

Casey Snider proposes the following substitute bill:

Mining and Critical Infrastructure Materials Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor:

LONG TITLE

General Description:

This bill addresses mining and critical infrastructure materials operations.

Highlighted Provisions:

This bill:

- modifies definitions;
- changes vested critical infrastructure materials use provisions to make them more similar to vested mining provisions;
- addresses operations on new land;
- amends provisions related to vested mining operations;
- repeals redundant notice requirements;
- repeals study requirements; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 10-9a-901**, as enacted by Laws of Utah 2019, Chapter 227
- 10-9a-902**, as enacted by Laws of Utah 2019, Chapter 227
- 10-9a-903**, as enacted by Laws of Utah 2019, Chapter 227
- 10-9a-905**, as enacted by Laws of Utah 2019, Chapter 227
- 17-27a-1001**, as enacted by Laws of Utah 2019, Chapter 227
- 17-27a-1002**, as enacted by Laws of Utah 2019, Chapter 227
- 17-27a-1003**, as enacted by Laws of Utah 2019, Chapter 227

29 **17-27a-1005**, as enacted by Laws of Utah 2019, Chapter 227
 30 **17-41-101**, as last amended by Laws of Utah 2024, Chapter 70
 31 **17-41-402**, as last amended by Laws of Utah 2019, Chapter 227
 32 **17-41-502**, as enacted by Laws of Utah 2009, Chapter 376
 33 **78B-6-1101**, as last amended by Laws of Utah 2021, Chapter 207

34 REPEALS:

35 **10-9a-904**, as enacted by Laws of Utah 2019, Chapter 227
 36 **17-27a-1004**, as enacted by Laws of Utah 2019, Chapter 227
 37 **17-41-102**, as enacted by Laws of Utah 2024, Chapter 87

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

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

41 **10-9a-901 . Definitions.**

42 As used in this part:

- 43 (1) "Critical infrastructure materials" means sand, gravel, or rock aggregate.
- 44 (2) "Critical infrastructure materials ~~[operations]~~ use" means the extraction, excavation,
 45 processing, recycling, batching and mixing of concrete and asphalt, or reprocessing of
 46 critical infrastructure materials.
- 47 (3) "Critical infrastructure materials operator" means a natural person, corporation,
 48 association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary,
 49 agent, or other organization or representative, either public or private, including a
 50 successor, assign, affiliate, subsidiary, and related parent company, that:
 51 (a) owns, controls, or manages a critical infrastructure materials ~~[operations]~~ use; and
 52 (b) has produced commercial quantities of critical infrastructure materials from the
 53 critical infrastructure materials ~~[operations]~~ use.
- 54 (4) "New land" means surface or subsurface land or a mineral estate that a critical
 55 infrastructure materials operator gains ownership or control of on or before January 1,
 56 2026, regardless of whether that land or mineral estate is included in any applicable
 57 permit issued by a political subdivision or a legal nonconforming use.
- 58 ~~[(4)]~~ (5) "Vested critical infrastructure materials ~~[operations]~~ use" means a critical
 59 infrastructure materials ~~[operations operating in accordance with a legal nonconforming~~
 60 use or a permit issued by the municipality] use:
 61 (a) by a critical infrastructure materials operator; and
 62 (b)(i) that existed or was conducted or otherwise engaged in before[;]

63 [(a)] a political subdivision prohibits, restricts, or otherwise limits the critical
64 infrastructure materials [~~operations; and~~] use; or

65 [(b) ~~January 1, 2019;~~]

66 (ii) operated before January 1, 2026, without ceasing operations for more than 24
67 consecutive months.

68 Section 2. Section **10-9a-902** is amended to read:

69 **10-9a-902 . Vested critical infrastructure materials use -- Conclusive**
70 **presumption.**

71 (1)(a) [~~Critical-~~] A critical infrastructure materials [~~operations operating in accordance~~
72 with a legal nonconforming use or a permit issued by the municipality are] use is
73 conclusively presumed to be a vested critical infrastructure materials [~~operations]~~ use
74 if the critical infrastructure materials [~~operations permitted by the municipality,~~] use:

75 (i) existed or was conducted or otherwise engaged in [~~before January 1, 2019 and~~]
76 before [~~when~~] a political subdivision prohibits, restricts, or otherwise limits the
77 critical infrastructure materials [~~operations.~~] use; or

78 (ii) operated before January 1, 2026, without ceasing operations for more than 24
79 consecutive months.

80 (b) A person claiming that a vested critical infrastructure materials [~~operations has been]~~
81 use has not been established has the burden of proof to show by the preponderance of
82 the evidence that the vested critical infrastructure materials [~~operations]~~ use has not
83 been established.

