

**Representative Scott H. Chew** proposes the following substitute bill:

**MINING AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David P. Hinkins**

House Sponsor: Scott H. Chew

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**LONG TITLE**

**General Description:**

This bill addresses mining.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of small mining operations; and
- ▶ addresses eligibility of a mining company or mining services company for certain grants;
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**40-8-4**, as last amended by Laws of Utah 2011, Chapter 231

**63N-4-404**, as last amended by Laws of Utah 2019, Chapters 45 and 136

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



26 Section 1. Section **40-8-4** is amended to read:

27 **40-8-4. Definitions.**

28 As used in this chapter:

29 (1) "Adjudicative proceeding" means:

30 (a) a division or board action or proceeding determining the legal rights, duties,  
31 privileges, immunities, or other legal interests of one or more identifiable persons, including  
32 actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right,  
33 permit, or license; or

34 (b) judicial review of a division or board action or proceeding specified in Subsection  
35 (1)(a).

36 (2) "Applicant" means a person who has filed a notice of intent to commence mining  
37 operations, or who has applied to the board for a review of a notice or order.

38 (3) (a) "Approved notice of intention" means a formally filed notice of intention to  
39 commence mining operations, including revisions to ~~[it, which has been]~~ the notice of intention  
40 that is approved under Section 40-8-13.

41 (b) An approved notice of intention is not required for small mining operations.

42 (4) "Board" means the Board of Oil, Gas, and Mining.

43 (5) "Conference" means an informal adjudicative proceeding conducted by the division  
44 or board.

45 (6) (a) "Deposit" or "mineral deposit" means an accumulation of mineral matter in the  
46 form of consolidated rock, unconsolidated material, solutions, or occurring on the surface,  
47 beneath the surface, or in the waters of the land from which any product useful to man may be  
48 produced, extracted, or obtained or which is extracted by underground mining methods for  
49 underground storage.

50 (b) "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, water,  
51 geothermal steam, and oil and gas as defined in ~~[Title 40,]~~ Chapter 6, Board and Division of  
52 Oil, Gas, and Mining, but includes oil shale and bituminous sands extracted by mining  
53 operations.

54 (7) "Development" means the work performed in relation to a deposit following ~~[its]~~  
55 the deposit's discovery but ~~[prior to]~~ before and in contemplation of production mining  
56 operations, aimed at, but not limited to, preparing the site for mining operations, defining

57 further the ore deposit by drilling or other means, conducting pilot plant operations,  
58 constructing roads or ancillary facilities, and other related activities.

59 (8) "Division" means the Division of Oil, Gas, and Mining.

60 (9) "Emergency order" means an order issued by the board in accordance with ~~the~~  
61 ~~provisions of~~ Title 63G, Chapter 4, Administrative Procedures Act.

62 (10) (a) "Exploration" means surface-disturbing activities conducted for the purpose of:

63 (i) discovering a deposit or mineral deposit~~;~~;

64 (ii) delineating the boundaries of a deposit or mineral deposit~~;~~; and

65 (iii) identifying regions or specific areas in which deposits or mineral deposits are most  
66 likely to exist.

67 (b) "Exploration" includes~~[- but is not limited to]~~:

68 (i) sinking shafts;

69 (ii) tunneling;

70 (iii) drilling holes and digging pits or cuts;

71 (iv) building of roads, and other access ways; and

72 (v) constructing and operating other facilities related to ~~these~~ the activities described  
73 in this Subsection (10)(b).

74 (11) "Hearing" means a formal adjudicative proceeding conducted by the board under  
75 ~~its~~ the board's procedural rules.

76 (12) (a) "Imminent danger to the health and safety of the public" means the existence  
77 of a condition or practice, or a violation of a permit requirement or other requirement of this  
78 chapter in a mining operation, which condition, practice, or violation could reasonably be  
79 expected to cause substantial physical harm to persons outside the permit area before the  
80 condition, practice, or violation can be abated.

81 (b) A reasonable expectation of death or serious injury before abatement exists if a  
82 rational person, subjected to the same conditions or practices giving rise to the peril, would not  
83 expose ~~himself or herself~~ the rational person to the danger during the time necessary for  
84 abatement.

