

SB0139S01 compared with SB0139

{Omitted text} shows text that was in SB0139 but was omitted in SB0139S01

inserted text shows text that was not in SB0139 but was inserted into SB0139S01

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

1
.
.
.
.
.
2
3
4
5
6
7
8
9
10
10
14
15
16
17
20

Mineral Rights Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronald M. Winterton

House Sponsor:

LONG TITLE

General Description:

This bill modifies provisions relating to eminent domain used to take a mineral estate in land.

Highlighted Provisions:

This bill:

- ▶ prohibits the taking of a fee simple interest in land if an easement interest suffices; {and}
- ▶ requires that the taking of a fee simple interest explicitly exclude mineral estate interests unless necessary;
- ▶ requires for separate payment of just compensation for a mineral estate taken by eminent domain{:} ; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

None

AMENDS:

SB0139 compared with SB0139S01

21 **78B-6-501** , as last amended by Laws of Utah 2024, Chapters 25, 350 , as last amended by Laws of
Utah 2024, Chapters 25, 350

22 **78B-6-502 , as last amended by Laws of Utah 2024, Chapters 25, 350 , as last amended by**
Laws of Utah 2024, Chapters 25, 350

23
24 *Be it enacted by the Legislature of the state of Utah:*

25 Section 1. Section **78B-6-501** is amended to read:

26 **78B-6-501. Eminent domain -- Uses for which right may be exercised -- Limitations on**
eminent domain.

24 (1) As used in this section:

25 (a) "Century farm" means real property that is:

26 (i) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

27 (ii) owned or held by the same family for a continuous period of 100 years or more.

28 (b) "Mineral or element" means the same as that term is defined in Section 65A-17-101.

29 (c)

. (i) "Mining use" means:

30 (A) the full range of permitted or active activities, from prospecting and exploration to reclamation
and closure, associated with the exploitation of a mineral deposit; and

33 (B) the use of the surface, subsurface, groundwater, and surface water of an area in connection
with the activities described in Subsection (1)(c)(i)(A) that have been, are being, or will be
conducted.

36 (ii) "Mining use" includes, whether conducted on-site or off-site:

37 (A) sampling, staking, surveying, exploration, or development activity;

38 (B) drilling, blasting, excavating, or tunneling;

39 (C) the removal, transport, treatment, deposition, and reclamation of overburden, development rock,
tailings, and other waste material;

41 (D) the recovery of sand and gravel;

42 (E) removal, transportation, extraction, beneficiation, or processing of ore;

43 (F) use of solar evaporation ponds and other facilities for the recovery of minerals in solution;

45 (G) smelting, refining, autoclaving, or other primary or secondary processing operation;

47 (H) the recovery of any mineral left in residue from a previous extraction or processing operation;

SB0139 compared with SB0139S01

- 49 (I) a mining activity that is identified in a work plan or permitting document;
- 50 (J) the use, operation, maintenance, repair, replacement, construction, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;
- 54 (K) an accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;
- 59 (L) the construction of a storage, factory, processing, or maintenance facility; and
- 60 (M) an activity described in Subsection 40-8-4(17)(a).
- 61 (2) Except as provided in Subsections (3), (4), and (5) and subject to the provisions of this part, the right of eminent domain may be exercised on behalf of the following public uses:
- 64 (a) all public uses authorized by the federal government;
- 65 (b) public buildings and grounds for the use of the state, and all other public uses authorized by the Legislature;
- 67 (c)
- . (i) public buildings and grounds for the use of any county, city, town, or board of education;
- 69 (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or sewage, including to or from a development, for the use of the inhabitants of any county, city, or town, or for the draining of any county, city, or town;
- 72 (iii) the raising of the banks of streams, removing obstructions from streams, and widening, deepening, or straightening their channels;
- 74 (iv) bicycle paths and sidewalks adjacent to paved roads;
- 75 (v) roads, byroads, streets, and alleys for public vehicular use, including for access to a development; and
- 77 (vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;
- 78 (d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation;
- 82 (e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic

SB0139 compared with SB0139S01

or other uses, or for irrigation purposes, or for the draining and reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of minerals or elements in solution;

87 (f)

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

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

94 (iii) mill dams;

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

100 (v) subject to Subsection (6), solar evaporation ponds and other facilities for the recovery of minerals in solution; and

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

106 (g) byroads leading from a highway to:

107 (i) a residence; or

108 (ii) a farm;

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

113 (i) sewage service for:

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

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

116 (iii) a college or university;

