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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: Scott D. Sandall

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3	LONG TITLE
4	General Description:
5	This bill addresses mining and critical infrastructure materials operations.
6	Highlighted Provisions:
7	This bill:
8	modifies definitions;
9	 changes vested critical infrastructure materials use provisions including making them
10	more similar to vested mining provisions;
11	 addresses operations on new land for critical infrastructure materials uses and for mining
12	uses;
13	addresses critical dates;
14	 amends provisions related to vested mining operations;
15	repeals study requirements; and
16	makes technical and conforming changes.
17	Money Appropriated in this Bill:
18	None
19	Other Special Clauses:
20	None
21	Utah Code Sections Affected:
22	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

29 **17-27a-1003**, as enacted by Laws of Utah 2019, Chapter 227 30 17-27a-1005, as enacted by Laws of Utah 2019, Chapter 227 31 **17-41-101**, as last amended by Laws of Utah 2024, Chapter 70 32 17-41-402, as last amended by Laws of Utah 2019, Chapter 227 33 17-41-502, as enacted by Laws of Utah 2009, Chapter 376 **78B-6-1101**, as last amended by Laws of Utah 2021, Chapter 207 34 35 **REPEALS:** 36 **17-41-102**, as enacted by Laws of Utah 2024, Chapter 87 37 38 *Be it enacted by the Legislature of the state of Utah:* Section 1. Section 10-9a-901 is amended to read: 39 40 **10-9a-901** . Definitions. 41 As used in this part: 42 (1) "Contiguous land" means surface or subsurface land that shares a common boundary 43 and is not separated by a highway as defined in Section 41-6a-102. 44 (2) "Critical infrastructure materials" means sand, gravel, or rock aggregate. 45 [(2)] (3) "Critical infrastructure materials [operations] use" means the extraction, excavation, 46 processing, or reprocessing of critical infrastructure materials. 47 [(3)] (4) "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 (5) "Existing legal use" means a critical infrastructure materials use that has operated in 55 accordance with: 56 (a) a legal nonconforming use that has not been abandoned for more than 24 consecutive 57 months; or 58 (b) a permit issued by the applicable political subdivision. 59 (6) "New land" means surface or subsurface land that a critical infrastructure materials 60 operator gains ownership or control of on or before January 1, 2026, regardless of 61 whether that land is included in any applicable permit issued by a political subdivision 62 or a legal nonconforming use.

63	[(4)] <u>(7)</u> "Vested critical infrastructure materials [operations] <u>use</u> " means <u>a</u> critical
64	infrastructure materials [operations operating in accordance with a legal nonconforming
65	use or a permit issued by the municipality that existed or was conducted or otherwise
66	engaged in before:] use by a critical infrastructure materials operator that is an existing
67	<u>legal use.</u>
68	[(a) a political subdivision prohibits, restricts, or otherwise limits the critical
69	infrastructure materials operations; and]
70	[(b) January 1, 2019.]
71	Section 2. Section 10-9a-902 is amended to read:
72	10-9a-902. Vested critical infrastructure materials use Presumption.
73	(1)(a) [Critical-] A critical infrastructure materials [operations operating in accordance
74	with a legal nonconforming use or a permit issued by the municipality are
75	conclusively] use is presumed to be a vested critical infrastructure materials [
76	operations] use if the critical infrastructure materials [operations permitted by the
77	municipality, existed or was conducted or otherwise engaged in before January 1,
78	2019 and before when a political subdivision prohibits, restricts, or otherwise limits
79	the critical infrastructure materials operations.] use meets the definition of vested
80	critical infrastructure use in Section 10-9a-901.
81	(b) A person claiming that a vested critical infrastructure materials [operations has been]
82	use has not been established has the burden of proof to show by the preponderance of
83	the evidence that the vested critical infrastructure materials [operations] use has not
84	been established.
85	(2) A vested critical infrastructure materials [operations] use:
86	(a) runs with the land; and
87	(b) may be changed to another critical infrastructure materials [operations conducted
88	within the scope of a legal nonconforming use or the permit for the vested critical
89	infrastructure materials operations] use without losing its status as a vested critical
90	infrastructure materials [operations] use.
91	(3) The present or future boundary of the critical infrastructure materials use of a critical
92	infrastructure materials operator with a vested critical infrastructure materials use does
93	not limit:
94	(a) the scope of rights of a critical infrastructure materials operator with a vested critical
95	infrastructure material use; or
96	(b) the protection for a critical infrastructure materials protection area.

