

Bridger Bolinder proposes the following substitute bill:

Brine Mining Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bridger Bolinder

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses the mining of brine within the state.

Highlighted Provisions:

This bill:

▸ enacts the Brine Conservation Act (act), including:

- defining terms;
 - outlining the scope and application of the act;
 - providing for the authority and jurisdiction of the Board of Oil, Gas, and Mining, including rulemaking authority;
 - establishing civil and criminal penalties;
 - providing for forfeiture of sureties;
 - addressing the sale of equipment, installation, or material by the Division of Oil, Gas, and Mining;
 - providing for the establishment and modification of brine production drilling units, pooling, or fields;
 - requiring permits; and
 - regulating the payment of proceeds;
- repeals outdated language; and
- makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

40-13-101, Utah Code Annotated 1953

- 30 40-13-102, Utah Code Annotated 1953
- 31 40-13-103, Utah Code Annotated 1953
- 32 40-13-201, Utah Code Annotated 1953
- 33 40-13-202, Utah Code Annotated 1953
- 34 40-13-203, Utah Code Annotated 1953
- 35 40-13-204, Utah Code Annotated 1953
- 36 40-13-205, Utah Code Annotated 1953
- 37 40-13-301, Utah Code Annotated 1953
- 38 40-13-302, Utah Code Annotated 1953
- 39 40-13-303, Utah Code Annotated 1953
- 40 40-13-401, Utah Code Annotated 1953
- 41 40-13-402, Utah Code Annotated 1953

42 REPEALS:

43 40-8-24, as enacted by Laws of Utah 2024, Chapter 76

44

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

46 Section 1. Section 40-13-101 is enacted to read:

47 **CHAPTER 13. BRINE CONSERVATION ACT**

48 **Part 1. General Provisions**

49 **40-13-101 . Definitions.**

50 *As used in this chapter:*

- 51 (1) "Artificial brine" means mineralized water formed by dissolving rock salt, evaporites, or
- 52 other readily soluble rocks or minerals derived through artificial means.
- 53 (2) "Board" means the Board of Oil, Gas, and Mining.
- 54 (3)(a) Except as provided in Subsection (3)(c), "brine" means subterranean saltwater and
- 55 all of the saltwater's constituent parts and dissolved minerals contained in the
- 56 saltwater if the saltwater:
 - 57 (i) has total dissolved solids in excess of 20,000 parts per million; and
 - 58 (ii) is not reasonably suitable for domestic or agricultural use.
- 59 (b) "Brine" includes saltwater described in Subsection (3)(a) that has dissolved minerals
- 60 contained within or extracted from the saltwater, such as:
 - 61 (i) bromine;
 - 62 (ii) magnesium;

- 63 (iii) potassium;
64 (iv) lithium;
65 (v) boron;
66 (vi) chlorine;
67 (vii) iodine;
68 (viii) calcium;
69 (ix) strontium;
70 (x) sodium;
71 (xi) sulphur;
72 (xii) barium; or
73 (xiii) other marketable minerals, elements, or substances produced with or separated
74 from the saltwater.
- 75 (c) "Brine" does not include produced water unless the produced water is saved, sold, or
76 used for the purpose of extracting the dissolved minerals or other chemical
77 substances contained in the produced water.
- 78 (4) "Brine field unit" means the formation by an order of the board of a unit of one or more
79 brine reservoirs or parts of brine reservoirs in a field.
- 80 (5)(a) "Brine mining operation" means the exploration for, development of, or
81 production of brine, including naturally occurring brine and artificial brine, using
82 production wells in excess of 7,500 feet in depth.
- 83 (b) "Brine mining operation" does not include:
- 84 (i) operations at the surface to extract brine from the Great Salt Lake;
85 (ii) solution mining of salt for the primary purpose of creating subterranean caverns
86 for the storage of liquids or gases;
87 (iii) in situ leaching for other minerals not defined as brine for the purposes of this
88 chapter;
- 89 (iv) geothermal operations that do not include mineral extraction; and
90 (v) off-site operations and transportation.
- 91 (6)(a) "Brine proceeds" means a payment that:
- 92 (i) derives from production of brine from a brine well located in the state;
93 (ii) is expressed as a right to a specified interest in the:
94 (A) cash proceeds received from the sale of the brine; or
95 (B) the cash value of the brine; and
96 (iii) is subject to any tax withheld from the payment pursuant to law.

- 97 (b) "Brine proceeds" includes a:
98 (i) royalty interest;
99 (ii) overriding royalty interest;
100 (iii) production payment interest; or
101 (iv) working interest.
- 102 (c) "Brine proceeds" does not include a net profits interest or other interest the extent of
103 which cannot be determined with reference to a specified share of:
104 (i) the cash proceeds received from the sale of the brine; or
105 (ii) the cash value of the brine.
- 106 (7) "Brine production drilling unit" means each separate composite area of land designated
107 as a brine product drilling unit by order of the board for the production of brine and the
108 injection of effluent.
- 109 (8) "Brine well" means a well drilled or converted for the purpose of producing natural or
110 artificial brine.
- 111 (9) "Consenting owner" means an owner who, in the manner and within the time frame
112 established by the board in rule, consents to the drilling and operation of a brine well
113 and agrees to bear the owner's proportionate share of the costs of the drilling and
114 operation of the brine well.
- 115 (10) "Correlative rights" means the opportunity of each owner in a reservoir to produce the
116 owner's just and equitable share of the brine in the reservoir without waste.
- 117 (11) "Division" means the Division of Oil, Gas, and Mining.
- 118 (12) "Effluent" means the liquid and associated dissolved minerals remaining after
119 extraction of the marketable substances from brine.
- 120 (13) "Facility" means equipment or a structure used in the production, storage, treatment,
121 transportation, refining, or processing brine.
- 122 (14) "Field" means a general area underlaid by one or more brine reservoirs.
- 123 (15) "Leaching" means extracting a soluble metallic compound from an ore by selectively
124 dissolving it in a suitable solvent, such as sulfuric acid or hydrochloric acid.
- 125 (16) "Manufacture" means the complete process of drilling, completing, equipping, and
126 operating production and injection wells and of extracting and packaging brine.
- 127 (17) "Mineral" means a naturally occurring inorganic element or compound having an
128 orderly internal structure and characteristic chemical composition, crystal form, and
129 physical properties.
- 130 (18) "Multiple mineral development area" means an area designated by the board involving