85 (13) (a) "Land affected" means the surface and subsurface of an area within the state  
86 where mining operations are being or will be conducted, including~~[- but not limited to]~~:

87 (i) on-site private ways, roads, and railroads;

- 88 (ii) land excavations;
- 89 (iii) exploration sites;
- 90 (iv) drill sites or workings;
- 91 (v) refuse banks or spoil piles;
- 92 (vi) evaporation or settling ponds;
- 93 (vii) stockpiles;
- 94 (viii) leaching dumps;
- 95 (ix) placer areas;
- 96 (x) tailings ponds or dumps; and
- 97 (xi) work, parking, storage, or waste discharge areas, structures, and facilities.

98 (b) ~~[All lands shall be]~~ Lands are excluded from ~~[the provisions of]~~ Subsection (13)(a)  
99 that would:

100 (i) be includable as land affected, but which have been reclaimed in accordance with an  
101 approved plan, as may be approved by the board; and

102 (ii) include lands in which mining operations have ceased ~~[prior to]~~ before July 1,  
103 1977.

104 (14) (a) "Mining operation" means activities conducted on the surface of the land for  
105 the exploration for, development of, or extraction of a mineral deposit, including~~[-but not~~  
106 ~~limited to,]~~ surface mining and the surface effects of underground and in situ mining, on-site  
107 transportation, concentrating, milling, evaporation, and other primary processing.

108 (b) "Mining operation" does not include:

109 (i) the extraction of sand, gravel, and rock aggregate;

110 (ii) the extraction of oil and gas as defined in ~~[Title 40,]~~ Chapter 6, Board and Division  
111 of Oil, Gas, and Mining;

112 (iii) the extraction of geothermal steam;

113 (iv) smelting or refining operations;

114 (v) off-site operations and transportation;

115 (vi) reconnaissance activities; or

116 (vii) activities ~~[which]~~ that will not cause significant surface resource disturbance or  
117 involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

118 (15) "Notice" means:

119 (a) notice of intention, as defined in this chapter; or

120 (b) written information given to an operator by the division describing compliance  
121 conditions at a mining operation.

122 (16) "Notice of intention" means a notice to commence mining operations, including  
123 revisions to the notice.

124 (17) "Off-site" means the land areas that are outside of or beyond the on-site land.

125 (18) (a) "On-site" means the surface lands on or under which surface or underground  
126 mining operations are conducted.

127 (b) A series of related properties under the control of a single operator, but separated  
128 by small parcels of land controlled by others, [~~will be~~] are considered to be a single site unless  
129 an exception is made by the division.

130 (19) "Operator" means a natural person, corporation, association, partnership, receiver,  
131 trustee, executor, administrator, guardian, fiduciary, agent, or other organization or  
132 representative, either public or private, owning, controlling, or managing a mining operation or  
133 proposed mining operation.

134 (20) "Order" means written information provided by the division or board to an  
135 operator or other parties, describing the compliance status of a permit or mining operation.

136 (21) "Owner" means a natural person, corporation, association, partnership, receiver,  
137 trustee, executor, administrator, guardian, fiduciary, agent, or other organization or  
138 representative, either public or private, owning, controlling, or managing a mineral deposit or  
139 the surface of lands employed in mining operations.

140 (22) "Permit area" means the area of land indicated on the approved map submitted by  
141 the operator with the application or notice to conduct mining operations.

142 (23) "Permit" means a permit or notice to conduct mining operations issued by the  
143 division.

144 (24) "Permittee" means a person holding, or who is required by Utah law to hold, a  
145 valid permit or notice to conduct mining operations.

146 (25) "Person" means an individual, partnership, association, society, joint stock  
147 company, firm, company, corporation, or other governmental or business organization.

148 (26) "Reclamation" means actions performed during or after mining operations to  
149 shape, stabilize, revegetate, or treat the land affected in order to achieve a safe, stable[-]

150 ecological condition and use [~~which will be~~] that is consistent with local environmental  
151 conditions.

152 (27) "Small mining operations" means mining operations that disturb or will disturb  
153 [~~10~~] 20 or less surface acres at any given time in an unincorporated area of a county or [~~five~~] 10  
154 or less surface acres at any given time in an incorporated area of a county.