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

85 (a) runs with the land; and

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

90 (3) The present or future boundary of the critical infrastructure materials use of a critical
91 infrastructure materials operator with a vested critical infrastructure materials use does
92 not limit:

93 (a) the scope of rights of a critical infrastructure materials operator with a vested critical
94 infrastructure material use; or

95 (b) the protection for a critical infrastructure materials protection area.

96 (4)(a) A critical infrastructure operator with a vested critical infrastructure materials use

97 shall file a declaration for recording in the office of the recorder of the county in
 98 which the vested critical infrastructure materials use is located.

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

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

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

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

104 **10-9a-903 . Rights of a critical infrastructure materials operator with a vested**
 105 **critical infrastructure materials use.**

106 (1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation
 107 on a critical infrastructure materials [operations] use adopted after the establishment of
 108 the critical infrastructure materials [operations] use, the rights of a critical infrastructure
 109 materials operator with a vested critical infrastructure materials [operations] use include
 110 the right to:

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

114 (b) expand the vested critical infrastructure materials use to new land only if the new
 115 land is contiguous to surface or subsurface land on which the critical infrastructure
 116 materials operator has a vested critical infrastructure materials use, including the
 117 surface or subsurface land or mineral estate under Subsection (1)(a);

118 [(+) (c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair,
 119 alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and
 120 buildings[; and] and recycle and batch and mix concrete and asphalt on any surface
 121 or subsurface land or mineral estate that the critical infrastructure materials operator
 122 owns or controls;

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

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

130 (2)(a) As used in this Subsection (2), "applicable legislative body" means the legislative

- 131 body of each:
- 132 (i) county in whose unincorporated area the new land to be included in the vested
133 critical infrastructure materials use is located; or
- 134 (ii) municipality in which the new land to be included in the critical infrastructure
135 materials use is located.
- 136 (b) A critical infrastructure materials operator with a vested critical infrastructure
137 materials use is presumed to have a right to expand the vested critical infrastructure
138 materials use to new land.
- 139 (c) Before expanding a vested critical infrastructure materials use to new land, a critical
140 infrastructure materials operator shall provide written notice:
- 141 (i) of the critical infrastructure materials operator's intent to expand the vested critical
142 infrastructure materials use; and
- 143 (ii) to each applicable legislative body.
- 144 (d)(i) An applicable legislative body shall:
- 145 (A) hold a public meeting or hearing at the applicable legislative body's next
146 available meeting that is no later than 30 days after receiving the notice under
147 Subsection (2)(c); and
- 148 (B) provide reasonable, advance, written notice of the intended expansion of the
149 vested critical infrastructure materials use and the public meeting or hearing to
150 each owner of the surface estate of the new land.
- 151 (ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide
152 sufficient public notice of the critical infrastructure materials operator's intent to
153 expand the vested critical infrastructure materials use to the new land.
- 154 (e) After the public meeting or hearing under Subsection (2)(d)(i), a critical
155 infrastructure materials operator may expand a vested critical infrastructure materials
156 use to new land without any action by an applicable legislative body, unless the
157 applicable legislative body finds by the preponderance of the evidence on the record
158 that the expansion to new land will endanger the public health, safety, and welfare. If
159 the applicable legislative body makes the finding of endangerment described in this
160 Subsection (2)(e), Subsection (4) applies.
- 161 (3) If a critical infrastructure materials operator expands a vested critical infrastructure
162 materials use to new land, as authorized under this section:
- 163 (a) the critical infrastructure materials operator's rights under the vested critical
164 infrastructure materials use with respect to land on which the vested critical

- 165 infrastructure materials use occurs apply with equal force after the expansion to the
 166 new land; and
- 167 (b) the critical infrastructure materials protection area that includes land on which the
 168 vested critical infrastructure materials use occurs is expanded to include the new land.
- 169 (4)(a) If the applicable legislative body makes the finding of endangerment described in
 170 Subsection (2)(e):
- 171 (i) the critical infrastructure materials operator shall submit to the applicable
 172 legislative body the critical infrastructure materials operator's plan for expansion
 173 under this section;
- 174 (ii) by no later than 30 days after receipt of the plan for expansion described in
 175 Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:
- 176 (A) evidence that the expansion to new land will endanger the public health,
 177 safety, and welfare; and
- 178 (B) proposed measures to mitigate the endangerment of the public health, safety,
 179 and welfare; and
- 180 (iii) the applicable legislative body shall hold a public hearing by no later than 30
 181 days after the date the applicable legislative body complies with Subsection
 182 (4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).
- 183 (b) The applicable legislative body may impose mitigation measures under this
 184 Subsection (4) that are reasonable and do not exceed requirements imposed by
 185 permits issued by a state agency such as an air quality permit.
- 186 (c) A political subdivision may not prohibit the expansion of a vested critical
 187 infrastructure use if the critical infrastructure materials operator agrees to comply
 188 with the mitigation measures described in Subsection (4)(b).
- 189 (d) The process under this Subsection (4) is not a land use application or conditional use
 190 application under this chapter.