- 131 the management and development of various concurrent surface and sub-surface
132 resource extraction operations, including exploratory activities for the purpose of
133 efficient and effective development of the concurrent marketable resources in the area
134 without unreasonable interference occurring between the separate operations.
- 135 (19) "Nonconsenting owner" means an owner who does not, after written notice and in the
136 manner and within the time frame established by the board in rule, consent to the drilling
137 and operation of a brine well or agree to bear the owner's proportionate share of the costs.
- 138 (20) "Operating agreement" is a contract that outlines the rights and obligations of multiple
139 parties involved in a project, including:
- 140 (a) establishing who will act as the operator;
141 (b) identifying the parties' property interests;
142 (c) allocating costs, benefits, liabilities, and obligations; and
143 (d) providing a structure for handling disputes and other issues that may arise.
- 144 (21) "Operator" means a person who is designated by the owners or the board to operate a
145 brine well or brine production drilling unit.
- 146 (22) "Owner" means a person owning an interest in the dissolved minerals and other
147 chemical substances produced with or extracted from brine, or in the brine proceeds
148 including having the right to:
- 149 (a) drill into and produce brine from a reservoir; and
150 (b) appropriate the production for that person or for that person and others.
- 151 (23) "Payor" means the person who undertakes to distribute brine proceeds to the persons
152 entitled to the brine proceeds, whether as the first purchaser of that production, as
153 operator of the brine well from which the production is obtained, or as lessee under the
154 lease on which royalty is due.
- 155 (24) "Permit" means a permit order issued by the division allowing a person to engage in
156 brine mining operations in the state.
- 157 (25) "Permittee" means a person who:
- 158 (a) holds a permit issued under this chapter; or
159 (b) is required by this chapter to hold a permit.
- 160 (26) "Pooling" means the bringing together of separately owned interests for the common
161 development and operation of a brine production drilling unit.
- 162 (27) "Produced water" means the same as that term is defined in Section 40-12-101.
- 163 (28) "Reservoir" means an underground natural container containing a common
164 accumulation of brine, with each zone of a general structure that is completely separated

165 from any other zone in the structure being a separate reservoir, and is a common source
 166 of supply.

167 (29) "Waste" means:

168 (a) the inefficient, excessive, or improper use or the unnecessary dissipation of brine or
 169 reservoir energy;

170 (b) the inefficient storing of brine, except for a solar evaporation pond permitted by the
 171 division; or

172 (c) the locating, drilling, equipping, operating, or producing of a brine well in a manner
 173 that causes:

174 (i) a significant reduction in the economic recoverability of brine from a reservoir or
 175 the dissolved minerals or chemical substances contained therein;

176 (ii) injecting effluent or other wastes in a manner as to cause unnecessary water
 177 channeling or undue forced migration of brine between brine production drilling
 178 units;

179 (iii) the unapproved intrusion of brine and effluent into an oil or gas reservoir;

180 (iv) unnecessary brine wells to be drilled; or

181 (v) the loss or destruction of brine either at the surface or subsurface.

182 Section 2. Section **40-13-102** is enacted to read:

183 **40-13-102 . Scope of chapter -- Political subdivisions.**

184 (1)(a) The board has jurisdiction over the drilling and production of brine wells.

185 (b) The board does not have jurisdiction over Class I, III, IV, or V wells regulated by the
 186 Department of Environmental Quality, pursuant to the federal Safe Drinking Water
 187 Act, 40 C.F.R. Parts 144 through 148, inclusive, and Title 19, Chapter 5, Water
 188 Quality Act.

189 (2) The legislative body of a political subdivision may enact, amend, or enforce a local
 190 ordinance, resolution, or rule consistent with the political subdivision's general land use
 191 authority that:

192 (a) regulates only surface activity that is incidental to brine mining operations;

193 (b) does not effectively or unduly limit, ban, or prohibit brine mining operations; and

194 (c) is not otherwise preempted by state or federal law.

195 Section 3. Section **40-13-103** is enacted to read:

196 **40-13-103 . Lands subject to chapter.**

197 This chapter applies to all lands in the state lawfully subject to the state's police power
 198 and, to the extent allowed by law, includes lands and appurtenances of the United States or the

199 lands or appurtenances subject to the jurisdiction of the United States.

200 Section 4. Section **40-13-201** is enacted to read:

201 **Part 2. Administration and Enforcement**

202 **40-13-201 . Board authority -- Rulemaking.**

203 (1) The board has jurisdiction and authority over:

204 (a) a person or property necessary to administer and enforce this chapter; and

205 (b) the drilling for and production of brine for the extraction of dissolved minerals or
206 other chemical substances contained in the brine.

207 (2) The board shall establish fees in accordance with Section 63J-1-504, in an amount to
208 pay the costs to the board and division of the permitting process.

209 (3) The board may:

210 (a) adjudicate multiple mineral development conflicts resulting from brine mining
211 operations;

212 (b) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
213 Rulemaking Act, to mitigate multiple mineral development conflicts; and

214 (c) enforce a board's multiple mineral development order as set forth in Subsection
215 40-13-202(4).

216 (4) An approval granted under this chapter does not relieve the necessity of obtaining an
217 order, permit, license, consent, water right, or authorization required under any other
218 statute.

