of
1733 surface water or groundwater from a point below the Great Salt Lake meander line and that
1734 contemplates the recovery of salts or another mineral or element, as defined in Section
1735 65A-17-101, from the water resource by precipitation or otherwise.

1736 (5) "Great Salt Lake watershed" means the drainage area for the Great Salt Lake, the
1737 Bear River watershed, the Jordan River watershed, the Utah Lake watershed, the Weber River
1738 watershed, and the West Desert watershed.

1739 Section 27. Section **73-33-102** is enacted to read:

1740 **73-33-102. Scope of chapter.**

1741 (1) A person may not interpret this chapter as requiring the development,
1742 implementation, or consideration of a distribution management plan as a prerequisite or
1743 condition to the exercise of the state engineer's enforcement powers under other law, including
1744 powers granted under Section [73-2-25](#).

1745 (2) This chapter applies to Great Salt Lake water rights that were approved or perfected
1746 on or before May 1, 2024, and Great Salt Lake water rights approved or perfected after May 1,
1747 2024, including use under a Great Salt Lake water right of water for the mineral or element
1748 extraction process.

1749 Section 28. Section **73-33-201** is enacted to read:

1750 **Part 2. Distribution Management Plan**

1751 **73-33-201. Great Salt Lake distribution management plan.**

1752 (1) The state engineer shall regulate the measurement, appropriation, apportionment,
1753 and distribution of water within the Great Salt Lake meander line by adopting a distribution
1754 management plan by no later than October 1, 2025, that establishes:

1755 (a) consistent with Section [73-33-203](#), requirements for the measurement,
1756 quantification, and reporting of diversions, depletions, and return flows associated with Great
1757 Salt Lake water rights; and

1758 (b) procedures for the apportionment and distribution of Great Salt Lake water rights.

1759 (2) (a) In developing a distribution management plan under this section, the state
1760 engineer may consider:

- 1761 (i) the hydrology of the Great Salt Lake watershed as it affects Great Salt Lake water
1762 rights;
- 1763 (ii) the physical characteristics of the Great Salt Lake;
1764 (iii) the Great Salt Lake elevation;
1765 (iv) the Great Salt Lake salinity;
1766 (v) the strategic plan prepared by the Great Salt Lake commissioner and approved by
1767 the governor under Section [73-32-204](#);
- 1768 (vi) the measurement, appropriation, apportionment, and distribution of Great Salt
1769 Lake water rights;
- 1770 (vii) the quantity of water approved for beneficial use within the Great Salt Lake
1771 meander line by a division as defined in Section [73-3-30](#);
- 1772 (viii) the quantity of water within the Great Salt Lake;
1773 (ix) the Great Salt Lake Comprehensive Management Plan;
1774 (x) the different types of beneficial uses of Great Salt Lake water rights; and
1775 (xi) other relevant factors such as the economic viability impacts.
- 1776 (b) The state engineer shall base the distribution management plan on the principles of
1777 prior appropriation and multiple use sustained yield, with multiple use defined in Section
1778 [65A-1-1](#), as the principles relate to the reasonable preservation or enhancement of the Great
1779 Salt Lake's natural aquatic environment.
- 1780 (c) The state engineer shall use the best available information to administer Great Salt
1781 Lake water rights to achieve the objectives of the distribution management plan.
- 1782 (d) As hydrologic conditions change or additional information becomes available, the
1783 state engineer may revise the distribution management plan by following the procedures of
1784 Subsection (3).
- 1785 (3) (a) To adopt or amend a distribution management plan for the Great Salt Lake, the
1786 state engineer shall:
- 1787 (i) give notice pursuant to Subsection (3)(b) at least 30 days before the first public
1788 meeting held in accordance with Subsection (3)(a)(ii):
- 1789 (A) that the state engineer proposes to adopt or amend a distribution management plan;
1790 and
1791 (B) stating the location, date, and time of each public meeting to be held in accordance