97	(4)(a) A critical infrastructure operator with a vested critical infrastructure materials use
98	shall file a declaration for recording in the office of the recorder of the county in
99	which the vested critical infrastructure materials use is located.
100	(b) A declaration under Subsection (4)(a) shall:
101	(i) contain a legal description of the land included within the vested critical
102	infrastructure materials use; and
103	(ii) provide notice of the vested critical infrastructure materials use.
104	Section 3. Section 10-9a-903 is amended to read:
105	10-9a-903. Rights of a critical infrastructure materials operator with a vested
106	critical infrastructure materials use.
107	(1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation
108	on a critical infrastructure materials [operations] use adopted after the establishment of
109	the critical infrastructure materials [operations] use, the rights of a critical infrastructure
110	materials operator with \underline{a} -vested critical infrastructure materials [operations] \underline{use} include
111	the right to:
112	(a) progress, extend, enlarge, grow, or expand the vested critical infrastructure materials
113	use to any contiguous land that the critical infrastructure materials operator owns or
114	controls before May 7, 2025;
115	(b) expand the vested critical infrastructure materials use to new land that is contiguous
116	land to the surface or subsurface land on which the critical infrastructure materials
117	operator has a vested critical infrastructure materials use, including the surface or
118	subsurface land under Subsection (1)(a);
119	[(1)] (c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair,
120	alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and
121	buildings[; and] on any surface or subsurface land that the critical infrastructure
122	materials operator owns or controls before May 7, 2025;
123	(d) on any surface or subsurface land that the critical infrastructure materials operator
124	owns or controls before May 7, 2025:
125	(i) increase production or volume;
126	(ii) alter the method of extracting or processing, including with respect to the vested
127	use, the right to stockpile or hold in reserve critical infrastructure materials, to
128	recycle, and to batch and mix concrete and asphalt; and
129	(iii) extract or process a different or additional critical infrastructure material than
130	previously extracted or processed on the surface or subsurface land; and

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

165	(3) If a critical infrastructure materials operator expands a vested critical infrastructure
166	materials use to new land, as authorized under this section:
167	(a) the critical infrastructure materials operator's rights under the vested critical
168	infrastructure materials use with respect to land on which the vested critical
169	infrastructure materials use occurs apply with equal force after the expansion to the
170	new land; and
171	(b) the critical infrastructure materials protection area that includes land on which the
172	vested critical infrastructure materials use occurs is expanded to include the new land
173	(4)(a) If the applicable legislative body makes the finding of endangerment described in
174	Subsection (2)(e):
175	(i) the critical infrastructure materials operator shall submit to the applicable
176	legislative body the critical infrastructure materials operator's plan for expansion
177	under this section;
178	(ii) by no later than 90 days after receipt of the plan for expansion described in
179	Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:
180	(A) evidence that the expansion to new land will endanger the public health,
181	safety, and welfare; and
182	(B) proposed measures to mitigate the endangerment of the public health, safety
183	and welfare; and
184	(iii) the applicable legislative body shall hold a public hearing by no later than 30
185	days after the date the applicable legislative body complies with Subsection
186	(4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).
187	(b) The applicable legislative body may impose mitigation measures under this
188	Subsection (4) that are reasonable and do not exceed requirements imposed by
189	permits issued by a state agency such as an air quality permit.
190	(c) A political subdivision may not prohibit the expansion of a vested critical
191	infrastructure use if the critical infrastructure materials operator agrees to comply
192	with the mitigation measures described in Subsection (4)(b).
193	(d) The process under this Subsection (4) is not a land use application or conditional use
194	application under this chapter.
195	Section 4. Section 10-9a-905 is amended to read:
196	10-9a-905. Abandonment of a vested critical infrastructure materials use.
197	(1) A critical infrastructure materials operator may abandon some or all of a vested critical
198	infrastructure materials [operations] use only as provided in this section.