219 (5) The board may make rules, in accordance with Title 63G, Chapter 3, Utah
220 Administrative Rulemaking Act, and issue orders to:

221 (a) regulate activities relating to brine mining operations;

222 (b) protect correlative rights and prevent waste;

223 (c) form and modify brine production drilling units and brine field units;

224 (d) regulate the spacing of brine wells for the production of brine and injection wells for
225 the introduction of effluent into a reservoir;

226 (e) ensure that the drilling, casing, and plugging of a brine well is done in such a manner
227 as to prevent:

228 (i) the unauthorized escape of brine or effluent from one formation to another;

229 (ii) the unapproved intrusion of brine and effluent into an oil or gas reservoir;

230 (iii) the pollution of fresh water supplies throughout the state; and

231 (iv) blowouts, caving, or seepage;

232 (f) subject to Subsection (6), prevent brine well construction and related regulated

- 233 activities without an adequate and approved supply of water for the drilling and
234 completion of the brine well and authorization of the state engineer in the Division of
235 Water Rights for brine production from the brine well as required by Title 73,
236 Chapter 3, Appropriation;
- 237 (g) regulate the storage, refining, or processing of brine and effluent;
238 (h) require the making of reports showing:
239 (i) the location of brine wells used for production;
240 (ii) the location of injection wells used for disposal; and
241 (iii) the filing of well logs, production reports, and drilling records for the wells
242 described in this Subsection (5)(h);
- 243 (i) require the return of effluent to the same formation from which the brine was
244 produced unless the board authorizes the disposal of effluent into one or more other
245 formations upon finding that neither underground damage nor waste results from the
246 disposal;
- 247 (j) identify the ownership of:
248 (i) a brine well;
249 (ii) an injection well;
250 (iii) pipelines; and
251 (iv) a facility for the production, storage, treatment, transportation, refining, or
252 processing of brine;
- 253 (k) regulate the introduction or injection of effluent and other substances into a reservoir;
254 (l) require the furnishing of reasonable surety to guarantee that the operator shall:
255 (i) plug each abandoned brine well;
256 (ii) repair each brine well leaking or causing waste; and
257 (iii) maintain and reclaim the site;
- 258 (m) exercise continuing jurisdiction:
259 (i) over brine mining operations;
260 (ii) to amend a permit; or
261 (iii) to revoke a permit after notice and hearing;
- 262 (n) require operators to keep and maintain complete and accurate records of the
263 quantities of brine produced, sold, purchased, acquired, stored, transported, refined,
264 and processed, and effluent injected for a period of at least six years;
- 265 (o) formulate rules for the proper transportation of brine from the producing brine wells
266 to the plant and from the plant to the injection wells and for the maintenance and

- 267 surveillance of the transportation facilities; and
- 268 (p) when brine mining uses produced water, resolve issues related to conflicting
- 269 correlative rights between the correlative rights established under Chapter 6, Board
- 270 and Division of Oil, Gas, and Mining, and the correlative rights established under
- 271 Part 3, Brine Production Drilling Units, Pooling, or Fields, by:
- 272 (i) subordinating conflicting correlative rights under this chapter to the correlative
- 273 rights established under Chapter 6, Board and Division of Oil, Gas, and Mining;
- 274 and
- 275 (ii) establishing a procedure before the board for addressing and resolving conflicts
- 276 related to conflicting correlative rights.
- 277 (6)(a) Subsection (5)(f) does not impose additional legal requirements but is enacted to
- 278 ensure that legal requirements concerning the use of water have been met before the
- 279 commencement of drilling.
- 280 (b) This chapter does not:
- 281 (i) override, substitute, or modify a water right within the state; or
- 282 (ii) modify the statutory enforcement and other duties of the state engineer under
- 283 Title 73, Water and Irrigation.
- 284 Section 5. Section **40-13-202** is enacted to read:
- 285 **40-13-202 . Inspections -- Cessation orders -- Civil penalties.**
- 286 (1)(a) If, on the basis of information available, the division has reason to believe that a
- 287 person is in violation of this chapter, an order issued under this chapter, a rule made
- 288 under this chapter, or a permit condition required by this chapter, the division shall
- 289 immediately order inspection of the brine mining operation at which the alleged
- 290 violation is occurring, unless the information available to the division is a result of a
- 291 previous inspection of the brine mining operation.
- 292 (b)(i) If, on the basis of an inspection, the division determines that a condition or
- 293 practice exists, or that a permittee is in violation of this chapter, an order issued
- 294 under this chapter, a rule made under this chapter, or a permit condition required
- 295 by this chapter, and the condition, practice, or violation creates an imminent
- 296 danger to the health or safety of the public, or is causing, or can reasonably be
- 297 expected to cause significant, imminent environmental harm to land, air, or water
- 298 resources, the division shall immediately order cessation of brine mining
- 299 operations or the portion of brine mining operations relevant to the condition,
- 300 practice, or violation.

- 301 (ii) The cessation order shall remain in effect until the division determines that the
302 condition, practice, or violation is abated, or until the division modifies, vacates,
303 or terminates the order.
- 304 (iii) If the division finds that the ordered cessation of brine mining operations, or a
305 portion of the brine mining operations, does not completely abate the imminent
306 danger to the health or safety of the public or the significant imminent
307 environmental harm to land, air, or water resources, the division shall, in addition
308 to the cessation order, impose affirmative obligations on the operator requiring the
309 operator to take whatever steps the division considers necessary to abate the
310 imminent danger or the significant environmental harm.
- 311 (c)(i) If, on the basis of an inspection, the division determines that a permittee is in
312 violation of this chapter, an order issued under this chapter, a rule made under this
313 chapter, or a permit condition required by this chapter, but the violation does not
314 create an imminent danger to the health or safety of the public or cannot be
315 reasonably expected to cause significant, imminent environmental harm to land,
316 air, or water resources, the division shall issue a notice to the permittee or the
317 permittee's agent specifying a reasonable time, but not more than 90 days, for the
318 abatement of the violation and providing an opportunity for an informal
319 conference with the division.
- 320 (ii) If, upon expiration of the period of time as originally fixed or subsequently
321 extended, for good cause shown, and upon the written finding of the division, the
322 division finds that the violation has not been abated, the division shall
323 immediately order a cessation of brine mining operations or the portion of the
324 brine mining operation relevant to the violation.
- 325 (iii) A cessation order issued under this Subsection (1)(c) remains in effect until the
326 division determines that the violation is abated or until the division modifies,
327 vacates, or terminates the order.
- 328 (iv) In an cessation order issued by the division under this Subsection (1)(c), the
329 division shall determine the steps necessary to abate the violation in the most
330 expeditious manner possible and shall include the necessary measures in the order.
- 331 (d)(i) A notice or order issued under this section shall set forth with reasonable
332 specificity:
- 333 (A) the nature of the violation and the remedial action required;
334 (B) the period of time established for abatement; and

