

1 INTERSTATE MINING COMPACT

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: David P. Hinkins

5 House Sponsor: Mike K. McKell

7 LONG TITLE

8 General Description:

9 This bill enacts Title 40, Chapter 9, Interstate Mining Compact.

10 Highlighted Provisions:

11 This bill:

- 12 ▶ enacts Title 40, Chapter 9, Interstate Mining Compact.

13 Money Appropriated in this Bill:

14 None

15 Other Special Clauses:

16 None

17 Utah Code Sections Affected:

18 ENACTS:

19 **40-9-101**, Utah Code Annotated 1953

20 **40-9-102**, Utah Code Annotated 1953

21 **40-9-103**, Utah Code Annotated 1953

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

24 Section 1. Section **40-9-101** is enacted to read:

25 **CHAPTER 9. INTERSTATE MINING COMPACT**

26 **40-9-101. Title.**

27 This chapter is known as "Interstate Mining Compact."

28 Section 2. Section **40-9-102** is enacted to read:

29 **40-9-102. Text of Compact.**

30 The Interstate Mining Compact is hereby enacted into law and entered into with all
31 other jurisdictions legally joining therein in the form substantially as follows:

32 Article I

33 Findings and Purposes

34 (1) The party States find that:

35 (a) Mining and the contributions thereof to the economy and well-being of every State
36 are of basic significance.

37 (b) The effects of mining on the availability of land, water and other resources for other
38 uses present special problems which properly can be approached only with due consideration
39 for the rights and interests of those engaged in mining, those using or proposing to use these
40 resources for other purposes, and the public.

41 (c) Measures for the reduction of the adverse effects of mining on land, water and other
42 resources may be costly and the devising of means to deal with them are of both public and
43 private concern.

44 (d) Such variables as soil structure and composition, physiography, climatic conditions,
45 and the needs of the public make impracticable the application to all mining areas of a single
46 standard for the conservation, adaptation, or restoration of mined land, or the development of
47 mineral and other natural resources; but justifiable requirements of law and practice relating to
48 the effects of mining on lands, water, and other resources may be reduced in equity or
49 effectiveness unless they pertain similarly from State to State for all mining operations
50 similarly situated.

51 (e) The States are in a position and have the responsibility to assure that mining shall
52 be conducted in accordance with sound conservation principles, and with due regard for local
53 conditions.

54 (2) The purposes of this Compact are to:

55 (a) Advance the protection and restoration of land, water and other resources affected
56 by mining.

57 (b) Assist in the reduction or elimination or counteracting of pollution or deterioration

58 of land, water and air attributable to mining.

59 (c) Encourage, with due recognition of relevant regional, physical, and other
60 differences, programs in each of the party States which will achieve comparable results in
61 protecting, conserving, and improving the usefulness of natural resources, to the end that the
62 most desirable conduct of mining and related operations may be universally facilitated.

63 (d) Assist the party States in their efforts to facilitate the use of land and other
64 resources affected by mining, so that such use may be consistent with sound land use, public
65 health, and public safety, and to this end to study and recommend, wherever desirable,
66 techniques for the improvement, restoration or protection of such land and other resources.

67 (e) Assist in achieving and maintaining an efficient and productive mining industry and
68 in increasing economic and other benefits attributable to mining.

69 Article II

70 Definitions

71 As used in this Compact, the term:

72 (1) "Mining" means the breaking of the surface soil in order to facilitate or accomplish
73 the extraction or removal of minerals, ores, or other solid matter, any activity or process
74 constituting all or part of a process for the extraction or removal of minerals, ores, and other
75 solid matter from its original location, and the preparation, washing, cleaning, or other
76 treatment of minerals, ores, or other solid matter so as to make them suitable for commercial,
77 industrial, or construction use; but shall not include those aspects of deep mining not having
78 significant effect on the surface, and shall not include excavation of grading when conducted
79 solely in aid of on-site farming or construction.

80 (2) "State" means a State of the United States, the District of Columbia, the
81 Commonwealth of Puerto Rico, or a Territory or Possession of the United States.

82 Article III

83 State Programs

84 Each party State agrees that within a reasonable time it will formulate and establish an
85 effective program for the conservation and use of mined land, by the establishment of

86 standards, enactment of laws, or the continuing of the same in force, to accomplish:

87 (1) The protection of the public and the protection of adjoining and other landowners
88 from damage to their lands and the structures and other property thereon resulting from the
89 conduct of mining operations or the abandonment or neglect of land and property formerly
90 used in the conduct of such operations.

91 (2) The conduct of mining and the handling of refuse and other mining wastes in ways
92 that will reduce adverse effects on the economic, residential, recreational or aesthetic value and
93 utility of land and water.

94 (3) The institution and maintenance of suitable programs of adaptation, restoration, and
95 rehabilitation of mined lands.

96 (4) The prevention, abatement and control of water, air and soil pollution resulting
97 from mining - present, past and future.

