

**GREAT SALT LAKE AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Casey Snider**

Senate Sponsor: Michael K. McKell

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

30           **59-5-202**, as last amended by Laws of Utah 1990, Chapter 295  
 31           **65A-5-1**, as last amended by Laws of Utah 2022, Chapter 54  
 32           **65A-5-1.5**, as enacted by Laws of Utah 2022, Chapter 54  
 33           **65A-6-2**, as last amended by Laws of Utah 1994, Chapter 294  
 34           **65A-6-4**, as last amended by Laws of Utah 1994, Chapter 294  
 35           **73-30-202**, as last amended by Laws of Utah 2012, Chapter 242

36 ENACTS:

37           **65A-10-201**, Utah Code Annotated 1953  
 38           **65A-10-202**, Utah Code Annotated 1953  
 39           **65A-10-204**, Utah Code Annotated 1953  
 40           **65A-10-205**, Utah Code Annotated 1953

41 RENUMBERS AND AMENDS:

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



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

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

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

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

50 (2) If the metals or metalliferous minerals are shipped outside the state, this constitutes  
 51 a sale, and the finished metals or the recoverable units of finished metals from the metalliferous  
 52 minerals shipped are subject to the severance tax. If the metals or metalliferous minerals are  
 53 stockpiled, the tax is not applicable until they are sold or shipped out of state. For purposes of  
 54 the tax imposed by this chapter, uranium concentrates shall be considered to be finished metals.  
 55 The owner of the metals or metalliferous minerals that are stockpiled shall report to the  
 56 commission annually, in a form acceptable to the commission, the amount of metalliferous  
 57

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

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

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

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

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

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

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

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

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

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

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

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

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

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

87 **65A-5-1. Sovereign Lands Management Account.**

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

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

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

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

95 (c) fees deposited by the division; and

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

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

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

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

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

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

110 **65A-5-1.5. Great Salt Lake Account.**

111 (1) As used in this section:

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

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

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

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

- 118            (i) revenues deposited into the account under Subsection (3);
- 119            (ii) appropriations from the Legislature; and
- 120            (iii) interest and other earnings described in Subsection (2)(b).

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

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

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

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

130            **65A-6-2. Mineral leases -- Division to prescribe rules.**

131            The division shall by rule prescribe:

- 132            (1) the term of the lease;
- 133            (2) the annual rental;
- 134            (3) subject to Section [65A-6-4](#), the amount of royalty in addition to or in lieu of rental;

135 and

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

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

138            **65A-6-4. Mineral leases -- Multiple leases on same land -- Rentals and royalties --**

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

140            (1) As used in this section:

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

142            (i) a rare earth element;  
143            (ii) a trace element or mineral; or  
144            (iii) a chemical compound that includes a rare earth element or trace element or  
145 mineral.

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

- 148            (i) lanthanum;
- 149            (ii) cerium;
- 150            (iii) praseodymium;
- 151            (iv) neodymium;
- 152            (v) samarium;
- 153            (vi) europium;
- 154            (vii) gadolinium;
- 155            (viii) terbium;
- 156            (ix) dysprosium;
- 157            (x) holmium;
- 158            (xi) erbium;
- 159            (xii) thulium;
- 160            (xiii) ytterbium;
- 161            (xiv) lutetium; and
- 162            (xv) yttrium.

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

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

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

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

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

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

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

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

183 [~~2~~] (3) (a) Each mineral lease issued by the division shall provide for an annual rental  
184 of not less than \$1 per acre per year, except that a mineral lease issued by the division  
185 involving the extraction of mineral from brines in the Great Salt Lake shall provide for an  
186 annual rental of not less than \$100 per acre per year.