- 335 (C) a reasonable description of the portion of the mining and reclamation
336 operation to which the notice or order applies.
- 337 (ii) The division shall promptly give a notice or order issued under this section to the
338 permittee or the permittee's agent.
- 339 (iii) The division shall give a notice or order in a writing signed by the director or the
340 director's authorized representative who issues the notice or order.
- 341 (iv) The division may modify, vacate, or terminate a notice or order issued under this
342 section.
- 343 (2)(a) The division may request the attorney general to institute a civil action for relief,
344 including a permanent or temporary injunction, restraining order, or any other
345 appropriate order in a court with jurisdiction under Title 78A, Judiciary and Judicial
346 Administration, if the permittee or the permittee's agent:
- 347 (i) violates or fails or refuses to comply with an order or decision issued by the
348 division under this chapter;
- 349 (ii) interferes with, hinders, or delays the division, or the division's authorized
350 representative, in carrying out this chapter;
- 351 (iii) refuses to admit an authorized representative to the brine well;
- 352 (iv) refuses to permit inspection of the brine well by an authorized representative; or
353 (v) refuses to furnish information or a report requested by the division in furtherance
354 of this chapter.
- 355 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney
356 general brings the action described in Subsection (2)(a) in court, the attorney general
357 shall bring the action in the county in which:
- 358 (i) the brine mining operation and reclamation operation is located; or
359 (ii) the permittee of the brine mining operation or reclamation operation has the
360 permittee's principal office.
- 361 (c)(i) The court has jurisdiction to provide the relief requested in accordance with this
362 Subsection (2).
- 363 (ii) Relief granted by the court to enforce an order under Subsection (2)(a)(i) shall
364 continue in effect until the completion or final termination of all proceedings for
365 review of that order under this chapter, unless, before completion or termination,
366 the court granting the relief sets the order aside or modifies the order.
- 367 (3)(a)(i) A permittee issued a notice or order by the division, pursuant to Subsection
368 (1)(b) or (c), or a person having an interest that may be adversely affected by the

369 notice or order, may apply to the board for review of the notice or order by no
370 later than 30 days of receipt of the notice or order, or no later than 30 days of a
371 modification, vacation, or termination of the notice or order.

372 (ii) On receipt of an application under Subsection (3)(a)(i), the board shall pursue an
373 investigation as the board considers appropriate.

374 (iii) An investigation pursued by the board shall provide an opportunity for a public
375 hearing at the request of the applicant or the person having an interest that is or
376 may be adversely affected, to enable the applicant or that person to present
377 information relating to the issuance and continuance of the notice or order or the
378 modification, vacation, or termination of the notice or order.

379 (iv) The filing of an application for review under this Subsection (3)(a) does not
380 operate as a stay of an order or notice.

381 (b) The board shall give a permittee or other interested person written notice of the time
382 and place of the hearing at least five days before the hearing.

383 (c)(i) Pending completion of the investigation and hearing required by this section,
384 the applicant may file with the board a written request that the board grant
385 temporary relief from any notice or order issued under this section, with a detailed
386 statement giving the reasons for granting this relief.

387 (ii) The board shall issue an order or decision granting or denying this relief
388 expeditiously.

389 (d)(i) Following the issuance of an order to show cause as to why a permit should not
390 be suspended or revoked pursuant to this section, the board shall hold a public
391 hearing, after giving written notice of the time, place, and date of the hearing.

392 (ii) By no later than 60 days following the public hearing, the board shall issue and
393 give the permittee and all other parties to the hearing, a written decision, and the
394 reasons for the decision, regarding suspension or revocation of the permit.

395 (iii) If the board revokes a permit, the permittee shall immediately cease brine mining
396 operations on the permit area and shall complete reclamation within a period
397 specified by the board, or the board shall declare the surety forfeited for the brine
398 mining operation.

399 (e) An action taken by the board under this section, or any other provision of this
400 chapter, is subject to judicial review by a court with jurisdiction under Title 78A,
401 Judiciary and Judicial Administration.

402 (4)(a)(i) The division may assess a permittee a civil penalty if the permittee violates a

- 403 permit condition, this chapter, an order issued under this chapter, or a rule made
404 under this chapter.
- 405 (ii) If a violation leads to the issuance of a cessation order under Subsection (1), the
406 division shall assess a civil penalty.
- 407 (b)(i) A civil penalty under this Subsection (4) may not exceed \$5,000 for each
408 violation.
- 409 (ii) Each day of a continuing violation may be considered to be a separate violation
410 for purposes of the civil penalty assessments.
- 411 (c) In determining the amount of the civil penalty, the division shall consider:
- 412 (i) the permittee's history of previous violations at the particular brine mining
413 operation;
- 414 (ii) the seriousness of the violation, including any irreparable harm to the
415 environment or hazard to the health or safety of the public;
- 416 (iii) whether the permittee was negligent; and
- 417 (iv) the demonstrated good faith of the permittee in attempting to achieve rapid
418 compliance after notification of the violation.
- 419 (5)(a) By no later than 30 days after the issuance of a notice or order charging a
420 violation has occurred, the division shall inform the permittee of a proposed
421 assessment under Subsection (4).
- 422 (b) A person charged with the civil penalty has 30 days after issuance of a notice or
423 order to:
- 424 (i) pay the proposed assessment in full; or
- 425 (ii) request an informal conference with the division.
- 426 (c) An informal conference held by the division may address either the amount of the
427 proposed assessment, the fact of the violation, or both.
- 428 (d) If a permittee who requests an informal conference and participates in the
429 proceedings is not in agreement with the results of the informal conference, the
430 permittee may, within 30 days of receipt of the decision made by the division in the
431 informal conference, request a hearing before the board.
- 432 (e)(i) Before review of the division's decision under Subsection (5)(d) by the board,
433 and by no later than 30 days of receipt of the division's decision, the permittee
434 shall forward to the division the amount of the proposed assessment for placement
435 in an escrow account.
- 436 (ii) If the permittee fails to forward the amount of the civil penalty to the division by

437 no later than 30 days of receipt of the results of the informal conference, the
438 operator waives the opportunity for further review of the fact of the violation or to
439 contest the amount of the civil penalty assessed for the violation.