191 Section 4. Section **10-9a-905** is amended to read:

192 **10-9a-905 . Abandonment of a vested critical infrastructure materials use.**

- 193 (1) A critical infrastructure materials operator may abandon some or all of a vested critical
 194 infrastructure materials [~~operations~~]use only as provided in this section.
- 195 (2) To abandon some or all of a vested critical infrastructure materials [~~operations~~] use, a
 196 critical infrastructure materials operator shall record a written declaration of
 197 abandonment with the recorder of the county in which the vested critical infrastructure
 198 materials [~~operations~~] use being abandoned is located.

199 (3) The written declaration of abandonment under Subsection (2) shall specify the vested
200 critical infrastructure materials ~~[operations]~~ use or the portion of the vested critical
201 infrastructure materials ~~[operations]~~ use being abandoned.

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

203 **17-27a-1001 . Definitions.**

204 As used in this part:

205 (1) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

206 (2) "Critical infrastructure materials ~~[operations]~~ use" means the extraction, excavation,
207 processing, recycling, batching and mixing of concrete and asphalt, or reprocessing of
208 critical infrastructure materials.

209 (3) "Critical infrastructure materials operator" means a natural person, corporation,
210 association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary,
211 agent, or other organization or representative, either public or private, including a
212 successor, assign, affiliate, subsidiary, and related parent company, that:

213 (a) owns, controls, or manages a critical infrastructure materials ~~[operations]~~ use; and

214 (b) has produced commercial quantities of critical infrastructure materials from the
215 critical infrastructure materials ~~[operations]~~ use.

216 (4) "New land" means surface or subsurface land or mineral estate that a critical
217 infrastructure materials operator gains ownership or control of on or before January 1,
218 2026, regardless of whether that land or mineral estate is included in an applicable
219 permit issued by a political subdivision or a legal nonconforming use.

220 ~~[(4)]~~ (5) "Vested critical infrastructure materials ~~[operations]~~ use" means a critical
221 infrastructure materials ~~[operations-operating in accordance with a legal nonconforming~~
222 use or a permit issued by the county] use:

223 (a) by a critical infrastructure materials operator; and

224 (b)(i) that existed or was conducted or otherwise engaged in before~~[:]~~

225 ~~[(a)]~~ a political subdivision prohibits, restricts, or otherwise limits the critical
226 infrastructure materials ~~[operations; and]~~ use; or

227 ~~[(b) January 1, 2019:]~~

228 (ii) operated before January 1, 2026, without ceasing operations for more than 24
229 consecutive months.

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

231 **17-27a-1002 . Vested critical infrastructure materials use-- Conclusive**
232 **presumption.**

- 233 (1)(a) ~~[Critical-]~~ A critical infrastructure materials [operations operating in accordance
 234 with a legal nonconforming use or a permit issued by the county are-] use is
 235 conclusively presumed to be a vested critical infrastructure materials [operations] use
 236 if the critical infrastructure materials [operations permitted by the county,-] use:
- 237 (i) existed or was conducted or otherwise engaged in [before January 1, 2019 and-]
 238 before [when-] a political subdivision prohibits, restricts, or otherwise limits the
 239 critical infrastructure materials [operations-] use; or
- 240 (ii) operated before January 1, 2026, without ceasing operations for more than 24
 241 consecutive months.
- 242 (b) A person claiming that a vested critical infrastructure materials [operations has been]
 243 use has not been established has the burden of proof to show by the preponderance of
 244 the evidence that the vested critical infrastructure materials [operations has been] use
 245 has not been established.
- 246 (2) A vested critical infrastructure materials [operations] use:
- 247 (a) runs with the land; and
- 248 (b) may be changed to another critical infrastructure materials [operations conducted
 249 within the scope of a legal nonconforming use or the permit for the vested critical
 250 infrastructure materials operations] use without losing its status as a vested critical
 251 infrastructure materials [operations] use.
- 252 (3) The present or future boundary of the critical infrastructure materials use of a critical
 253 infrastructure materials operator with a vested critical infrastructure materials use does
 254 not limit:
- 255 (a) the scope of rights of a critical infrastructure materials operator with a vested critical
 256 infrastructure material use; or
- 257 (b) the protection for a critical infrastructure materials protection area.
- 258 (4)(a) A critical infrastructure operator with a vested critical infrastructure materials use
 259 shall file a declaration for recording in the office of the recorder of the county in
 260 which the vested critical infrastructure materials use is located.
- 261 (b) A declaration under Subsection (4)(a) shall:
- 262 (i) contain a legal description of the land included within the vested critical
 263 infrastructure materials use; and
- 264 (ii) provide notice of the vested critical infrastructure materials use.
- 265 Section 7. Section **17-27a-1003** is amended to read:
- 266 **17-27a-1003 . Rights of a critical infrastructure materials operator with a vested**

