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**Critical Infrastructure Materials Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Casey Snider**

Senate Sponsor:

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3 **LONG TITLE**

4 **General Description:**

5 This bill addresses critical infrastructure materials.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ modifies vested critical infrastructure materials use provisions to make them similar to
- 9 vested mining provisions;
- 10 ▶ addresses operations on new land;
- 11 ▶ repeals redundant notice requirements;
- 12 ▶ repeals study requirements; and
- 13 ▶ makes technical and conforming changes.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 **AMENDS:**

- 20 **10-9a-901**, as enacted by Laws of Utah 2019, Chapter 227
- 21 **10-9a-902**, as enacted by Laws of Utah 2019, Chapter 227
- 22 **10-9a-903**, as enacted by Laws of Utah 2019, Chapter 227
- 23 **10-9a-905**, as enacted by Laws of Utah 2019, Chapter 227
- 24 **17-27a-1001**, as enacted by Laws of Utah 2019, Chapter 227
- 25 **17-27a-1002**, as enacted by Laws of Utah 2019, Chapter 227
- 26 **17-27a-1003**, as enacted by Laws of Utah 2019, Chapter 227
- 27 **17-27a-1005**, as enacted by Laws of Utah 2019, Chapter 227
- 28 **17-41-402**, as last amended by Laws of Utah 2019, Chapter 227
- 29 **78B-6-1101**, as last amended by Laws of Utah 2021, Chapter 207

30 **REPEALS:**

- 31 **10-9a-904**, as enacted by Laws of Utah 2019, Chapter 227  
 32 **17-27a-1004**, as enacted by Laws of Utah 2019, Chapter 227  
 33 **17-41-102**, as enacted by Laws of Utah 2024, Chapter 87

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

36 Section 1. Section **10-9a-901** is amended to read:

37 **10-9a-901 . Definitions.**

38 As used in this part:

- 39 (1) "Critical infrastructure materials" means sand, gravel, or rock aggregate.
- 40 (2) "Critical infrastructure materials [~~operations~~] use" means the extraction, excavation,  
 41 processing, or reprocessing of critical infrastructure materials.
- 42 (3) "Critical infrastructure materials operator" means a natural person, corporation,  
 43 association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary,  
 44 agent, or other organization or representative, either public or private, including a  
 45 successor, assign, affiliate, subsidiary, and related parent company, that:  
 46 (a) owns, controls, or manages a critical infrastructure materials [~~operations~~] use; and  
 47 (b) has produced commercial quantities of critical infrastructure materials from the  
 48 critical infrastructure materials [~~operations~~] use.
- 49 (4) "New land" means surface or subsurface land or a mineral estate that a critical  
 50 infrastructure materials operator gains ownership or control of, regardless of whether  
 51 that land or mineral estate is included in the critical infrastructure materials operator's  
 52 permit under Title 40, Chapter 8, Utah Mined Land Reclamation Act.
- 53 [~~(4)~~] (5) "Vested critical infrastructure materials [~~operations~~] use" means a critical  
 54 infrastructure materials [~~operations operating in accordance with a legal nonconforming~~  
 55 use or a permit issued by the municipality] use:
- 56 (a) by a critical infrastructure materials operator; and
- 57 (b) that existed or was conducted or otherwise engaged in before[:]  
 58 [~~(a)~~] a political subdivision prohibits, restricts, or otherwise limits the critical  
 59 infrastructure materials [~~operations; and~~] use.
- 60 [~~(b)~~] January 1, 2019.
- 61 Section 2. Section **10-9a-902** is amended to read:
- 62 **10-9a-902 . Vested critical infrastructure materials use -- Conclusive**  
 63 **presumption.**
- 64 (1)(a) [~~Critical~~] A critical infrastructure materials [~~operations operating in accordance~~

65 with a legal nonconforming use or a permit issued by the municipality are] use is  
 66 conclusively presumed to be a vested critical infrastructure materials [operations] use  
 67 if the critical infrastructure materials [operations permitted by the municipality,] use  
 68 existed or was conducted or otherwise engaged in [before January 1, 2019 and]  
 69 before [when] a political subdivision prohibits, restricts, or otherwise limits the  
 70 critical infrastructure materials [operations] use.