199	(2) To abandon some or all of a vested critical infrastructure materials [operations] use, a
200	critical infrastructure materials operator shall record a written declaration of
201	abandonment with the recorder of the county in which the vested critical infrastructure
202	materials [operations] use being abandoned is located.
203	(3) The written declaration of abandonment under Subsection (2) shall specify the vested
204	critical infrastructure materials [operations] use or the portion of the vested critical
205	infrastructure materials [operations] use being abandoned.
206	Section 5. Section 17-27a-1001 is amended to read:
207	17-27a-1001 . Definitions.
208	As used in this part:
209	(1) "Contiguous land" means surface or subsurface land that shares a common boundary
210	and is not separated by a highway as defined in 41-6a-102.
211	(2) "Critical infrastructure materials" means sand, gravel, or rock aggregate.
212	[(2)] (3) "Critical infrastructure materials [operations] use" means the extraction, excavation,
213	processing, or reprocessing of critical infrastructure materials.
214	[(3)] (4) "Critical infrastructure materials operator" means a natural person, corporation,
215	association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary,
216	agent, or other organization or representative, either public or private, including a
217	successor, assign, affiliate, subsidiary, and related parent company, that:
218	(a) owns, controls, or manages a critical infrastructure materials [operations] use; and
219	(b) has produced commercial quantities of critical infrastructure materials from the
220	critical infrastructure materials [operations] use.
221	(5) "Existing legal use" means a critical infrastructure materials use that has operated in
222	accordance with:
223	(a) a legal nonconforming use that has not been abandoned for more than 24 consecutive
224	months; or
225	(b) a permit issued by the applicable political subdivision.
226	(6) "New land" means surface or subsurface land that a critical infrastructure materials
227	operator gains ownership or control of on or before January 1, 2026, regardless of
228	whether that land is included in any applicable permit issued by a political subdivision
229	or a legal nonconforming use.
230	[(4)] (7) "Vested critical infrastructure materials [operations] use" means a critical
231	infrastructure materials operations [operating in accordance with a legal nonconforming

use or a permit issued by the county that existed or was conducted or otherwise engaged

233	in before:]
234	[(a) a political subdivision prohibits, restricts, or otherwise limits the critical
235	infrastructure materials operations; and]
236	[(b) January 1, 2019] use by a critical infrastructure materials operator that is an existing
237	<u>legal use</u> .
238	Section 6. Section 17-27a-1002 is amended to read:
239	17-27a-1002. Vested critical infrastructure materials use Presumption.
240	(1)(a) [Critical] A critical infrastructure materials [operations operating in accordance
241	with a legal nonconforming use or a permit issued by the county are conclusively] use
242	is presumed to be <u>a vested critical infrastructure materials [operations]</u> use if the
243	critical infrastructure materials [operations permitted by the county, existed or was
244	conducted or otherwise engaged in before January 1, 2019 and before when a
245	political subdivision prohibits, restricts, or otherwise limits the critical infrastructure
246	materials operations.] use meets the definition of vested critical infrastructure
247	materials use as defined in Section 17-271-1001.
248	(b) A person claiming that a vested critical infrastructure materials [operations has been]
249	use has not been established has the burden of proof to show by the preponderance of
250	the evidence that the vested critical infrastructure materials [operations has been] use
251	<u>has not been</u> established.
252	(2) A vested critical infrastructure materials [operations] use:
253	(a) runs with the land; and
254	(b) may be changed to another critical infrastructure materials [operations conducted
255	within the scope of a legal nonconforming use or the permit for the vested critical
256	infrastructure materials operations] use without losing its status as a vested critical
257	infrastructure materials [operations] use.
258	(3) The present or future boundary of the critical infrastructure materials use of a critical
259	infrastructure materials operator with a vested critical infrastructure materials use does
260	not limit:
261	(a) the scope of rights of a critical infrastructure materials operator with a vested critical
262	infrastructure material use; or
263	(b) the protection for a critical infrastructure materials protection area.
264	(4)(a) A critical infrastructure operator with a vested critical infrastructure materials use
265	shall file a declaration for recording in the office of the recorder of the county in
266	which the vested critical infrastructure materials use is located.