98 Article IV

99 Powers

100 In addition to any other powers conferred upon the Interstate Mining Commission,
101 established by Article V of this Compact, such Commission shall have power to:

102 (1) Study mining operations, processes and techniques for the purpose of gaining
103 knowledge concerning the effects of such operations, processes and techniques on land, soil,
104 water, air, plant and animal life, recreation, and patterns of community or regional development
105 or change.

106 (2) Study the conservation, adaptation, improvement and restoration of land and related
107 resources affected by mining.

108 (3) Make recommendations concerning any aspect or aspects of law or practice and
109 governmental administration dealing with matters within the purview of this Compact.

110 (4) Gather and disseminate information relating to any of the matters within the
111 purview of this Compact.

112 (5) Cooperate with the federal government and any public or private entities having
113 interests in any subject coming within the purview of this Compact.

114 (6) Consult, upon the request of a party State and within available resources, with the
115 officials of such State in respect to any problem within the purview of this Compact.

116 (7) Study and make recommendations with respect to any practice, process, technique,
117 or course of action that may improve the efficiency of mining or the economic yield from
118 mining operations.

119 (8) Study and make recommendations relating to the safeguarding of access to
120 resources which are or may become the subject of mining operations to the end that the needs
121 of the economy for the products of mining may not be adversely affected by unplanned or
122 inappropriate use of land and other resources containing minerals or otherwise connected with
123 actual or potential mining sites.

124 Article V

125 The Commission

126 (1) There is hereby created an agency of the party States to be known as the "Interstate
127 Mining Commission", hereinafter called "the Commission". The Commission shall be
128 composed of one commissioner from each party State who shall be the Governor thereof.
129 Pursuant to the laws of the party State, each Governor may have the assistance of an advisory
130 body (including membership from mining industries, conservation interests, and such other
131 public and private interests as may be appropriate) in considering problems relating to mining
132 and in discharging the responsibilities as a Commissioner on the Commission. In any instance
133 where a Governor is unable to attend a meeting of the commission or perform any other
134 function in connection with the business of the Commission, he/she shall designate an alternate
135 who shall represent him/her and act in his/her place and stead. The designation of an alternate
136 shall be communicated by the Governor to the Commission in such manner as its bylaws may
137 provide.

138 (2) The Commissioners shall be entitled to one vote each on the Commission. No
139 action of the Commission making a recommendation pursuant to Article IV (3), IV (7), and IV
140 (8) or requesting, accepting or disposing of funds, services, or other property pursuant to this
141 paragraph, Article V (7), V (8), or VII shall be valid unless taken at a meeting at which a

142 majority of the total number of votes on the Commission is cast in favor thereof. All other
143 action shall be by a majority of those present and voting: provided that action of the
144 Commission shall be only at a meeting at which a majority of the Commissioners, or their
145 alternates, is present. The Commission may establish and maintain such facilities as may be
146 necessary for the transaction of its business. The Commission may acquire, hold, and convey
147 real and personal property and any interest therein.

148 (3) The Commission shall have a seal.

149 (4) The Commission shall elect annually, from among its members, a Chairman, a
150 Vice-chairman, and a Treasurer. The Commission shall appoint an Executive Director and fix
151 his/her duties and compensation. Such Executive Director shall serve at the pleasure of the
152 Commission. The Executive Director, the Treasurer, and such other personnel as the
153 Commission shall designate shall be bonded. The amount or amounts of such bond or bonds
154 shall be determined by the Commission.

155 (5) Irrespective of the civil service, personnel or other merit system laws of any of the
156 party States, the Executive Director, with the approval of the Commission, shall appoint,
157 remove or discharge such personnel as may be necessary for the performance of the
158 Commission's functions, and shall fix the duties and compensation of such personnel.

159 (6) The Commission may establish and maintain independently or in conjunction with
160 a party State, a suitable retirement system for its employees. Employees of the Commission
161 shall be eligible for Social Security coverage in respect of old age and survivor's insurance
162 provided that the Commission takes such steps as may be necessary pursuant to the laws of the
163 United States, to participate in such program of insurance as a governmental agency or unit.
164 The Commission may establish and maintain or participate in such additional programs of
165 employee benefits as it may deem appropriate.

166 (7) The Commission may borrow, accept or contract for the services of personnel from
167 any State, the United States, or any other governmental agency, or from any person, firm,
168 association or corporation.

169 (8) The Commission may accept for any of its purposes and functions under this

170 Compact any and all donations, and grants of money, equipment, supplies, materials and
171 services, conditional or otherwise, from any State, the United States, or any other governmental
172 agency, or from any person, firm, association or corporation, and may receive, utilize and
173 dispose of the same. Any donation or grant accepted by the Commission pursuant to this
174 paragraph or services borrowed pursuant to paragraph (7) of the Article shall be reported in the
175 annual report of the Commission. Such report shall include the nature, amount and conditions,
176 if any, of the donation, grant or services borrowed and the identity of the donor or lender.

177 (9) The Commission shall adopt bylaws for the conduct of its business and shall have
178 the power to amend and rescind these bylaws. The Commission shall publish its bylaws in
179 convenient form and shall file a copy thereof and a copy of any amendment thereto, with the
180 appropriate agency or officer in each of the party States.