71 (b) A person claiming that a vested critical infrastructure materials [operations has been]  
 72 use has not been established has the burden of proof to show by [the preponderance  
 73 of the] clear and convincing evidence that the vested critical infrastructure materials [  
 74 operations] use has not been established.

75 (2) A vested critical infrastructure materials [operations] use:

76 (a) runs with the land; and

77 (b) may be changed to another critical infrastructure materials [operations conducted  
 78 within the scope of a legal nonconforming use or the permit for the vested critical  
 79 infrastructure materials operations] use without losing its status as a vested critical  
 80 infrastructure materials [operations] use.

81 (3) The present or future boundary described in the large mine permit of a critical  
 82 infrastructure materials operator with a vested critical infrastructure materials use does  
 83 not limit:

84 (a) the scope of the critical infrastructure materials operator's rights under Title 17,  
 85 Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection  
 86 Areas; or

87 (b) the protection that Title 17, Chapter 41, Agriculture, Industrial, or Critical  
 88 Infrastructure Materials Protection Areas, provides for a critical infrastructure  
 89 materials protection area.

90 (4)(a) A critical infrastructure operator with a vested critical infrastructure materials use  
 91 shall file a declaration for recording in the office of the recorder of the county in  
 92 which the vested critical infrastructure materials use is located.

93 (b) A declaration under Subsection (4)(a) shall:

94 (i) contain a legal description of the land included within the vested critical  
 95 infrastructure materials use; and

96 (ii) provide notice of the vested critical infrastructure materials use.

97 Section 3. Section **10-9a-903** is amended to read:

98 **10-9a-903 . Rights of a critical infrastructure materials operator with a vested**

99 **critical infrastructure materials use.**

100 (1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation  
101 on a critical infrastructure materials [~~operations~~] use adopted after the establishment of  
102 the critical infrastructure materials [~~operations~~] use, the rights of a critical infrastructure  
103 materials operator with a vested critical infrastructure materials [~~operations~~] use include  
104 the right to:

105 (a) progress, extend, enlarge, grow, or expand the vested critical infrastructure materials use to any  
surface or subsurface land or mineral estate that the critical infrastructure materials operator  
owns or controls;

106 (b) expand the vested critical infrastructure materials use to any new land that is  
107 contiguous;

108 [(+) (c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair,  
109 alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and  
110 buildings[; and] on any surface or subsurface land or mineral estate that the critical  
111 infrastructure materials operator owns or controls;

112 (d) increase production or volume, alter the method of mining or processing, and mine  
113 or process a different or additional critical infrastructure material than previously  
114 mined or owned on any surface or subsurface land or mineral estate that the critical  
115 infrastructure materials operator owns or controls; and

116 [(2) (e) discontinue, suspend, terminate, deactivate, or continue and reactivate,  
117 temporarily or permanently, all or any part of the critical infrastructure materials [  
118 operations] use.

119 (2)(a) As used in this Subsection (2), "applicable legislative body" means the legislative  
120 body of each:

121 (i) county in whose unincorporated area the new land to be included in the vested  
122 critical infrastructure materials use is located; or

123 (ii) municipality in which the new land to be included in the critical infrastructure use  
124 is located.

125 (b) A critical infrastructure materials operator with a vested critical infrastructure  
126 materials use is presumed to have a right to expand the vested critical infrastructure  
127 materials use to new land.