440 (iii) If the board or a court determines that no violation occurred or that the amount of
441 the civil penalty should be reduced, the division shall, within 30 days, remit the
442 appropriate amount to the operator with interest accumulated.

443 (6)(a) A civil penalty assessed by the division is final only after the person charged with
444 a violation described under Subsection (4) has been given an opportunity for a public
445 hearing.

446 (b) If a public hearing is held, the board shall make findings of fact and shall issue a
447 written decision as to the occurrence of the violation and the amount of the civil
448 penalty which is warranted, incorporating, when appropriate, an order requiring that
449 the civil penalty be paid.

450 (c) When appropriate, the board shall consolidate a hearing with other proceedings
451 under Section 40-13-201.

452 (d) If a person charged with a violation does not attend the public hearing, the division
453 may assess a civil penalty after the division:

454 (i) determines:

455 (A) that a violation occurred; and

456 (B) the amount of the civil penalty that is warranted; and

457 (ii) issues an order requiring that the civil penalty be paid.

458 (7) At the request of the board, the attorney general may bring a civil action in a court with
459 jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil
460 penalty owed under this chapter.

461 (8)(a) The division shall assess an operator who fails to correct a violation for which a
462 notice or cessation order has been issued under Subsection (1)(b) within the period
463 permitted for a correction of the violation a civil penalty of not less than \$750 for
464 each day during which the failure or violation continues.

465 (b) The period permitted for correction of a violation for which a notice of cessation
466 order has been issued under Subsection (1)(b) may not end until:

467 (i) the entry of a final order by the board, in a review proceeding initiated by the
468 operator, in which the board orders, after an expedited hearing, the suspension of
469 the abatement requirements of the citation after determining that the operator will
470 suffer irreparable loss or damage from the application of those requirements; or

471 (ii) the entry of an order of the court after a review proceeding initiated by the
472 operator, in which the court orders the suspension of the abatement requirements
473 of the citation.

474 (9) The division shall deposit money received by the state from civil penalties collected
475 from actions resulting from this chapter into the Abandoned Mine Reclamation Fund
476 established under Section 40-10-25.1 and shall use the money for the reclamation of
477 mined land impacts not covered by reclamation surety.

478 (10) The division may not commence or maintain a suit, action, or other proceeding based
479 upon a violation of this chapter, an order issued under this chapter, a rule made under
480 this chapter, or a permit condition under this chapter, unless the suit, action, or
481 proceeding is commenced within five years from the date of the alleged violation.

482 Section 6. Section **40-13-203** is enacted to read:

483 **40-13-203 . Criminal penalties.**

484 (1) It is unlawful for a person to intentionally or knowingly:

485 (a) for the purpose of evading this chapter or an order issued under this chapter, make or
486 cause to be made a false statement, representation, or certification in a report, record,
487 account, or memorandum required by this chapter or by the order;

488 (b) omit or cause to be omitted from a report, record, account, or memorandum, a full,
489 true, and correct entry as required by this chapter or by an order;

490 (c) fail to make a statement, representation, or certification in an application, record,
491 report, plan, or other document filed or required to be maintained pursuant to this
492 chapter or an order issued under this chapter;

493 (d) remove from this state or destroy, mutilate, alter, or falsify a record, account, or
494 memorandum; or

495 (e) fail or refuse to comply with:

496 (i) an order issued under Section 40-13-201; or

497 (ii) an order incorporated in a final decision issued by the board under this chapter,
498 except an order incorporated in a decision under Subsection 40-13-202(6).

499 (2) A person who violates Subsection (1) is guilty of a class B misdemeanor, and upon
500 conviction, for each violation, is subject to:

501 (a) a fine of not to exceed \$1,000 as provided in Section 76-3-301;

502 (b) imprisonment for a term not to exceed six months as provided in Section 76-3-204; or

503 (c) both a fine and imprisonment.

504 (3) If a permittee violates Subsection (1), a director, officer, or agent of the permittee may

505 be held criminally responsible in accordance with Section 76-2-205.

506 (4) A criminal proceeding for a violation described in Subsection (1) shall be commenced,
 507 as provided in Section 76-1-302, by no later than two years from the date of the alleged
 508 violation.

509 (5) The division or board may impose a civil penalty under Section 40-13-202 in addition to
 510 prosecution under this section.

511 Section 7. Section **40-13-204** is enacted to read:

512 **40-13-204 . Forfeiture of surety.**

513 (1) Subsection (2) applies if the board determines that an operator has neglected, failed, or
 514 refused to:

- 515 (a) plug and abandon a brine well;
- 516 (b) close any surface impoundment;
- 517 (c) repair a brine well leaking or causing waste; or
- 518 (d) maintain and reclaim a site.

519 (2) A person who violates Subsection (1) shall forfeit from the person's surety or shall pay
 520 to this state a sum equal to the cost of:

- 521 (a) plugging a brine well;
- 522 (b) closure of the surface impoundment;
- 523 (c) repair of the brine well leaking or causing waste; or
- 524 (d) reclamation of the site.

525 Section 8. Section **40-13-205** is enacted to read:

526 **40-13-205 . Sale of equipment, installation, or material.**

527 (1) After the board determines a brine well or facility is to be abandoned, as part of the
 528 plugging and reclamation process, the division may sell or dispose of in a manner the
 529 division sees fit the following found on the site or taken from the brine well or facility:

- 530 (a) drilling, producing, or operating equipment;
- 531 (b) installations; or
- 532 (c) material.