267 **critical infrastructure materials use.**

268 (1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation
269 on a critical infrastructure materials ~~[operations]~~ use adopted after the establishment of
270 the critical infrastructure materials ~~[operations]~~ use, the rights of a critical infrastructure
271 materials operator with a vested critical infrastructure materials ~~[operations]~~ use include
272 the right to:

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

276 (b) expand the vested critical infrastructure materials use to new land only if the new
277 land is contiguous to surface or subsurface land on which the critical infrastructure
278 materials operator has a vested critical infrastructure materials use, including the
279 surface or subsurface land or mineral estate under Subsection (1)(a);

280 ~~[(1)]~~ (c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair,
281 alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and
282 buildings~~;~~ and , and recycle and batch and mix concrete and asphalt on any surface
283 or subsurface land or mineral estate that the critical infrastructure materials operator
284 owns or controls;

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

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

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

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

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

298 (b) A critical infrastructure materials operator with a vested critical infrastructure
299 materials use is presumed to have a right to expand the vested critical infrastructure
300 materials use to new land.

- 301 (c) Before expanding a vested critical infrastructure materials use to new land, a critical
302 infrastructure materials operator shall provide written notice:
- 303 (i) of the critical infrastructure materials operator's intent to expand the vested critical
304 infrastructure materials use; and
- 305 (ii) to each applicable legislative body.
- 306 (d)(i) An applicable legislative body shall:
- 307 (A) hold a public meeting or hearing at the applicable legislative body's next
308 available meeting that is no later than 30 days after receiving the notice under
309 Subsection (2)(c); and
- 310 (B) provide reasonable, advance, written notice of the intended expansion of the
311 vested critical infrastructure materials use and the public meeting or hearing to
312 each owner of the surface estate of the new land.
- 313 (ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide
314 sufficient public notice of the critical infrastructure materials operator's intent to
315 expand the vested critical infrastructure materials use to the new land.
- 316 (e) After the public meeting or hearing under Subsection (2)(d)(i), a critical
317 infrastructure materials operator may expand a vested critical infrastructure materials
318 use to new land without any action by an applicable legislative body, unless the
319 applicable legislative body finds by the preponderance of the evidence on the record
320 that the expansion to new land will endanger the public health, safety, and welfare. If
321 the applicable legislative body makes the finding of endangerment described in this
322 Subsection (2)(e), Subsection (4) applies.
- 323 (3) If a critical infrastructure materials operator expands a vested critical infrastructure
324 materials use to new land, as authorized under this section:
- 325 (a) the critical infrastructure materials operator's rights under the vested critical
326 infrastructure materials use with respect to land on which the vested critical
327 infrastructure materials use occurs apply with equal force after the expansion to the
328 new land; and
- 329 (b) the critical infrastructure materials protection area that includes land on which the
330 vested critical infrastructure materials use occurs is expanded to include the new land.
- 331 (4)(a) If the applicable legislative body makes the finding of endangerment described in
332 Subsection (2)(e):
- 333 (i) the critical infrastructure materials operator shall submit to the applicable
334 legislative body the critical infrastructure materials operator's plan for expansion

- 335 under this section;
- 336 (ii) by no later than 30 days after receipt of the plan for expansion described in
- 337 Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:
- 338 (A) evidence that the expansion to new land will endanger the public health,
- 339 safety, and welfare; and
- 340 (B) proposed measures to mitigate the endangerment of the public health, safety,
- 341 and welfare; and
- 342 (iii) the applicable legislative body shall hold a public hearing by no later than 30
- 343 days after the date the applicable legislative body complies with Subsection
- 344 (4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).
- 345 (b) The applicable legislative body may impose mitigation measures under this
- 346 Subsection (4) that are reasonable and do not exceed requirements imposed by
- 347 permits issued by a state agency such as an air quality permit.
- 348 (c) A political subdivision may not prohibit the expansion of a vested critical
- 349 infrastructure use if the critical infrastructure materials operator agrees to comply by
- 350 the mitigation measures described in Subsection (4)(b).
- 351 (d) The process under this Subsection (4) is not a land use application or conditional use
- 352 application under this chapter.