128 (c) Before expanding a vested critical infrastructure materials use to new land, a critical  
129 infrastructure materials operator shall provide written notice:

130 (i) of the critical infrastructure materials operator's intent to expand the vested critical

- 131 infrastructure materials use; and
- 132 (ii) to each applicable legislative body.
- 133 (d)(i) An applicable legislative body shall:
- 134 (A) hold a public meeting or hearing at the applicable legislative body's next
- 135 available meeting that is more than 10 days after receiving the notice under
- 136 Subsection (2)(c); and
- 137 (B) provide reasonable, advance, written notice of the intended expansion of the
- 138 vested critical infrastructure materials use and the public meeting or hearing to
- 139 each owner of the surface estate of the new land.
- 140 (ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide
- 141 sufficient public notice of the critical infrastructure materials operator's intent to
- 142 expand the vested critical infrastructure materials use to the new land.
- 143 (e) After the public meeting or hearing under Subsection (2)(d)(ii), a critical
- 144 infrastructure materials operator may expand a vested critical infrastructure materials
- 145 use to new land without any action by an applicable legislative body, unless there is
- 146 clear and convincing evidence in the record that the expansion to new land will
- 147 imminently endanger the public health, safety, and welfare.
- 148 (3) If a critical infrastructure materials operator expands a vested critical infrastructure
- 149 materials use to new land, as authorized under this section:
- 150 (a) the critical infrastructure materials operator's rights under the vested critical
- 151 infrastructure materials use with respect to land on which the vested critical
- 152 infrastructure materials use occurs apply with equal force after the expansion to the
- 153 new land; and
- 154 (b) the critical infrastructure materials protection area that includes land on which the
- 155 vested critical infrastructure materials use occurs is expanded to include the new land.
- 156 Section 4. Section **10-9a-905** is amended to read:
- 157 **10-9a-905 . Abandonment of a vested critical infrastructure materials use.**
- 158 (1) A critical infrastructure materials operator may abandon some or all of a vested critical
- 159 infrastructure materials [~~operations~~]use only as provided in this section.
- 160 (2) To abandon some or all of a vested critical infrastructure materials [~~operations~~] use, a
- 161 critical infrastructure materials operator shall record a written declaration of
- 162 abandonment with the recorder of the county in which the vested critical infrastructure
- 163 materials [~~operations~~] use being abandoned is located.
- 164 (3) The written declaration of abandonment under Subsection (2) shall specify the vested

165 critical infrastructure materials [~~operations~~] use or the portion of the vested critical  
 166 infrastructure materials [~~operations~~] use being abandoned.

167 Section 5. Section **17-27a-1001** is amended to read:

168 **17-27a-1001 . Definitions.**

169 As used in this part:

- 170 (1) "Critical infrastructure materials" means sand, gravel, or rock aggregate.
- 171 (2) "Critical infrastructure materials [~~operations~~] use" means the extraction, excavation,  
 172 processing, or reprocessing of critical infrastructure materials.
- 173 (3) "Critical infrastructure materials operator" means a natural person, corporation,  
 174 association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary,  
 175 agent, or other organization or representative, either public or private, including a  
 176 successor, assign, affiliate, subsidiary, and related parent company, that:
- 177 (a) owns, controls, or manages a critical infrastructure materials [~~operations~~] use; and  
 178 (b) has produced commercial quantities of critical infrastructure materials from the  
 179 critical infrastructure materials [~~operations~~] use.
- 180 (4) "New land" means surface or subsurface land or mineral estate that a critical  
 181 infrastructure materials operator gains ownership or control of, regardless of whether  
 182 that land or mineral estate is included in the critical infrastructure materials operator's  
 183 permit under Title 40, Chapter 8, Utah Mined Land Reclamation Act.
- 184 [(4)] (5) "Vested critical infrastructure materials [~~operations~~] use" means a critical  
 185 infrastructure materials [~~operations operating in accordance with a legal nonconforming~~  
 186 use or a permit issued by the county] use:  
 187 (a) by a critical infrastructure materials operator; and  
 188 (b) that existed or was conducted or otherwise engaged in before[~~z~~]  
 189 [(a)] a political subdivision prohibits, restricts, or otherwise limits the critical  
 190 infrastructure materials [~~operations; and~~] use.  
 191 [(b) January 1, 2019.]