533 (2) A person to whom any equipment, installations, or material is sold under Subsection (1)
 534 receives the title to the equipment, installation, or material, free of any claim.

535 (3) When the division receives money on the sale or disposal of equipment, installation, or
 536 material under Subsection (1), the division shall:

- 537 (a) apply the money to the payment of any unpaid costs and civil penalty determined by
 538 the division; and

539 (b) if money remains after applying the money under Subsection (3)(a), the division
540 shall return the unused money to the operator or a person who has established a legal
541 right to the money.

542 Section 9. Section **40-13-301** is enacted to read:

543 **Part 3. Brine Production Drilling Units, Pooling, or Fields**

544 **40-13-301 . Establishment or modification of a brine production drilling unit.**

- 545 (1) Upon the petition of an owner or operator of a brine well, the board may order the
546 establishment of a brine production drilling unit.
- 547 (2) Within a brine production drilling unit, only one brine well may be drilled for
548 production from the reservoir, except as provided in Subsections (6) and (7).
- 549 (3) A brine production drilling unit may not be smaller than the maximum area that can be
550 efficiently and economically drained by one brine well.
- 551 (4)(a) Each brine production drilling unit within a reservoir shall be of uniform size and
552 shape, unless the board finds that the board is required to make an exception due to
553 geologic, geographic, or other factors.
- 554 (b) If the board finds it necessary to divide a reservoir into zones and establish a brine
555 production drilling unit for each zone, brine production drilling units may differ in
556 size and shape for each zone.
- 557 (5) An order of the board that establishes a brine production drilling unit for a reservoir
558 shall:
- 559 (a) be made upon terms and conditions that are just and reasonable;
- 560 (b) include the lands determined by the board to overlay the reservoir;
- 561 (c) specify the acreage and shape of each brine production drilling unit as determined by
562 the board; and
- 563 (d) specify the location of the brine well in terms of distance from brine production
564 drilling unit boundaries and other brine wells.
- 565 (6) The board may establish a brine production drilling unit and concurrently authorize the
566 drilling of more than one brine well in a brine production drilling unit if the board finds
567 that:
- 568 (a) engineering or geologic characteristics justify the drilling of more than one brine
569 well in that brine production drilling unit; and
- 570 (b) the drilling of more than one brine well in the brine production drilling unit will not
571 result in waste or unreasonably interfere with correlative rights.
- 572 (7) The board may modify an order that establishes a brine production drilling unit for a

- 573 reservoir to provide for:
- 574 (a) an exception to the authorized location of a brine well;
- 575 (b) the inclusion of additional areas which the board determines overlays the reservoir;
- 576 (c) the increase or decrease of the size of the brine production drilling units; or
- 577 (d) the drilling of additional brine wells within brine production drilling units.
- 578 (8) After an order establishing a brine production drilling unit is entered by the board, the
- 579 drilling of a brine well into the reservoir at a location other than that authorized by the
- 580 order is prohibited.

581 Section 10. Section **40-13-302** is enacted to read:

582 **40-13-302 . Pooling of interests for the development and operation of a brine**

583 **production drilling unit.**

- 584 (1) Two or more owners within a brine production drilling unit may bring together their
- 585 interests for the development and operation of the brine production drilling unit.
- 586 (2)(a) In the absence of a written agreement for pooling, including an operating
- 587 agreement, the board may enter an order pooling all interests in the brine production
- 588 drilling unit for the development and operation of the brine production drilling unit.
- 589 (b) The board shall make the order upon terms and conditions that are just and
- 590 reasonable.
- 591 (c) The board may adopt terms appearing in an operating agreement:
- 592 (i) for the brine production drilling unit that is in effect between the consenting
- 593 owners;
- 594 (ii) submitted by any party to the proceeding; or
- 595 (iii) submitted by the board's own motion.
- 596 (3)(a) Operations incident to the drilling of a brine well upon any portion of a brine
- 597 production drilling unit covered by a pooling order are considered for all purposes to
- 598 be the conduct of the brine mining operations upon each separately owned tract in the
- 599 brine production drilling unit by the several owners.
- 600 (b) The portion of the production allocated or applicable to a separately owned tract
- 601 included in a brine production drilling unit covered by a pooling order shall, when
- 602 produced, be considered for all purposes to have been produced from that tract by a
- 603 brine well drilled on the tract.
- 604 (4)(a)(i) A pooling order shall provide for the payment of just and reasonable costs
- 605 incurred in the drilling and operating of the brine production drilling unit,
- 606 including:

- 607 (A) the costs of drilling, completing, equipping, producing, gathering,
608 transporting, processing, marketing, and storage facilities;
- 609 (B) reasonable charges for the administration and supervision of brine mining
610 operations; and
- 611 (C) other costs customarily incurred in the industry.
- 612 (ii) An owner is not liable under a pooling order for costs or losses resulting from the
613 gross negligence or willful misconduct of the operator.
- 614 (b) A pooling order shall provide for reimbursement to the consenting owners for any
615 nonconsenting owner's share of the costs out of production from the brine production
616 drilling unit attributable to the nonconsenting owner's tract.
- 617 (c) A pooling order shall provide that each consenting owner shall own and is entitled to
618 receive, subject to royalty or similar obligations:
- 619 (i) the share of the production of the brine well applicable to the consenting owner's
620 interest in the brine production drilling unit; and
- 621 (ii) unless the consenting owner has agreed otherwise, the consenting owner's
622 proportionate part of the nonconsenting owner's share of the production until costs
623 are recovered as provided in Subsection (4)(d).
- 624 (d)(i) A pooling order shall provide that each nonconsenting owner is entitled to
625 receive, subject to royalty or similar obligations, the share of the production of the
626 brine well applicable to the nonconsenting owner's interest in the brine production
627 drilling unit after the consenting owners have recovered from the nonconsenting
628 owner's share of production the following amounts less any cash contributions
629 made by the nonconsenting owner:
- 630 (A) 100% of the nonconsenting owner's share of the cost of surface equipment
631 beyond the wellhead connections, including stock tanks, separators, treaters,
632 pumping equipment, and piping;
- 633 (B) 100% of the nonconsenting owner's share of the estimated cost to plug and
634 abandon the brine well as determined by the board;
- 635 (C) 100% of the nonconsenting owner's share of the cost of brine mining
636 operations of the brine well commencing with first production and continuing
637 until the consenting owners have recovered all costs; and
- 638 (D) 300% on the first brine well and 150% for each subsequent brine well of the
639 nonconsenting owner's share of the costs of staking the location, wellsite
640 preparation, rights-of-way, rigging up, drilling, reworking, recompleting,