117

SB0139 compared with SB0139S01

- (j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat;
- 120 (k) cemeteries and public parks; and
- 121 (l) sites for mills, smelters or other works for the reduction of ores and necessary to their successful operation, including the right to take lands for the discharge and natural distribution of smoke, fumes, and dust, produced by the operation of works, provided that the powers granted by this section may not be exercised in any county where the population exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the proposed condemner has the right to operate by purchase, option to purchase or easement, at least 75% in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing between the condemner and the owner of land within the limit and providing for the operation of such mill, smelter, or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter, or other works for the reduction of ores.
- 135 (3) The right of eminent domain may not be exercised on behalf of the following uses:
- 136 (a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway; or
- 139 (b)
- . (i) a public park whose primary purpose is:
- 140 (A) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or
- 142 (B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use; or
- 144 (ii) a public park established on real property that is:
- 145 (A) a century farm; and
- 146 (B) located in a county of the first class.
- 147 (4)
- . (a) The right of eminent domain may not be exercised within a migratory bird production area created on or before December 31, 2020, under Title 23A, Chapter 13, Migratory Bird Production Area, except as follows:

SB0139 compared with SB0139S01

- 150 (i) subject to Subsection (4)(b), an electric utility may condemn land within a migratory bird
production area located in a county of the first class only for the purpose of installing buried
power lines;
- 153 (ii) an electric utility may condemn land within a migratory bird production area in a county other
than a county of the first class to install:
- 155 (A) buried power lines; or
- 156 (B) a new overhead transmission line that is parallel to and abutting an existing overhead transmission
line or collocated within an existing overhead transmission line right of way; or
- 159 (iii) the Department of Transportation may exercise eminent domain for the purpose of the
construction of the West Davis Highway.
- 161 (b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the electric utility shall
demonstrate that:
- 163 (i) the proposed condemnation would not have an unreasonable adverse effect on the preservation, use,
and enhancement of the migratory bird production area; and
- 165 (ii) there is no reasonable alternative to constructing the power line within the boundaries of a migratory
bird production area.
- 167 (5) If the intended public purpose is for a mining use, a private person may not exercise the power of
eminent domain over property, or an interest in property, that is already used for a mining use within
the boundary of:
- 170 (a) a permit area, as defined in Section 40-8-4;
- 171 (b) an area for which a permit has been issued by the Division of Water Quality, as part of the
underground injection control program, under rules made by the Water Quality Board in accordance
with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 174 (c) private property; or
- 175 (d) an area under a state or federal lease.
- 176 (6)
- . (a) For the purpose of solar evaporation ponds and other facilities for the recovery of minerals in
solution on or from the Great Salt Lake, a public use includes removal or extinguishment, by a state
entity, in whole or in part, on Great Salt Lake Sovereign lands of:
- 180 (i) a solar evaporation pond;
- 181

SB0139 compared with SB0139S01

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

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

184 (b) The public use under this Subsection (6) is in the furtherance of the benefits to public trust assets attributable to the Great Salt Lake under Section 65A-1-1.

186 (7)

. ~~{(a) {Fee simple title to land may not be taken by eminent domain if taking an easement on the land satisfies the purposes for which the taking is proposed.}}~~

188 ~~{(b)}~~ (a) {If fee} Fee simple title to land {is} may not be taken by eminent domain, unless:

191 (i) the taking is for a purpose described in Subsection 78B-6-502(1); and

192 (ii) the purpose for which the taking is proposed cannot be accomplished by taking an easement rather than taking fee simple title.

194 (b) If fee simple title to land is taken through eminent domain, the taking and the resulting title shall explicitly exclude and reserve to each current owner the owner's interest in the mineral estate associated with the land, unless taking the mineral estate is necessary for the purpose of the taking.

198 (c) If, in accordance with Subsection (7)(b), it is necessary to acquire the mineral estate associated with the land:

189 (i) each interest in the mineral estate {associated with the land} shall be identified and valued separately from {the} all other estates {and rights}, rights, and interests in the land; and

191 (ii) {the} each owner {of} with an interest in the mineral estate {shall be paid} is entitled to separately receive just compensation {separately} for the owner's interest in the mineral estate {associated with the land}.

204 Section 2. Section 78B-6-502 is amended to read:

205 **78B-6-502. Estates and rights that may be taken.**

Except as provided in Subsection 78B-6-501(3), (4), or (5),
and subject to Subsection

207 78B-6-501(7),

Except as provided in Subsection 78B-6-501(3), (4), or (5), the following estates and rights in lands are subject to being taken for public use:

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

SB0139 compared with SB0139S01

- 210 (a) public buildings or grounds;
- 211 (b) permanent buildings;
- 212 (c) reservoirs and dams, and permanent flooding occasioned by them;
- 213 (d) any permanent flood control structure affixed to the land;
- 214 (e) an outlet for a flow, a place for the deposit of debris or tailings of a mine, mill, smelter, or other
place for the reduction of ores; and
- 216 (f) subject to Subsection 78B-6-501(6), solar evaporation ponds and other facilities for the recovery
of minerals in solution, except when the surface ground is underlaid with minerals, coal, or other
deposits sufficiently valuable to justify extraction, only a perpetual easement may be taken over the
surface ground over the deposits;
- 220 (2) an easement, when taken for any other use; and
- 221 (3) the right of entry upon and occupation of lands, with the right to take from those lands earth, gravel,
stones, trees, and timber as necessary for a public use.

223 Section 3. **Effective date.**

This bill takes effect on May 7, 2025.

1-28-25 12:32 PM