267	(b) A declaration under Subsection (4)(a) shall:
268	(i) contain a legal description of the land included within the vested critical
269	infrastructure materials use; and
270	(ii) provide notice of the vested critical infrastructure materials use.
271	Section 7. Section 17-27a-1003 is amended to read:
272	17-27a-1003. Rights of a critical infrastructure materials operator with a vested
273	critical infrastructure materials use.
274	(1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation
275	on a critical infrastructure materials [operations] use adopted after the establishment of
276	the critical infrastructure materials [operations] use, the rights of a critical infrastructure
277	materials operator with \underline{a} vested critical infrastructure materials [operations] \underline{use} include
278	the right to:
279	(a) progress, extend, enlarge, grow, or expand the vested critical infrastructure materials
280	use to any contiguous land that the critical infrastructure materials operator owns or
281	controls before May 7, 2025;
282	(b) expand the vested critical infrastructure materials use to new land that is contiguous
283	land to the surface or subsurface land on which the critical infrastructure materials
284	operator has a vested critical infrastructure materials use, including the surface or
285	subsurface land under Subsection (1)(a):
286	[(1)] (c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair,
287	alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and
288	buildings[; and], on any surface or subsurface land that the critical infrastructure
289	materials operator owns or controls before May 7, 2025;
290	(d) on any surface or subsurface land that the critical infrastructure materials operator
291	owns or controls before May 7, 2025:
292	(i) increase production or volume;
293	(ii) alter the method of extracting or processing, including with respect to the vested
294	use, the right to stockpile or hold in reserve critical infrastructure materials, to
295	recycle, and to batch and mix concrete and asphalt; and
296	(iii) extract or process a different or additional critical infrastructure material than
297	previously extracted or processed on the surface or subsurface land; and
298	[(2)] (e) discontinue, suspend, terminate, deactivate, or continue and reactivate,
299	temporarily or permanently, all or any part of the critical infrastructure materials [
300	operations] use.

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

335	infrastructure materials use with respect to land on which the vested critical
336	infrastructure materials use occurs apply with equal force after the expansion to the
337	new land; and
338	(b) the critical infrastructure materials protection area that includes land on which the
339	vested critical infrastructure materials use occurs is expanded to include the new land
340	(4)(a) If the applicable legislative body makes the finding of endangerment described in
341	Subsection (2)(e):
342	(i) the critical infrastructure materials operator shall submit to the applicable
343	legislative body the critical infrastructure materials operator's plan for expansion
344	under this section;
345	(ii) by no later than 90 days after receipt of the plan for expansion described in
346	Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:
347	(A) evidence that the expansion to new land will endanger the public health,
348	safety, and welfare; and
349	(B) proposed measures to mitigate the endangerment of the public health, safety,
350	and welfare; and
351	(iii) the applicable legislative body shall hold a public hearing by no later than 30
352	days after the date the applicable legislative body complies with Subsection
353	(4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).
354	(b) The applicable legislative body may impose mitigation measures under this
355	Subsection (4) that are reasonable and do not exceed requirements imposed by
356	permits issued by a state agency such as an air quality permit.
357	(c) A political subdivision may not prohibit the expansion of a vested critical
358	infrastructure use if the critical infrastructure materials operator agrees to comply
359	with the mitigation measures described in Subsection (4)(b).
360	(d) The process under this Subsection (4) is not a land use application or conditional use
361	application under this chapter.
362	Section 8. Section 17-27a-1005 is amended to read:
363	17-27a-1005. Abandonment of a vested critical infrastructure materials use.
364	(1) A critical infrastructure materials operator may abandon some or all of a vested critical
365	infrastructure materials [operations-]use only as provided in this section.
366	(2) To abandon some or all of a vested critical infrastructure materials [operations] use, a
367	critical infrastructure materials operator shall record a written declaration of
368	abandonment with the recorder of the county in which the vested critical infrastructure