1792 with Subsection (3)(a)(ii);
1793 (ii) hold one or more public meetings to:
1794 (A) present data, studies, or reports that the state engineer intends to consider in
1795 preparing the distribution management plan;
1796 (B) address items that may be included in the distribution management plan; and
1797 (C) receive public comments and other information presented at the public meeting;
1798 (iii) receive and consider written comments concerning the proposed distribution
1799 management plan from any person for a period determined by the state engineer of not less
1800 than 60 days after the day on which the notice required by Subsection (3)(a)(i) is given;
1801 (iv) at least 60 days before final adoption of the distribution management plan, publish
1802 notice:
1803 (A) that a draft of the distribution management plan has been proposed; and
1804 (B) specifying where a copy of the draft distribution management plan may be
1805 reviewed;
1806 (v) promptly provide a copy of the draft distribution management plan in printed or
1807 electronic form to each person listed in Subsection (3)(b)(iii) that requests a copy in writing;
1808 and
1809 (vi) provide notice of the adoption of the distribution management plan.
1810 (b) The state engineer shall ensure that a notice required by this section:
1811 (i) is published:
1812 (A) once a week for two consecutive weeks in a newspaper of general circulation in
1813 each county that includes any land below the Great Salt Lake meander line; and
1814 (B) for two weeks in accordance with Section [45-1-101](#);
1815 (ii) is published conspicuously on the state engineer's website; and
1816 (iii) is mailed to water right owners of record in the state engineer's office of Great Salt
1817 Lake water rights.
1818 (c) A notice required by this section is effective upon substantial compliance with
1819 Subsection (3)(b).
1820 (d) A distribution management plan takes effect on the date notice of adoption is
1821 completed under Subsection (3)(b) or on a later date when specified in the distribution
1822 management plan.

1823 (4) (a) In accordance with the distribution management plan, the state engineer shall
1824 establish a priority schedule that apportions Great Salt Lake water rights based on relative
1825 priority among Great Salt Lake water rights and:

1826 (i) develop an apportionment schedule and distribution accounting tool that accounts
1827 for:

1828 (A) Great Salt Lake elevations;

1829 (B) Great Salt Lake salinity;

1830 (C) Great Salt Lake water rights;

1831 (D) the quantity of water in the Great Salt Lake; and

1832 (E) the quantity of water delivered to or in the Great Salt Lake under water rights

1833 approved for beneficial use by a division as defined in Section [73-3-30](#);

1834 (ii) prohibit Great Salt Lake water rights from diverting the quantity of water accounted
1835 for under Subsection (4)(a)(i)(E); and

1836 (iii) require physical measurement and annual reporting of diversion, depletion, and
1837 return flow quantities of Great Salt Lake water rights.

1838 (b) Under a distribution management plan the state engineer may reduce the quantity of
1839 water that an owner of a Great Salt Lake water right may divert from the Great Salt Lake in
1840 accordance with the principles of prior appropriation.

1841 (5) (a) When adopting a distribution management plan, the state engineer may allow
1842 water users to participate in a voluntary arrangement that compensates or otherwise mitigates
1843 for the use of Great Salt Lake water rights.

1844 (b) The participants in a voluntary arrangement under this Subsection (5) shall
1845 implement the voluntary arrangement consistent with other law.

1846 (c) The adoption of a voluntary arrangement under this Subsection (5) by less than all
1847 of the owners of Great Salt Lake water rights does not affect the rights of those owners of Great
1848 Salt Lake water rights who do not agree to the voluntary arrangement.

1849 (6) The existence of a distribution management plan does not preclude an otherwise
1850 eligible person from filing an application or challenging a decision made by the state engineer
1851 within the Great Salt Lake meander line, except that a person may challenge the components of
1852 a distribution management plan only in a manner provided in Section [73-33-202](#).

1853 (7) A distribution management plan adopted or amended in accordance with this

1854 section is exempt from Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1855 Section 29. Section **73-33-202** is enacted to read:

1856 **73-33-202. Challenges to a distribution management plan.**

1857 (1) A person aggrieved by a distribution management plan may challenge any aspect of
1858 the distribution management plan by filing a complaint within 60 days after the distribution
1859 management plan takes effect in a court with jurisdiction:

1860 (a) under Title 78A, Judiciary and Judicial Administration; and

1861 (b) notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, over a geographic
1862 area bordering the Great Salt Lake.

1863 (2) In an action filed under this section, a court shall review de novo the distribution
1864 management plan.