- 641 deepening or plugging back, testing, and completing, and the cost of equipment
642 in the brine well to and including the wellhead connections.
- 643 (ii) The nonconsenting owner's share of the costs specified in Subsection (4)(d)(i) is
644 that interest that would have been chargeable to the nonconsenting owner had the
645 nonconsenting owner initially agreed to pay the nonconsenting owner's share of
646 the costs of the brine well from commencement of the brine mining operation.
- 647 (iii) A reasonable interest charge may be included if the board finds the interest
648 charge appropriate.
- 649 (e) If there is a dispute about costs, the board shall determine the proper costs.
- 650 (5) If a nonconsenting owner's tract in the brine production drilling unit is subject to a lease,
651 mining claim, or contract for the development of minerals within the brine, the pooling
652 order shall provide that the consenting owners shall pay any royalty interest or other
653 interest in the tract not subject to the deduction of the costs of production from the
654 production attributable to that tract.
- 655 (6)(a) If a nonconsenting owner's tract in the brine production drilling unit is not subject
656 to a lease, mining claim, or contract for the development of minerals within the brine
657 production drilling unit, the pooling order shall provide that the nonconsenting owner
658 shall receive as a royalty:
- 659 (i) the acreage weighted average royalty based on each leased fee and privately
660 owned tract within the brine production drilling unit, proportionately reduced by
661 the percentage of the nonconsenting owner's interest in the brine production
662 drilling unit; or
- 663 (ii) if there is no leased fee or privately owned tract within the brine production
664 drilling unit other than the one owned by the nonconsenting owner, 7-1/2%
665 proportionately reduced by the percentage of the nonconsenting owner's interest in
666 the brine production drilling unit.
- 667 (b) The royalty shall be:
- 668 (i) determined as of the day drilling is commenced; and
- 669 (ii) paid from production attributable to each tract until the consenting owners have
670 recovered the costs specified in Subsection (4)(d).
- 671 (7) Once the consenting owners have recovered the costs, as described in Subsection
672 (6)(b)(ii), the royalty is merged back into the nonconsenting owner's working interest
673 and is terminated.
- 674 (8) The operator of a brine well under a pooling order in which there is a nonconsenting

- 675 owner shall furnish the nonconsenting owner with monthly statements specifying:
- 676 (a) costs incurred;
- 677 (b) the total volume of production of brine and the volumes extracted therefrom; and
- 678 (c) the amount of brine proceeds realized from the sale of the production during the
- 679 preceding month.
- 680 (9) A pooling order shall provide that when the consenting owners recover from a
- 681 nonconsenting owner's relinquished interest the amounts provided for in Subsection
- 682 (4)(d):
- 683 (a) the relinquished interest of the nonconsenting owner shall automatically revert to the
- 684 nonconsenting owner;
- 685 (b) the nonconsenting owner shall from that time:
- 686 (i) own the same interest in the brine well and the production from the brine well; and
- 687 (ii) be liable for the further costs of the brine mining operation as if the
- 688 nonconsenting owner had participated in the initial drilling and operation; and
- 689 (c) costs are payable out of production unless otherwise agreed between the
- 690 nonconsenting owner and the operator.
- 691 (10) A pooling order shall provide that in any circumstance where the nonconsenting owner
- 692 has relinquished the nonconsenting owner's share of production to consenting owners or
- 693 at any time fails to take the nonconsenting owner's share of production in-kind when the
- 694 nonconsenting owner is entitled to do so, the nonconsenting owner is entitled to:
- 695 (a) an accounting of the brine proceeds applicable to the nonconsenting owner's
- 696 relinquished share of production; and
- 697 (b) payment of the brine proceeds applicable to that share of production not taken
- 698 in-kind, net of costs.
- 699 Section 11. Section **40-13-303** is enacted to read:
- 700 **40-13-303 . Order establishing brine field unit.**
- 701 (1)(a) The board may hold a hearing to consider the need for the operation as a unit of
- 702 one or more brine reservoirs or parts of brine reservoirs in a field.
- 703 (b) The board shall consider including any state lands within a brine field unit that
- 704 would not otherwise be protected from drainage because of the inability to develop
- 705 the state lands due to geography or other factors.
- 706 (2) The board shall make an order providing for the unit operation of a reservoir or part of a
- 707 reservoir, if the board finds that:
- 708 (a) the operation is reasonably necessary for the purposes of this chapter; and