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

189 [~~3~~] (4) The primary term of a mineral lease may not exceed:

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

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

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

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

197 (ii) an extraction operation or extraction method shall mitigate for the total amount of

198 water depleted by providing water back into the Great Salt Lake that approximates the total  
199 volume of water depleted;

200 (iii) a provision authorizing the division to curtail or limit mineral production at any  
201 time the condition of the Great Salt Lake reaches the emergency trigger, as defined in Section  
202 65A-10-201;

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

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

208 (b) If as of May 3, 2023, an operator has a mineral lease but not a royalty agreement  
209 involving the extraction of minerals from brines in the Great Salt Lake, the extraction operation  
210 or extraction method shall mitigate the total water depleted as provided in Subsection (5)(a)(ii)  
211 only to the extent that the extraction operation or extraction method increases total depletions  
212 as compared to an estimated 10-year average of depletions as estimated by the Division of  
213 Water Resources' water budget model beginning on January 1, 2013, and ending on December  
214 31, 2022.

215 (c) If under Subsection (5)(a)(v) the division requires an existing operator to use a  
216 commercially viable, innovative technology, the division may not require use of the technology  
217 to begin until after a reasonable period determined by the division not to exceed five years.

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

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

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

225 (iii) provides a base royalty rate;



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

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

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

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

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

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

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

238 (i) demonstrate commercial viability;

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

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

244 (c) A new mineral lease for a mineral in production in the Great Salt Lake as of May 3,  
245 2023, is subject to new royalty rates due to emergent technologies.

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

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

253 (8) The division shall annually report to the Natural Resources, Agriculture, and

254 Environmental Quality Appropriations Subcommittee regarding the amount of money collected  
255 under this section from royalties provided for in Subsection (6).

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

258 (a) do not use evaporative concentration of Great Salt Lake brines in any stage of the  
259 extractive process; and

260 (b) use commercially viable extractive processes.

261 ~~[(4)]~~ (10) [The] Except in relationship to mineral leases related to the Great Salt Lake,  
262 the division shall make rules regarding the continuation of a mineral lease after the primary  
263 term has expired, which shall provide that a mineral lease shall continue so long as:

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

265 (i) the leased premises;

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

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

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

272 (A) the leased premises;

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

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

276 (ii) the lessee pays a minimum royalty.

277 ~~[(5)]~~ (11) For the purposes of Subsection ~~[(4)]~~ (10), diligent operations with respect to  
278 oil, gas, and other hydrocarbon leases may include cessation of operations not in excess of 90  
279 days in duration.

280 (12) (a) The division shall study and analyze each mineral lease and mineral royalty  
281 agreement issued on the Great Salt Lake and compare and evaluate whether the mineral leases

282 and royalty agreements are representative of current market conditions. As part of this study,  
283 the division shall:

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

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

286 and

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

288 and

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

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

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

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

296 **65A-10-201. Definitions.**

297 As used in this part:

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

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

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

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

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

310 **65A-10-202. Legislative findings.**

311 The Legislature finds that:

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

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

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

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

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

324 **[65A-10-8]. 65A-10-203. Great Salt Lake -- Management responsibilities of the**  
325 **division.**

326 The division has the following powers and duties:

327 (1) The division shall ~~[prepare and maintain a comprehensive plan for the Great Salt~~  
328 ~~Lake that recognizes the following policies]~~ make rules, in accordance with Title 63G, Chapter  
329 3, Utah Administrative Rulemaking Act, for the management of the Great Salt Lake that  
330 recognize and balance the following public trust values and public interest benefits and  
331 policies:

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

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

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

337 ~~[(d)]~~ (a) strategies to effectively and efficiently manage the Great Salt Lake based on