1865 (3) A person challenging a distribution management plan under this section shall join
1866 the state engineer as a defendant in that action.

1867 (4) (a) No later than 30 days after the day on which a person files an action challenging
1868 any aspect of a distribution management plan, the person filing the action shall publish notice
1869 of the action:

1870 (i) once a week for two consecutive weeks in a newspaper of general circulation in the
1871 county in which the court is located; and

1872 (ii) for two weeks in accordance with Section [45-1-101](#).

1873 (b) The notice required by Subsection (4)(a) shall:

1874 (i) identify the distribution management plan that the person is challenging;

1875 (ii) identify the case number assigned by the court;

1876 (iii) state that a person affected by the distribution management plan may petition the
1877 court to intervene in the action challenging the distribution management plan; and

1878 (iv) list the address of the clerk of the court in which the action is filed.

1879 (c) A person affected by a distribution management plan that is being challenged under
1880 this section may petition to intervene in the action in accordance with Utah Rules of Civil
1881 Procedure, Rule 24.

1882 Section 30. Section **73-33-203** is enacted to read:

1883 **73-33-203. Measuring volume and quality of water.**

1884 (1) (a) A person diverting water under a Great Salt Lake water right shall:

1885 (i) measure through the use of a physical measurement and not estimate or calculate the
1886 water or brine diverted from the Great Salt Lake as part of the mineral or element extraction
1887 process;

1888 (ii) keep a record of the measurements described in Subsection (1)(a)(i); and

1889 (iii) report the measurements described in Subsection (1)(a)(i) to the Division of Water
1890 Rights in accordance with rules made by the Division of Water Rights under Title 63G,
1891 Chapter 3, Utah Administrative Rulemaking Act.

1892 (b) A duty described in Subsection (1)(a) does not replace or modify any other duty to
1893 measure water under this title or rules made under this title.

1894 (2) A person diverting water under a Great Salt Lake water right shall:

1895 (a) measure the salinity of any discharge of water or brine from the person's operations
1896 into the Great Salt Lake in accordance with rules made by the Division of Forestry, Fire, and
1897 State Lands in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1898 (b) keep a record of the measurements described in Subsection (2)(a); and

1899 (c) report the measurements described in Subsection (2)(a) to the Division of Forestry,
1900 Fire, and State Lands in accordance with rules made by the Division of Forestry, Fire, and State
1901 Lands under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1902 (3) (a) On or before June 1, 2025, the Division of Water Quality, in consultation with
1903 the Division of Forestry, Fire, and State Lands, and in cooperation with the Great Salt Lake
1904 commissioner pursuant to Section [73-32-203](#), shall make a rule, in accordance with Title 63G,
1905 Chapter 3, Utah Administrative Rulemaking Act, setting a limit for the salinity of water or
1906 brine that a person may discharge into the Great Salt Lake as part of the mineral or element
1907 extraction process.

1908 (b) If a person discharges water or brine that exceeds the limit imposed under
1909 Subsection (3)(a), the Division of Water Quality may modify, revoke and reissue, or terminate
1910 any permit issued by the Division of Water Quality related to the discharge.

1911 (4) A person shall keep a record required under this section for a period of at least five
1912 years from the day on which the record is made.

1913 Section 31. Section **78B-6-501** is amended to read:

1914 **78B-6-501. Eminent domain -- Uses for which right may be exercised --**
1915 **Limitations on eminent domain.**