192 Section 6. Section **17-27a-1002** is amended to read:

193 **17-27a-1002 . Vested critical infrastructure materials use-- Conclusive**  
 194 **presumption.**

- 195 (1)(a) [~~Critical~~] A critical infrastructure materials [~~operations operating in accordance~~  
 196 with a legal nonconforming use or a permit issued by the county are] use is  
 197 conclusively presumed to be a vested critical infrastructure materials [~~operations~~] use  
 198 if the critical infrastructure materials [~~operations permitted by the county,~~] use

199 existed or was conducted or otherwise engaged in [~~before January 1, 2019 and~~]  
 200 before [~~when~~] a political subdivision prohibits, restricts, or otherwise limits the  
 201 critical infrastructure materials [~~operations~~] use.

202 (b) A person claiming that a vested critical infrastructure materials [~~operations has been~~]  
 203 use has not been established has the burden of proof to show by [~~the preponderance~~  
 204 ~~of the~~] clear and convincing evidence that the vested critical infrastructure materials [~~operations has been~~]  
 205 use has not been established.

206 (2) A vested critical infrastructure materials [~~operations~~] use:

207 (a) runs with the land; and

208 (b) may be changed to another critical infrastructure materials [~~operations conducted~~  
 209 ~~within the scope of a legal nonconforming use or the permit for the vested critical~~  
 210 ~~infrastructure materials operations~~] use without losing its status as a vested critical  
 211 infrastructure materials [~~operations~~] use.

212 (3) The present or future boundary described in the large mine permit of a critical  
 213 infrastructure materials operator with a vested critical infrastructure materials use does  
 214 not limit:

215 (a) the scope of the critical infrastructure materials operator's rights under Title 17,  
 216 Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection  
 217 Areas; or

218 (b) the protection that Title 17, Chapter 41, Agriculture, Industrial, or Critical  
 219 Infrastructure Materials Protection Areas, provides for a critical infrastructure  
 220 materials protection area.

221 (4)(a) A critical infrastructure operator with a vested critical infrastructure materials use  
 222 shall file a declaration for recording in the office of the recorder of the county in  
 223 which the vested critical infrastructure materials use is located.

224 (b) A declaration under Subsection (4)(a) shall:

225 (i) contain a legal description of the land included within the vested critical  
 226 infrastructure materials use; and

227 (ii) provide notice of the vested critical infrastructure materials use.

228 Section 7. Section **17-27a-1003** is amended to read:

229 **17-27a-1003 . Rights of a critical infrastructure materials operator with a vested**  
 230 **critical infrastructure materials use.**

231 (1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation  
 232 on a critical infrastructure materials [~~operations~~] use adopted after the establishment of

233 the critical infrastructure materials [~~operations~~] use, the rights of a critical infrastructure  
234 materials operator with a vested critical infrastructure materials [~~operations~~] use include  
235 the right to:

236 (a) progress, extend, enlarge, grow, or expand the vested critical infrastructure materials  
237 use to any surface or subsurface land or mineral estate that the critical infrastructure  
238 materials operator owns or controls;

239 (b) expand the vested critical infrastructure materials use to any new land that is  
240 contiguous;

241 [(+) (c) use, operate, construct, reconstruct, restore, ~~extend, expand,~~ maintain, repair,  
242 alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and  
243 buildings[; and] on any surface or subsurface land or mineral estate that the critical  
244 infrastructure materials operator owns or controls;

245 (d) increase production or volume, alter the method of mining or processing, and mine  
246 or process a different or additional critical infrastructure materials than previously  
247 mined or owned on any surface or subsurface land or mineral estate that the critical  
248 infrastructure materials operator owns or controls; and

249 [(2) (e) discontinue, suspend, terminate, deactivate, or continue and reactivate,  
250 temporarily or permanently, all or any part of the critical infrastructure materials [  
251 operations] use.