181 (10) The Commission annually shall make to the Governor, Legislature and advisory
182 body described in Article V (1) of each party State a report covering the activities of the
183 Commission for the preceding year, and embodying such recommendations as may have been
184 made by the Commission. The Commission may make such additional reports as it may deem
185 desirable.

186 Article VI

187 Advisory, Technical, and Regional Committees

188 The Commission shall establish such advisory, technical, and regional committees as it
189 may deem necessary, membership on which shall include private persons and public officials,
190 and shall cooperate with the use and services of any such committees and the organizations
191 which the members represent in furthering any of its activities. Such committees may be
192 formed to consider problems of special interest to any party State, problems dealing with
193 particular commodities or types of mining operations, problems related to reclamation,
194 development, or use of mined land, or any other matters of concern to the Commission.

195 Article VII

196 Finance

197 (1) The Commission shall submit to the Governor or designated officer or officers of

198 each party State a budget of its estimated expenditures for such period as may be required by
199 the laws of that party State for presentation to the Legislature thereof.

200 (2) Each of the Commission's budgets of estimated expenditures shall contain specific
201 recommendations of the amount or amounts to be appropriated by each of the party States. The
202 total amount of appropriations requested under any such budget shall be apportioned among the
203 party States as follows: one-half in equal shares, and the remainder in proportion to the value of
204 minerals, ores, and other solid matter mined. In determining such values, the Commission
205 shall employ such available public source or sources of information as, in its judgment, present
206 the most equitable and accurate comparisons among the party States. Each of the
207 Commission's budgets of estimated expenditures and requests for appropriations shall indicate
208 the source or sources used in obtaining information concerning value of minerals, ores, and
209 other solid matter mined.

210 (3) The Commission shall not pledge the credit of any party State. The Commission
211 may meet any of its obligations in whole or in part with funds available to it under Article V
212 (8) of this Compact; provided that the Commission takes specific action setting aside such
213 funds prior to incurring any obligation to be met in whole or in part in such manner. Except
214 where the Commission makes use of funds available to it under Article V (8) hereof, the
215 Commission shall not incur any obligation prior to the allotment of funds by the party States
216 adequate to meet the same.

217 (4) The Commission shall keep accurate accounts of all receipts and disbursements.
218 The receipts and disbursements of the Commission shall be subject to the audit and accounting
219 procedures established under its bylaws. All receipts and disbursements of funds handled by
220 the Commission shall be audited yearly by a qualified public accountant and the report of the
221 audit shall be included in and become part of the annual report of the Commission.

222 (5) The accounts of the Commission shall be open at any reasonable time for
223 inspection by duly constituted officers of the party States and by any persons authorized by the
224 Commission.

225 (6) Nothing contained herein shall be construed to prevent Commission compliance

226 with laws relating to audit or inspection of accounts by or on behalf of any government
227 contributing to the support of the Commission.

228 Article VIII

229 Entry Into Force and Withdrawal

230 (1) This Compact shall enter into force when enacted into law by any four or more
231 States. Thereafter, this Compact shall become effective as to any other State upon its
232 enactment thereof.

233 (2) Any party State may withdraw from this Compact by enacting a statute repealing
234 the same, but no such withdrawal shall take effect until one year after the Governor of the
235 withdrawing State has given notice in writing of the withdrawal to the Governors of all other
236 party States. No withdrawal shall affect any liability previously and separately agreed to, and
237 already incurred by or chargeable to a party State, under Article VII (2), prior to the time of
238 such withdrawal.

239 Article IX

240 Effect On Other Laws

241 Nothing in this Compact shall be construed to limit, repeal or supersede any other law
242 of any party State.

243 Article X

244 Construction and Severability

245 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
246 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision
247 of this Compact is declared to be contrary to the constitution of any State or of the United
248 States, or the applicability thereof to any government, agency, person or circumstance is held
249 invalid, the validity of the remainder of this Compact and the applicability thereof to any
250 government, agency, person or circumstance shall not be affected thereby. If this Compact
251 shall be held contrary to the constitution of any State participating herein, the Compact shall
252 remain in full force and effect as to the remaining party States and in full force and effect as to
253 the State affected as to all severable matters.

254 Section 3. Section **40-9-103** is enacted to read:

255 **40-9-103. Participation by Utah.**

256 (1) The governor may appoint the director of the Division of Oil, Gas, and Mining to
257 serve as the governor's official representative to the Interstate Mining Commission.

258 (2) A copy of the bylaws of the Interstate Mining Commission shall be:

259 (a) placed on file with the director of the Division of Oil, Gas, and Mining; and

260 (b) available, at reasonable times, for inspection by the Legislature or an interested
261 person.

262 (3) As used in Article V (1), "agency of the party States" does not mean an agency of
263 Utah.

264 (4) A person or entity may not hold Utah liable for the obligations or solvency of:

265 (a) the retirement system described in Article V (6); or

266 (b) a program of employee benefits described in Article V (6).