- 1916 (1) As used in this section^[;]:
- 1917 (a) [~~"century farm"~~] "Century farm" means real property that is:
- 1918 [~~(a)~~] (i) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and
- 1919 [~~(b)~~] (ii) owned or held by the same family for a continuous period of 100 years or
- 1920 more.
- 1921 (b) "Mineral or element" means the same as that term is defined in Section
- 1922 [65A-17-101](#).
- 1923 (2) Except as provided in Subsections (3) and (4) and subject to the provisions of this
- 1924 part, the right of eminent domain may be exercised on behalf of the following public uses:
- 1925 (a) all public uses authorized by the federal government;
- 1926 (b) public buildings and grounds for the use of the state, and all other public uses
- 1927 authorized by the Legislature;
- 1928 (c) (i) public buildings and grounds for the use of any county, city, town, or board of
- 1929 education;
- 1930 (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or
- 1931 sewage, including to or from a development, for the use of the inhabitants of any county, city,
- 1932 or town, or for the draining of any county, city, or town;
- 1933 (iii) the raising of the banks of streams, removing obstructions from streams, and
- 1934 widening, deepening, or straightening their channels;
- 1935 (iv) bicycle paths and sidewalks adjacent to paved roads;
- 1936 (v) roads, byroads, streets, and alleys for public vehicular use, including for access to a
- 1937 development; and
- 1938 (vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;
- 1939 (d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank
- 1940 and turnpike roads, roads for transportation by traction engines or road locomotives, roads for
- 1941 logging or lumbering purposes, and railroads and street railways for public transportation;
- 1942 (e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes
- 1943 for the supplying of persons, mines, mills, smelters or other works for the reduction of ores,
- 1944 with water for domestic or other uses, or for irrigation purposes, or for the draining and
- 1945 reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of
- 1946 minerals or elements in solution;

1947 (f) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places
1948 to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines,
1949 quarries, coal mines, or mineral deposits including oil, gas, and minerals or elements in
1950 solution;

1951 (ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water
1952 from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal
1953 mines or mineral deposits including minerals or elements in solution;

1954 (iii) mill dams;

1955 (iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or
1956 formation in any land for the underground storage of natural gas, and in connection with that,
1957 any other interests in property which may be required to adequately examine, prepare,
1958 maintain, and operate underground natural gas storage facilities;

1959 (v) subject to Subsection (5), solar evaporation ponds and other facilities for the
1960 recovery of minerals in solution; and

1961 (vi) any occupancy in common by the owners or possessors of different mines,
1962 quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores,
1963 or any place for the flow, deposit or conduct of tailings or refuse matter;

1964 (g) byroads leading from a highway to:

1965 (i) a residence; or

1966 (ii) a farm;

1967 (h) telecommunications, electric light and electric power lines, sites for electric light
1968 and power plants, or sites for the transmission of broadcast signals from a station licensed by
1969 the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that
1970 provides emergency broadcast services;

1971 (i) sewage service for:

1972 (i) a city, a town, or any settlement of not fewer than 10 families;

1973 (ii) a public building belonging to the state; or

1974 (iii) a college or university;

1975 (j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and
1976 storing water for the operation of machinery for the purpose of generating and transmitting
1977 electricity for power, light or heat;

1978 (k) cemeteries and public parks; and
1979 (l) sites for mills, smelters or other works for the reduction of ores and necessary to
1980 their successful operation, including the right to take lands for the discharge and natural
1981 distribution of smoke, fumes, and dust, produced by the operation of works, provided that the
1982 powers granted by this section may not be exercised in any county where the population
1983 exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the
1984 proposed condemner has the right to operate by purchase, option to purchase or easement, at
1985 least 75% in value of land acreage owned by persons or corporations situated within a radius of
1986 four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits
1987 of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing
1988 between the condemner and the owner of land within the limit and providing for the operation
1989 of such mill, smelter, or other works for the reduction of ores; nor until an action shall have
1990 been commenced to restrain the operation of such mill, smelter, or other works for the
1991 reduction of ores.

1992 (3) The right of eminent domain may not be exercised on behalf of the following uses:
1993 (a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking,
1994 hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a
1995 foot path, equestrian trail, bicycle path, or walkway;

1996 (b) (i) a public park whose primary purpose is:
1997 (A) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or
1998 (B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or
1999 equestrian use; or

2000 (ii) a public park established on real property that is:
2001 (A) a century farm; and
2002 (B) located in a county of the first class.

2003 (4) (a) The right of eminent domain may not be exercised within a migratory bird
2004 production area created on or before December 31, 2020, under Title 23A, Chapter 13,
2005 Migratory Bird Production Area, except as follows:
2006 (i) subject to Subsection (4)(b), an electric utility may condemn land within a migratory
2007 bird production area located in a county of the first class only for the purpose of installing
2008 buried power lines;

2009 (ii) an electric utility may condemn land within a migratory bird production area in a
2010 county other than a county of the first class to install:

2011 (A) buried power lines; or

2012 (B) a new overhead transmission line that is parallel to and abutting an existing
2013 overhead transmission line or collocated within an existing overhead transmission line right of
2014 way; or

2015 (iii) the Department of Transportation may exercise eminent domain for the purpose of
2016 the construction of the West Davis Highway.