338 the Great Salt Lake's fluctuating lake levels;  
339 (b) development of the Great Salt Lake that balances, in a manner that promotes a  
340 healthy physical and ecological condition:  
341 (i) migratory and shorebirds habitats;  
342 (ii) wetlands;  
343 (iii) brines, minerals, chemicals, and petro-chemicals;  
344 (iv) brine shrimp;  
345 (v) the protection of wildlife and wildlife habitat;  
346 (vi) the protection of recreational access and facilities; and  
347 (vii) search and rescue efforts;  
348 (c) promote water quality management for the Great Salt Lake and the Great Salt  
349 Lake's tributary streams;  
350 ~~[(e) promote the development of lake brines, minerals, chemicals, and petro-chemicals~~  
351 ~~to aid the state's economy;]~~  
352 ~~[(f) encourage the use of appropriate areas for extraction of brine, minerals, chemicals,~~  
353 ~~and petro-chemicals;]~~  
354 ~~[(g) maintain the Great Salt Lake and the marshes as important to shorebirds,~~  
355 ~~waterfowl, and other waterbird flyway system;]~~  
356 ~~[(h) encourage the development of an integrated industrial complex;]~~  
357 ~~[(i) promote and maintain recreation areas on and surrounding the Great Salt Lake;]~~  
358 ~~[(j) encourage safe boating use of the Great Salt Lake;]~~  
359 ~~[(k) maintain and protect state, federal, and private marshlands, rookeries, and wildlife~~  
360 ~~refuges; and]~~  
361 ~~[(l)] (d) [provide] public access to the Great Salt Lake for recreation, hunting, and~~  
362 ~~fishing[-];~~  
363 (e) temperature moderation, a stable role in the water cycle, and dust mitigation;  
364 (f) maintain the Great Salt Lake's flood plain as a hazard zone;  
365 (g) maintain the Great Salt Lake and the marshes as important shorebirds, waterfowl,

366 and other waterbird flyway system;

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

368 (i) maintain and protect state, federal, and private marshlands, rookeries, and wildlife  
369 refuges.

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

373 ~~[(2)]~~ (3) The division may employ personnel and purchase equipment and supplies that  
374 the Legislature authorizes through appropriations for the purposes of this chapter.

375 ~~[(3)]~~ (4) The division may initiate studies of the Great Salt Lake and the Great Salt  
376 Lake's related resources.

377 ~~[(4)]~~ (5) The division may publish scientific and technical information concerning the  
378 Great Salt Lake.

379 ~~[(5)]~~ (6) The division shall define the Great Salt Lake's flood plain.

380 ~~[(6)]~~ (7) The division may qualify for, accept, and administer grants, gifts, or other  
381 funds from the federal government and other sources, for carrying out any functions under this  
382 chapter.

383 ~~[(7)]~~ (8) The division shall determine the need for public works and utilities for the  
384 lake area.

385 ~~[(8)]~~ (9) The division may implement the comprehensive plan described in Subsection  
386 ~~[(1)]~~ (2) through state and local entities or agencies.

387 ~~[(9)]~~ (10) The division shall coordinate the activities of the various divisions within the  
388 Department of Natural Resources with respect to the Great Salt Lake.

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

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

393 (12) The division shall administer Chapter 16, Great Salt Lake Watershed

394 Enhancement Program.

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

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

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

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

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

407 **65A-10-204. Emergency management responsibilities of the division.**

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

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

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

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

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

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

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

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

- 422 (i) portions of the Great Salt Lake;  
423 (ii) specific methods of extraction; or  
424 (iii) specific minerals; and  
425 (h) may require the implementation of one or more of the following:  
426 (i) extraction methods that are non-depletive in nature;  
427 (ii) mitigation to offset depletion; or  
428 (iii) innovative extraction technologies.

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

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

433 **65A-10-205. Force majeure.**

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

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

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

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

447 (5) If the division invokes a force majeure provision in a contract, mineral lease, or  
448 royalty agreement, the effected operator is relieved from performance of any contractual  
449 provision requiring production to hold the contract, mineral lease, or royalty agreement for a



450 maximum of two years. If the conditions creating the emergency trigger persist beyond a  
451 two-year period, the division shall terminate the contract, mineral lease, or royalty agreement  
452 and require the operator to engage in new contractual agreements whereby the operator  
453 represents and warrants that future operations will not amount to a net depletion of water.

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

455 **73-30-202. Duties of the council.**

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

- 458 (i) sustainable use;
- 459 (ii) environmental health; and
- 460 (iii) reasonable access for existing and future development.

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

- 462 (i) the governor;
- 463 (ii) the Department of Natural Resources; and
- 464 (iii) the Department of Environmental Quality.

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

468 (3) The council:

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

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

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

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

477 Section 12. **Effective date.**

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

479           (2) The amendments to Section [59-5-202](#) take effect on January 1, 2024.