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

354 **17-27a-1005 . Abandonment of a vested critical infrastructure materials use.**

- 355 (1) A critical infrastructure materials operator may abandon some or all of a vested critical
- 356 infrastructure materials [~~operations~~]use only as provided in this section.
- 357 (2) To abandon some or all of a vested critical infrastructure materials [~~operations~~] use, a
- 358 critical infrastructure materials operator shall record a written declaration of
- 359 abandonment with the recorder of the county in which the vested critical infrastructure
- 360 materials [~~operations~~] use being abandoned is located.
- 361 (3) The written declaration of abandonment under Subsection (2) shall specify the vested
- 362 critical infrastructure materials [~~operations~~] use or the portion of the vested critical
- 363 infrastructure materials [~~operations~~] use being abandoned.

364 Section 9. Section **17-41-101** is amended to read:

365 **17-41-101 . Definitions.**

366 As used in this chapter:

- 367 (1) "Advisory board" means:
- 368 (a) for an agriculture protection area, the agriculture protection area advisory board

- 369 created as provided in Section 17-41-201;
- 370 (b) for an industrial protection area, the industrial protection area advisory board created
371 as provided in Section 17-41-201; and
- 372 (c) for a critical infrastructure materials protection area, the critical infrastructure
373 materials protection area advisory board created as provided in Section 17-41-201.
- 374 (2)(a) "Agriculture production" means production for commercial purposes of crops,
375 livestock, and livestock products.
- 376 (b) "Agriculture production" includes the processing or retail marketing of any crops,
377 livestock, and livestock products when more than 50% of the processed or
378 merchandised products are produced by the farm operator.
- 379 (3) "Agriculture protection area" means a geographic area created under the authority of
380 this chapter that is granted the specific legal protections contained in this chapter.
- 381 (4) "Applicable legislative body" means:
- 382 (a) with respect to a proposed agriculture protection area, industrial protection area, or
383 critical infrastructure materials protection area:
- 384 (i) the legislative body of the county in which the land proposed to be included in the
385 relevant protection area is located, if the land is within the unincorporated part of
386 the county; or
- 387 (ii) the legislative body of the city or town in which the land proposed to be included
388 in the relevant protection area is located; and
- 389 (b) with respect to an existing agriculture protection area, industrial protection area, or
390 critical infrastructure materials protection area:
- 391 (i) the legislative body of the county in which the relevant protection area is located,
392 if the relevant protection area is within the unincorporated part of the county; or
- 393 (ii) the legislative body of the city or town in which the relevant protection area is
394 located.
- 395 (5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.
- 396 (6) "Critical infrastructure materials" means sand, gravel, or rock aggregate.
- 397 (7) "Critical infrastructure materials operations" means the extraction, excavation,
398 processing, or reprocessing of critical infrastructure materials.
- 399 (8) "Critical infrastructure materials operator" means a natural person, corporation,
400 association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary,
401 agent, or other organization or representative, either public or private, including a
402 successor, assign, affiliate, subsidiary, and related parent company, that:

- 403 (a) owns, controls, or manages a critical infrastructure materials operation; and
404 (b) has produced commercial quantities of critical infrastructure materials from the
405 critical infrastructure materials operations.
- 406 (9) "Critical infrastructure materials protection area" means a geographic area created under
407 the authority of this chapter on or after May 14, 2019, that is granted the specific legal
408 protections contained in this chapter.
- 409 (10) "Crops, livestock, and livestock products" includes:
- 410 (a) land devoted to the raising of useful plants and animals with a reasonable expectation
411 of profit, including:
- 412 (i) forages and sod crops;
413 (ii) grains and feed crops;
414 (iii) livestock as defined in Section 59-2-102;
415 (iv) trees and fruits; or
416 (v) vegetables, nursery, floral, and ornamental stock; or
- 417 (b) land devoted to and meeting the requirements and qualifications for payments or
418 other compensation under a crop-land retirement program with an agency of the state
419 or federal government.
- 420 (11) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.
- 421 (12) "Industrial protection area" means a geographic area created under the authority of this
422 chapter that is granted the specific legal protections contained in this chapter.
- 423 (13) "Mine operator" means a natural person, corporation, association, partnership,
424 receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other
425 organization or representative, either public or private, including a successor, assign,
426 affiliate, subsidiary, and related parent company, that, [as of] before January 1, 2019:
- 427 (a) owns, controls, or manages a mining use under a large mine permit issued by the
428 division or the board; and
- 429 (b) has produced commercial quantities of a mineral deposit from the mining use.
- 430 (14) "Mineral deposit" means the same as that term is defined in Section 40-8-4.
- 431 (15) "Mining protection area" means land where a vested mining use occurs, including each
432 surface or subsurface land or mineral estate that a mine operator with a vested mining
433 use owns or controls on January 1, 2026.
- 434 (16) "Mining use":
- 435 (a) means:
- 436 (i) the full range of activities, from prospecting and exploration to reclamation and