2017 (b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the
2018 electric utility shall demonstrate that:

2019 (i) the proposed condemnation would not have an unreasonable adverse effect on the
2020 preservation, use, and enhancement of the migratory bird production area; and

2021 (ii) there is no reasonable alternative to constructing the power line within the
2022 boundaries of a migratory bird production area.

2023 (5) (a) For the purpose of solar evaporation ponds and other facilities for the recovery
2024 of minerals in solution on or from the Great Salt Lake, a public use includes removal or
2025 extinguishment, by a state entity, in whole or in part, on Great Salt Lake sovereign lands of:

2026 (i) a solar evaporation pond;

2027 (ii) improvements, property, easements, or rights-of-way appurtenant to a solar
2028 evaporation pond, including a lease hold; or

2029 (iii) other facilities for the recovery of minerals or elements in solution.

2030 (b) The public use under this Subsection (5) is in the furtherance of the benefits to
2031 public trust assets attributable to the Great Salt Lake under Section [65A-1-1](#).

2032 Section 32. Section **78B-6-502** is amended to read:

2033 **78B-6-502. Estates and rights that may be taken.**

2034 The following estates and rights in lands are subject to being taken for public use:

2035 (1) a fee simple, when taken for:

2036 (a) public buildings or grounds;

2037 (b) permanent buildings;

2038 (c) reservoirs and dams, and permanent flooding occasioned by them;

2039 (d) any permanent flood control structure affixed to the land;

2040 (e) an outlet for a flow, a place for the deposit of debris or tailings of a mine, mill,
2041 smelter, or other place for the reduction of ores; and

2042 (f) subject to Subsection 78B-6-501(5), solar evaporation ponds and other facilities for
2043 the recovery of minerals in solution, except when the surface ground is underlaid with
2044 minerals, coal, or other deposits sufficiently valuable to justify extraction, only a perpetual
2045 easement may be taken over the surface ground over the deposits;

2046 (2) an easement, when taken for any other use; and

2047 (3) the right of entry upon and occupation of lands, with the right to take from those
2048 lands earth, gravel, stones, trees, and timber as necessary for a public use.

2049 Section 33. **Repealer.**

2050 This bill repeals:

2051 Section **65A-10-201, Definitions.**

2052 Section 34. **FY 2025 Appropriation.**

2053 The following sums of money are appropriated for the fiscal year beginning July 1,
2054 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for
2055 fiscal year 2025.

2056 Subsection 34(a). **Operating and Capital Budgets.**

2057 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
2058 Legislature appropriates the following sums of money from the funds or accounts indicated for
2059 the use and support of the government of the state of Utah.

2060 ITEM 1 To Department of Natural Resources - Forestry, Fire, and State Lands

2061 From General Fund Restricted - Sovereign Lands Management, \$500,000
2061 One-time

2062 Schedule of Programs:

2063 Project Management \$500,000

2064 The Legislature intends that the money appropriated under this item be used to fund the
2065 analysis required by Subsection **65A-17-201(17)**, renumbered and amended by this bill. The
2066 Legislature intends that the appropriation be nonlapsing.

2067 ITEM 2 To Department of Natural Resources - Water Rights

2068 From General Fund Restricted - Sovereign Lands Management, \$300,000
One-time

2069 Schedule of Programs:

2070 Field Services \$300,000

2071 The Legislature intends that the money appropriated under this item be used to fund
2072 costs associated with developing a distribution management plan. The Legislature intends that
2073 the appropriation be nonlapsing.

2074 Section 35. **Effective date.**

2075 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

2076 (2) The actions affecting the following sections take effect on January 1, 2025:

2077 (a) Section [51-9-306](#);

2078 (b) Section [51-9-307](#);

2079 (c) Section [59-1-403](#);

2080 (d) Section [59-5-202](#);

2081 (e) Section [59-5-203](#);

2082 (f) Section [59-5-207](#); and

2083 (g) Section [59-5-215](#).