- 709 **(b)** the value of the estimated additional recovery of brine substantially exceeds the
710 estimated additional cost incident to conducting the operations.
- 711 **(3)(a)** An order by the board establishing or modifying a brine field or brine field unit
712 shall prescribe a plan for unit operations that shall include:
- 713 **(i)** a description of the lands and of the reservoir that is established as the brine field
714 or brine field unit;
- 715 **(ii)** subject to Subsection (3)(b), an allocation of the brine produced in the brine field
716 unit to the separately-owned tracts in the brine field or brine field unit;
- 717 **(iii)** the method for apportioning costs of development and operation between the
718 separately owned tracts and how these costs are paid including a provision
719 providing a procedure for the unit production allocated to an owner who does not
720 pay the share of the cost of unit operations charged to such owner, or the interest
721 of that owner, to be sold and the brine proceeds applied to the payment of the
722 costs;
- 723 **(iv)** a provision, if necessary, for carrying or otherwise financing a person who elects
724 to be carried or otherwise financed, allowing a reasonable interest charge for this
725 service payable out of that person's share of the production;
- 726 **(v)** the method and circumstances under which brine or effluent from the brine field
727 unit may be injected into the reservoir or other formations;
- 728 **(vi)** the time when the unit operations shall commence, and the manner in which and
729 the circumstances under which, the unit operations shall terminate;
- 730 **(vii)** the additional provisions that the board finds appropriate for carrying out the
731 unit operations, and for the protection of correlative rights; and
- 732 **(viii)** the designation of a unit operator.
- 733 **(b)(i)** The allocation under Subsection (3)(a)(ii) shall be in accord with the
734 agreement, if any, of the interested parties.
- 735 **(ii)** If there is no agreement, the board shall determine the relative value, from
736 evidence introduced at the hearing, of the separately owned tracts in the brine field
737 unit area and the production allocated to each tract shall be the proportion that the
738 relative value of each tract so determined bears to the relative value of all tracts in
739 the brine field unit area.
- 740 **(4)(a)** An order of the board providing for unit operations of a reservoir may not become
741 effective unless and until:
- 742 **(i)** the plan for unit operations prescribed by the order has been approved in writing

- 743 by:
- 744 (A) those owners who, under the board's order, will be required to pay 70% of the
- 745 costs of the unit operation; and
- 746 (B) the owners of 70% of the production or brine proceeds that will be credited to
- 747 interests that are free of costs, such as royalties, overriding royalties, and
- 748 production payments; and
- 749 (ii) the board makes a finding, either in the order providing for unit operations or in a
- 750 supplemental order, that the plan for unit operations has been so approved.
- 751 (b) If the persons owning required percentage of interest in a brine field unit area do not
- 752 approve the plan for unit operations with six months from the date on which the order
- 753 providing for unit operations is made, the order is ineffective and the board shall
- 754 revoke the order unless good cause exists to extend the time.
- 755 (5) An order providing for unit operations may be amended by an order made by the board
- 756 in the same manner and subject to the same conditions as an original order providing for
- 757 unit operations.
- 758 (6)(a) Operations, including the commencement, drilling, or operation of a brine well
- 759 upon any portion of the brine field unit area is considered for all purposes the conduct
- 760 of operations upon each separately owned tract in the brine field unit area by the
- 761 several owners.
- 762 (b) The portions of the unit production allocated to a separately owned tract in a brine
- 763 field unit area shall, when produced, be considered, for all purposes, to have been
- 764 actually produced from the tract by a brine well drilled.
- 765 (7) Operations carried on under the plan of unitization shall constitute a fulfillment of all of
- 766 the provisions of the brine leases or other contracts upon lands included within the brine
- 767 field unit area insofar as the leases or contracts may relate to the reservoir or portion of
- 768 the reservoir included within the brine field unit.

769 Section 12. Section **40-13-401** is enacted to read:

770 **Part 4. Brine Mining Operations**

771 **40-13-401 . Permits required.**

- 772 (1) A person may not engage in brine mining operations in the state without a permit.
- 773 (2) A person may only transfer a permit to another person with permission of the division.
- 774 (3) The division may issue a permit:
- 775 (a) authorizing construction, operation, maintenance, and cessation of processing and
- 776 refining facilities and brine wells; and

- 777 (b) approving, as part of that permit, post-cessation reclamation of the site.
- 778 (4) As a condition for approval of a permit, the owner and operator shall furnish surety in
779 an amount determined by the division to cover reclamation costs for the facility and any
780 associated brine wells.
- 781 (5) Approval of a permit is conditioned upon compliance with the laws, rules, and orders of
782 the board.
- 783 (6) The board may order the closure of a facility and any associated brine wells:
784 (a) if adequate surety is not posted;
785 (b) if a violation of the laws, rules, and orders of the board exists and is not abated; or
786 (c) for a significant violation of federal or state law not described in Subsection (6)(b) or
787 substantial cause related to a natural disaster or imminent property destruction.

788 Section 13. Section **40-13-402** is enacted to read:

789 **40-13-402 . Payment of brine proceeds.**

- 790 (1)(a) A payor shall pay the brine proceeds derived from the sale of the minerals
791 extracted from the brine to persons legally entitled to payment of the brine proceeds
792 not later than 180 days after the date of first sale, and thereafter not later than 60 days
793 after the end of the calendar month within which brine proceeds are received for
794 subsequent production.
- 795 (b) A payor shall make a payment directly to the person entitled to the payment by the
796 payor.
- 797 (c) A payor shall include the following information with each payment made to a person
798 entitled to payment of brine proceeds from the sale of the mined minerals:
799 (i) unit identification;
800 (ii) month and year of sales included in the payment;
801 (iii) total volume of production from the unit of brine and volumes of minerals
802 extracted;
803 (iv) owner's interest, expressed as a decimal, in production from the unit;
804 (v) total value of extracted dissolved minerals and chemical substances, including the
805 price per unit of measurement at which the products were sold;
806 (vi) owner's share of the total value of sales prior to any deductions;
807 (vii) owner's share of the total value of sales after any deductions; and
808 (viii) a detailed listing of the amount and purpose of any deductions.
- 809 (2)(a) A delay in determining whether a person is legally entitled to an interest in the
810 brine proceeds does not affect payments to other persons entitled to payment.

811 (b) If accrued payments cannot be made within the time limits specified in Subsection
812 (1), the payor shall deposit the brine proceeds credited to the eventual brine proceeds
813 owner to an escrow account in a federally insured bank or savings and loan
814 institution using a standard escrow document form.

815 (c) An escrow agent shall pay the principal and accrued interest from the escrow account
816 to the person legally entitled to the principal and interest within 30 days from the date
817 of receipt by the escrow agent of final legal determination of entitlement to the
818 payment.

819 Section 14. **Repealer.**

820 This bill repeals:

821 Section **40-8-24, Brine mining.**

822 Section 15. **Effective Date.**

823 This bill takes effect on May 7, 2025.