- 437 closure, associated with the exploitation of a mineral deposit; and
- 438 (ii) the use of the surface and subsurface and groundwater and surface water of an
- 439 area in connection with the activities described in Subsection (16)(a)(i) that have
- 440 been, are being, or will be conducted; and
- 441 (b) includes, whether conducted on-site or off-site:
- 442 (i) any sampling, staking, surveying, exploration, or development activity;
- 443 (ii) any drilling, blasting, excavating, or tunneling;
- 444 (iii) the removal, transport, treatment, deposition, and reclamation of overburden,
- 445 development rock, tailings, and other waste material;
- 446 (iv) any removal, transportation, extraction, beneficiation, or processing of ore;
- 447 (v) any smelting, refining, autoclaving, or other primary or secondary processing
- 448 operation;
- 449 (vi) the recovery of any mineral left in residue from a previous extraction or
- 450 processing operation;
- 451 (vii) a mining activity that is identified in a work plan or permitting document;
- 452 (viii) the use, operation, maintenance, repair, replacement, or alteration of a building,
- 453 structure, facility, equipment, machine, tool, or other material or property that
- 454 results from or is used in a surface or subsurface mining operation or activity;
- 455 (ix) any accessory, incidental, or ancillary activity or use, both active and passive,
- 456 including a utility, private way or road, pipeline, land excavation, working,
- 457 embankment, pond, gravel excavation, mining waste, conveyor, power line,
- 458 trackage, storage, reserve, passive use area, buffer zone, and power production
- 459 facility;
- 460 (x) the construction of a storage, factory, processing, or maintenance facility; and
- 461 (xi) an activity described in Subsection 40-8-4(19)(a).
- 462 (17)(a) "Municipal" means of or relating to a city or town.
- 463 (b) "Municipality" means a city or town.
- 464 (18) "New land" means surface or subsurface land or mineral estate that a mine operator
- 465 gains ownership or control of after January 1, 2026, regardless of whether that land or
- 466 mineral estate is included in the mine operator's large mine permit.
- 467 (19) "Off-site" means the same as that term is defined in Section 40-8-4.
- 468 (20) "On-site" means the same as that term is defined in Section 40-8-4.
- 469 (21) "Planning commission" means:
- 470 (a) a countywide planning commission if the land proposed to be included in the

- 471 agriculture protection area, industrial protection area, or critical infrastructure
 472 materials protection area is within the unincorporated part of the county and not
 473 within a planning advisory area;
- 474 (b) a planning advisory area planning commission if the land proposed to be included in
 475 the agriculture protection area, industrial protection area, or critical infrastructure
 476 materials protection area is within a planning advisory area; or
- 477 (c) a planning commission of a city or town if the land proposed to be included in the
 478 agriculture protection area, industrial protection area, or critical infrastructure
 479 materials protection area is within a city or town.
- 480 (22) "Political subdivision" means a county, city, town, school district, special district, or
 481 special service district.
- 482 (23) "Proposal sponsors" means the owners of land in agricultural production, industrial
 483 use, or critical infrastructure materials operations who are sponsoring the proposal for
 484 creating an agriculture protection area, industrial protection area, or critical
 485 infrastructure materials protection area.
- 486 (24) "State agency" means each department, commission, board, council, agency,
 487 institution, officer, corporation, fund, division, office, committee, authority, laboratory,
 488 library, unit, bureau, panel, or other administrative unit of the state.
- 489 (25) "Unincorporated" means not within a city or town.
- 490 (26) "Vested mining use" means a mining use:
- 491 (a) by a mine operator; and
- 492 (b) that existed or was conducted or otherwise engaged in before a political subdivision
 493 prohibits, restricts, or otherwise limits a mining use.
- 494 Section 10. Section **17-41-402** is amended to read:
- 495 **17-41-402 . Limitations on local regulations.**
- 496 (1) A political subdivision within which an agriculture protection area, industrial protection
 497 area, or critical infrastructure materials protection area is created or with a mining
 498 protection area within its boundary shall encourage the continuity, development, and
 499 viability of agriculture use, industrial use, critical infrastructure materials operations, or
 500 mining use, within the relevant protection area by not enacting a local law, ordinance, or
 501 regulation that, unless the law, ordinance, or regulation bears a direct relationship to
 502 public health or safety, would unreasonably restrict:
- 503 (a) in the case of an agriculture protection area, a farm structure or farm practice;
- 504 (b) in the case of an industrial protection area, an industrial use of the land within the