252 (2)(a) As used in this Subsection (2), "applicable legislative body" means the legislative  
253 body of each:

254 (i) county in whose unincorporated area the new land to be included in the vested  
255 critical infrastructure materials use is located; or

256 (ii) municipality in which the new land to be included in the critical infrastructure use  
257 is located.

258 (b) A critical infrastructure materials operator with a vested critical infrastructure  
259 materials use is presumed to have a right to expand the vested critical infrastructure  
260 materials use to new land.

261 (c) Before expanding a vested critical infrastructure materials use to new land, a critical  
262 infrastructure materials operator shall provide written notice:

263 (i) of the critical infrastructure materials operator's intent to expand the vested critical  
264 infrastructure materials use; and

265 (ii) to each applicable legislative body.

266 (d)(i) An applicable legislative body shall:



- 267           (A) hold a public meeting or hearing at the applicable legislative body's next  
 268           available meeting that is more than 10 days after receiving the notice under  
 269           Subsection (2)(c); and
- 270           (B) provide reasonable, advance, written notice of the intended expansion of the  
 271           vested critical infrastructure materials use and the public meeting or hearing to  
 272           each owner of the surface estate of the new land.
- 273           (ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide  
 274           sufficient public notice of the critical infrastructure materials operator's intent to  
 275           expand the vested critical infrastructure materials use to the new land.
- 276           (e) After the public meeting or hearing under Subsection (2)(d)(ii), a critical  
 277           infrastructure materials operator may expand a vested critical infrastructure materials  
 278           use to new land without any action by an applicable legislative body, unless there is  
 279           clear and convincing evidence in the record that the expansion to new land will  
 280           imminently endanger the public health, safety, and welfare.
- 281           (3) If a critical infrastructure materials operator expands a vested critical infrastructure  
 282           materials use to new land, as authorized under this section:
- 283           (a) the critical infrastructure materials operator's rights under the vested critical  
 284           infrastructure materials use with respect to land on which the vested critical  
 285           infrastructure materials use occurs apply with equal force after the expansion to the  
 286           new land; and
- 287           (b) the critical infrastructure materials protection area that includes land on which the  
 288           vested critical infrastructure materials use occurs is expanded to include the new land.

289           Section 8. Section **17-27a-1005** is amended to read:

290           **17-27a-1005 . Abandonment of a vested critical infrastructure materials use.**

- 291           (1) A critical infrastructure materials operator may abandon some or all of a vested critical  
 292           infrastructure materials [~~operations~~]use only as provided in this section.
- 293           (2) To abandon some or all of a vested critical infrastructure materials [~~operations~~] use, a  
 294           critical infrastructure materials operator shall record a written declaration of  
 295           abandonment with the recorder of the county in which the vested critical infrastructure  
 296           materials [~~operations~~] use being abandoned is located.
- 297           (3) The written declaration of abandonment under Subsection (2) shall specify the vested  
 298           critical infrastructure materials [~~operations~~] use or the portion of the vested critical  
 299           infrastructure materials [~~operations~~] use being abandoned.