155 (28) "Unwarranted failure to comply" means the failure of a permittee to prevent the  
156 occurrence of a violation of the permit or a requirement of this chapter due to indifference, lack  
157 of diligence, or lack of reasonable care, or the failure to abate a violation of the permit or this  
158 chapter due to indifference, lack of diligence, or lack of reasonable care.

159 Section 2. Section **63N-4-404** is amended to read:

160 **63N-4-404. Rural employment expansion grant application process.**

161 (1) For a fiscal year beginning on or after July 1, 2018, a business entity seeking to  
162 receive a rural employment expansion grant as provided in this part shall provide the office  
163 with an application for a rural employment expansion grant in a form approved by the office  
164 that includes:

165 (a) a certification, by an officer of the business entity, of each signature on the  
166 application;

167 (b) a document that specifies the projected number and anticipated wage level of the  
168 new full-time employee positions that the business entity plans to create as the basis for  
169 qualifying for a rural employment expansion grant; and

170 (c) any additional information required by the office.

171 (2) (a) If, after review of an application provided by a business entity as described in  
172 Subsection (1), the office determines that the application is inadequate to provide a reasonable  
173 justification for authorizing the rural employment expansion grant, the office shall:

174 (i) deny the application; or

175 (ii) inform the business entity that the application is inadequate and ask the business  
176 entity to submit additional documentation.

177 (b) (i) If the office denies an application, the business entity may appeal the denial to  
178 the office.

179 (ii) The office shall review any appeal within 10 business days and make a final  
180 determination of the business entity's eligibility for a grant under this part.

181 (3) If, after review of an application provided by a business entity as described in  
182 Subsection (1), the office determines that the application provides reasonable justification for  
183 authorizing a rural employment expansion grant and if there are available funds for the grant,  
184 the office shall enter into a written agreement with the business entity that:

185 (a) indicates the maximum rural employment expansion grant amount the business  
186 entity is authorized to receive;

187 (b) includes a document signed by an officer of the business entity that expressly  
188 directs and authorizes the State Tax Commission to disclose to the office the business entity's  
189 tax returns and other information that would otherwise be subject to confidentiality under  
190 Section 59-1-403 or Section 6103, Internal Revenue Code;

191 (c) describes the documentation required to demonstrate that the business entity has  
192 created the new full-time employee positions described in the application provided under  
193 Subsection (1); and

194 (d) specifies the deadlines to provide the documentation described in Subsection (3)(c).

195 (4) (a) Subject to available funds, the office may award a rural employment expansion  
196 grant to a business entity as follows:

197 (i) \$4,000 for each new full-time employee position in a county where the average  
198 county wage is equal to or greater than the state average wage;

199 (ii) \$5,000 for each new full-time employee position in a county where the average  
200 county wage is between 85% and 99% of the state average wage; and

201 (iii) \$6,000 for each new full-time employee position in a county where the average  
202 county wage is less than 85% of the state average wage.

203 (b) A business entity may qualify for no more than \$250,000 in rural employment  
204 expansion grants in any fiscal year.

205 (5) (a) Subject to available funds, the office shall award a business entity a grant in the  
206 amount allowed under this part if the business entity provides documentation to the office:

207 (i) in a form prescribed by the office under Subsection (3)(c);

208 (ii) before the deadline described in Subsection (3)(d); and

209 (iii) that demonstrates that the business applicant has created new full-time employee  
210 positions.

211 (b) If a business entity does not provide the documentation described in Subsection

212 (3)(c) before the deadline described in Subsection (3)(d), the business entity is ineligible to  
213 receive a rural employment expansion grant unless the business entity submits a new  
214 application to be reviewed by the office in accordance with Subsection (1).

215 (6) Nothing in this part prevents a business entity that has received a rural employment  
216 expansion grant from concurrently applying for or receiving another grant or incentive  
217 administered by the office.

218 (7) (a) As used in this Subsection (7):

219 (i) "Mining company" means an entity whose primary business is the exploration for or  
220 extraction of minerals from the earth.

221 (ii) "Mining services company" means an entity whose primary business is providing  
222 support services for a mining company, including drilling or geological modeling.

223 (b) If an applicant for a rural employment expansion grant is a mining company or  
224 mining services company having business operations within five miles of a rural county, the  
225 applicant shall be treated as if the applicant were located within the adjacent rural county in  
226 determining whether the applicant qualifies for the rural employment expansion program.