- 505 area;
- 506 (c) in the case of a critical infrastructure materials protection area, critical infrastructure
507 materials operations; or
- 508 (d) in the case of a mining protection area, a mining use within the protection area.
- 509 (2) A political subdivision may not change the zoning designation of or a zoning regulation
510 affecting land within an agriculture protection area unless the political subdivision
511 receives written approval for the change from all the landowners within the agriculture
512 protection area affected by the change.
- 513 (3) Except as provided by Section 19-4-113, a political subdivision may not change the
514 zoning designation of or a zoning regulation affecting land within an industrial
515 protection area unless the political subdivision receives written approval for the change
516 from all the landowners within the industrial protection area affected by the change.
- 517 (4) A political subdivision may not change the zoning designation of or a zoning regulation
518 affecting land within a critical infrastructure materials protection area unless the political
519 subdivision receives written approval for the change from each critical infrastructure
520 materials operator within the relevant area.
- 521 (5) A political subdivision may not change the zoning designation of or a zoning regulation
522 affecting land within a mining protection area unless the political subdivision receives
523 written approval for the change from each mine operator within the area.
- 524 (6) A county, city, or town may not:
- 525 (a) adopt, enact, or amend an existing land use regulation, ordinance, or regulation that
526 would prohibit, restrict, regulate, or otherwise limit critical infrastructure materials
527 operations, including vested critical infrastructure materials [~~operations~~] use as
528 defined in Section 10-9a-901 or 17-27a-1001; or
- 529 (b) initiate proceedings to amend the county's, city's, or town's land use ordinances as
530 described in Subsection 10-9a-509(1)(a)(ii) or 17-27a-508(1)(a)(ii).

531 Section 11. Section **17-41-502** is amended to read:

532 **17-41-502 . Rights of a mine operator with a vested mining use -- Expanding**
533 **vested mining use.**

- 534 (1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a
535 mining use adopted after the establishment of the mining use, the rights of a mine
536 operator with a vested mining use include the rights to:
- 537 (a) progress, extend, enlarge, grow, or expand the vested mining use to any surface or
538 subsurface land or mineral estate that the mine operator owns or controls on January

- 539 1, 2026;
- 540 (b) expand the vested mining use to any new land that:
- 541 (i) is contiguous and related in mineralization to surface or subsurface land or a
- 542 mineral estate that the mine operator already owns or controls;
- 543 (ii) contains minerals that are part of the same mineral trend as the minerals that the
- 544 mine operator already owns or controls; or
- 545 (iii) is a geologic offshoot to surface or subsurface land or a mineral estate that the
- 546 mine operator already owns or controls;
- 547 (c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter,
- 548 substitute, modernize, upgrade, and replace equipment, processes, facilities, and
- 549 buildings on any surface or subsurface land or mineral estate that the mine operator
- 550 owns or controls;
- 551 (d) increase production or volume, alter the method of mining or processing, and mine
- 552 or process a different or additional mineral than previously mined or owned on any
- 553 surface or subsurface land or mineral estate that the mine operator owns or controls;
- 554 and
- 555 (e) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily
- 556 or permanently, all or any part of the mining use.
- 557 (2)(a) As used in this Subsection (2), "applicable legislative body" means the legislative
- 558 body of each:
- 559 (i) county in whose unincorporated area the new land to be included in the vested
- 560 mining use is located; and
- 561 (ii) municipality in which the new land to be included in the vested mining use is
- 562 located.
- 563 (b) A mine operator with a vested mining use is presumed to have a right to expand the
- 564 vested mining use to new land.
- 565 (c) Before expanding a vested mining use to new land, a mine operator shall provide
- 566 written notice:
- 567 (i) of the mine operator's intent to expand the vested mining use; and
- 568 (ii) to each applicable legislative body.
- 569 (d)(i) An applicable legislative body shall:
- 570 (A) hold a public meeting or hearing at its next available meeting that is more than
- 571 10 days after receiving the notice under Subsection (2)(c); and
- 572 (B) provide reasonable, advance, written notice:

- 573 (I) of:
- 574 (Aa) the intended expansion of the vested mining use; and
- 575 (Bb) the public meeting or hearing; and
- 576 (II) to each owner of the surface estate of the new land.
- 577 (ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide
- 578 sufficient public notice of the mine operator's intent to expand the vested mining
- 579 use to the new land.
- 580 (e) After the public meeting or hearing under Subsection (2)(d)(ii), a mine operator may
- 581 expand a vested mining use to new land without any action by an applicable
- 582 legislative body, unless the applicable legislative body finds that there is clear and
- 583 convincing evidence in the record that the expansion to new land will imminently
- 584 endanger the public health, safety, and welfare. If the applicable legislative body
- 585 makes the finding of endangerment described in this Subsection (2)(e), Subsection (4)
- 586 applies.
- 587 (3) If a mine operator expands a vested mining use to new land, as authorized under this
- 588 section:
- 589 (a) the mine operator's rights under the vested mining use with respect to land on which
- 590 the vested mining use occurs apply with equal force after the expansion to the new
- 591 land; and
- 592 (b) the mining protection area that includes land on which the vested mining use occurs
- 593 is expanded to include the new land.
- 594 (4)(a) If the applicable legislative body makes the finding of endangerment described in
- 595 Subsection (2)(e):
- 596 (i) the mining operator shall submit to the applicable legislative body the mining
- 597 operator's plan for expansion under this section;
- 598 (ii) by no later than 30 days after receipt of the plan for expansion described in
- 599 Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:
- 600 (A) evidence that the expansion to new land will endanger the public health,
- 601 safety, and welfare; and
- 602 (B) proposed measures to mitigate the endangerment of the public health, safety,
- 603 and welfare; and
- 604 (iii) the applicable legislative body shall hold a public hearing by no later than 30
- 605 days after the date the applicable legislative body complies with Subsection
- 606 (4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).

- 607 (b) The applicable legislative body may impose mitigation measures under this
 608 Subsection (4) that are reasonable and do not exceed requirements imposed by
 609 permits issued by a state agency such as an air quality permit.
- 610 (c) A political subdivision may not prohibit the expansion of a vested mining use if the
 611 mining operator agrees to comply by the mitigation measures described in Subsection
 612 (4)(b).
- 613 (d) The process under this Subsection (4) is not a land use application or conditional use
 614 application under this chapter.

615 Section 12. Section **78B-6-1101** is amended to read:

616 **78B-6-1101 . Definitions -- Nuisance -- Right of action -- Agriculture operations.**

- 617 (1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an
 618 obstruction to the free use of property, so as to interfere with the comfortable enjoyment
 619 of life or property. A nuisance may be the subject of an action.
- 620 (2) A nuisance may include the following:
- 621 (a) drug houses and drug dealing as provided in Section 78B-6-1107;
- 622 (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;
- 623 (c) criminal activity committed in concert with three or more persons as provided in
 624 Section 76-3-203.1;
- 625 (d) criminal activity committed for the benefit of, at the direction of, or in association
 626 with any criminal street gang as defined in Section 76-9-802;
- 627 (e) criminal activity committed to gain recognition, acceptance, membership, or
 628 increased status with a criminal street gang as defined in Section 76-9-802;
- 629 (f) party houses that frequently create conditions defined in Subsection (1); and
- 630 (g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.
- 631 (3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a
 632 person rents, leases, or owns, from another residential or commercial unit and the smoke:
 633 (a) drifts in more than once in each of two or more consecutive seven-day periods; and
 634 (b) creates any of the conditions under Subsection (1).
- 635 (4) Subsection (3) does not apply to:
- 636 (a) a residential rental unit available for temporary rental, such as for a vacation, or
 637 available for only 30 or fewer days at a time; or
- 638 (b) a hotel or motel room.
- 639 (5) Subsection (3) does not apply to a unit that is part of a timeshare development, as
 640 defined in Section 57-19-2, or subject to a timeshare interest as defined in Section

641 57-19-2.

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

644 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter
645 44, Agricultural Operations Nuisances Act.

646 (8) "Critical infrastructure materials operations" means the same as [~~that term~~] the term
647 "critical infrastructure materials use" is defined in Section 10-9a-901.

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

653 Section 13. **Repealer.**

654 This bill repeals:

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

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

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

659 Section 14. **Effective Date.**

660 This bill takes effect on May 7, 2025.