300           Section 9. Section **17-41-402** is amended to read:

301           **17-41-402 . Limitations on local regulations.**

- 302       (1) A political subdivision within which an agriculture protection area, industrial protection  
303       area, or critical infrastructure materials protection area is created or with a mining  
304       protection area within its boundary shall encourage the continuity, development, and  
305       viability of agriculture use, industrial use, critical infrastructure materials operations, or  
306       mining use, within the relevant protection area by not enacting a local law, ordinance, or  
307       regulation that, unless the law, ordinance, or regulation bears a direct relationship to  
308       public health or safety, would unreasonably restrict:
- 309       (a) in the case of an agriculture protection area, a farm structure or farm practice;  
310       (b) in the case of an industrial protection area, an industrial use of the land within the  
311       area;  
312       (c) in the case of a critical infrastructure materials protection area, critical infrastructure  
313       materials operations; or  
314       (d) in the case of a mining protection area, a mining use within the protection area.
- 315       (2) A political subdivision may not change the zoning designation of or a zoning regulation  
316       affecting land within an agriculture protection area unless the political subdivision  
317       receives written approval for the change from all the landowners within the agriculture  
318       protection area affected by the change.
- 319       (3) Except as provided by Section 19-4-113, a political subdivision may not change the  
320       zoning designation of or a zoning regulation affecting land within an industrial  
321       protection area unless the political subdivision receives written approval for the change  
322       from all the landowners within the industrial protection area affected by the change.
- 323       (4) A political subdivision may not change the zoning designation of or a zoning regulation  
324       affecting land within a critical infrastructure materials protection area unless the political  
325       subdivision receives written approval for the change from each critical infrastructure  
326       materials operator within the relevant area.
- 327       (5) A political subdivision may not change the zoning designation of or a zoning regulation  
328       affecting land within a mining protection area unless the political subdivision receives  
329       written approval for the change from each mine operator within the area.
- 330       (6) A county, city, or town may not:
- 331       (a) adopt, enact, or amend an existing land use regulation, ordinance, or regulation that  
332       would prohibit, restrict, regulate, or otherwise limit critical infrastructure materials  
333       operations, including vested critical infrastructure materials [~~operations~~] use as  
334       defined in Section 10-9a-901 or 17-27a-1001; or

335 (b) initiate proceedings to amend the county's, city's, or town's land use ordinances as  
336 described in Subsection 10-9a-509(1)(a)(ii) or 17-27a-508(1)(a)(ii).

337 Section 10. Section **78B-6-1101** is amended to read:

338 **78B-6-1101 . Definitions -- Nuisance -- Right of action -- Agriculture operations.**

339 (1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an  
340 obstruction to the free use of property, so as to interfere with the comfortable enjoyment  
341 of life or property. A nuisance may be the subject of an action.

342 (2) A nuisance may include the following:

343 (a) drug houses and drug dealing as provided in Section 78B-6-1107;

344 (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;

345 (c) criminal activity committed in concert with three or more persons as provided in  
346 Section 76-3-203.1;

347 (d) criminal activity committed for the benefit of, at the direction of, or in association  
348 with any criminal street gang as defined in Section 76-9-802;

349 (e) criminal activity committed to gain recognition, acceptance, membership, or  
350 increased status with a criminal street gang as defined in Section 76-9-802;

351 (f) party houses that frequently create conditions defined in Subsection (1); and

352 (g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.

353 (3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a  
354 person rents, leases, or owns, from another residential or commercial unit and the smoke:

355 (a) drifts in more than once in each of two or more consecutive seven-day periods; and

356 (b) creates any of the conditions under Subsection (1).

357 (4) Subsection (3) does not apply to:

358 (a) a residential rental unit available for temporary rental, such as for a vacation, or  
359 available for only 30 or fewer days at a time; or

360 (b) a hotel or motel room.

361 (5) Subsection (3) does not apply to a unit that is part of a timeshare development, as  
362 defined in Section 57-19-2, or subject to a timeshare interest as defined in Section  
363 57-19-2.

364 (6) An action may be brought by a person whose property is injuriously affected, or whose  
365 personal enjoyment is lessened by the nuisance.

366 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter  
367 44, Agricultural Operations Nuisances Act.

368 (8) "Critical infrastructure materials operations" means the same as [~~that term~~] the term

369 "critical infrastructure materials use" is defined in Section 10-9a-901.

370 (9) "Manufacturing facility" means a factory, plant, or other facility including its  
371 appurtenances, where the form of raw materials, processed materials, commodities, or  
372 other physical objects is converted or otherwise changed into other materials,  
373 commodities, or physical objects or where such materials, commodities, or physical  
374 objects are combined to form a new material, commodity, or physical object.

375 Section 11. **Repealer.**

376 This bill repeals:

377 Section **10-9a-904, Notice.**

378 Section **17-27a-1004, Notice.**

379 Section **17-41-102, Study of critical infrastructure materials operations and related**  
380 **mining.**

381 Section 12. **Effective Date.**

382 This bill takes effect on May 7, 2025.