369	materials [operations] use being abandoned is located.
370	(3) The written declaration of abandonment under Subsection (2) shall specify the vested
371	critical infrastructure materials [operations] use or the portion of the vested critical
372	infrastructure materials [operations] use being abandoned.
373	Section 9. Section 17-41-101 is amended to read:
374	17-41-101 . Definitions.
375	As used in this chapter:
376	(1) "Advisory board" means:
377	(a) for an agriculture protection area, the agriculture protection area advisory board
378	created as provided in Section 17-41-201;
379	(b) for an industrial protection area, the industrial protection area advisory board created
380	as provided in Section 17-41-201; and
381	(c) for a critical infrastructure materials protection area, the critical infrastructure
382	materials protection area advisory board created as provided in Section 17-41-201.
383	(2)(a) "Agriculture production" means production for commercial purposes of crops,
384	livestock, and livestock products.
385	(b) "Agriculture production" includes the processing or retail marketing of any crops,
386	livestock, and livestock products when more than 50% of the processed or
387	merchandised products are produced by the farm operator.
388	(3) "Agriculture protection area" means a geographic area created under the authority of
389	this chapter that is granted the specific legal protections contained in this chapter.
390	(4) "Applicable legislative body" means:
391	(a) with respect to a proposed agriculture protection area, industrial protection area, or
392	critical infrastructure materials protection area:
393	(i) the legislative body of the county in which the land proposed to be included in the
394	relevant protection area is located, if the land is within the unincorporated part of
395	the county; or
396	(ii) the legislative body of the city or town in which the land proposed to be included
397	in the relevant protection area is located; and
398	(b) with respect to an existing agriculture protection area, industrial protection area, or
399	critical infrastructure materials protection area:
400	(i) the legislative body of the county in which the relevant protection area is located,
401	if the relevant protection area is within the unincorporated part of the county; or
402	(ii) the legislative body of the city or town in which the relevant protection area is

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

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

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- 471 (17)(a) "Municipal" means of or relating to a city or town.
- (b) "Municipality" means a city or town.
- 473 (18) "New land" means surface or subsurface land or mineral estate that a mine operator
- gains ownership or control of, whether that land or mineral estate is included in the mine
- 475 operator's large mine permit.
- 476 (19) "Off-site" means the same as that term is defined in Section 40-8-4.
- 477 (20) "On-site" means the same as that term is defined in Section 40-8-4.
- 478 (21) "Planning commission" means:
- 479 (a) a countywide planning commission if the land proposed to be included in the
 480 agriculture protection area, industrial protection area, or critical infrastructure
 481 materials protection area is within the unincorporated part of the county and not
 482 within a planning advisory area;
 - (b) a planning advisory area planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a planning advisory area; or
 - (c) a planning commission of a city or town if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a city or town.
- 489 (22) "Political subdivision" means a county, city, town, school district, special district, or special service district.
- 491 (23) "Proposal sponsors" means the owners of land in agricultural production, industrial
 492 use, or critical infrastructure materials operations who are sponsoring the proposal for
 493 creating an agriculture protection area, industrial protection area, or critical
 494 infrastructure materials protection area.
- 495 (24) "State agency" means each department, commission, board, council, agency,
- institution, officer, corporation, fund, division, office, committee, authority, laboratory,
- library, unit, bureau, panel, or other administrative unit of the state.
- 498 (25) "Unincorporated" means not within a city or town.
- 499 (26) "Vested mining use" means a mining use:
- 500 (a) by a mine operator; and
- 501 (b) that existed or was conducted or otherwise engaged in before a political subdivision 502 prohibits, restricts, or otherwise limits a mining use.
- Section 10. Section **17-41-402** is amended to read:
- 504 17-41-402 . Limitations on local regulations.

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- 505 (1) A political subdivision within which an agriculture protection area, industrial protection
 506 area, or critical infrastructure materials protection area is created or with a mining
 507 protection area within its boundary shall encourage the continuity, development, and
 508 viability of agriculture use, industrial use, critical infrastructure materials operations, or
 509 mining use, within the relevant protection area by not enacting a local law, ordinance, or
 510 regulation that, unless the law, ordinance, or regulation bears a direct relationship to
 511 public health or safety, would unreasonably restrict:
 - (a) in the case of an agriculture protection area, a farm structure or farm practice;
- 513 (b) in the case of an industrial protection area, an industrial use of the land within the area;
 - (c) in the case of a critical infrastructure materials protection area, critical infrastructure materials operations; or
 - (d) in the case of a mining protection area, a mining use within the protection area.
- 518 (2) A political subdivision may not change the zoning designation of or a zoning regulation 519 affecting land within an agriculture protection area unless the political subdivision 520 receives written approval for the change from all the landowners within the agriculture 521 protection area affected by the change.
- 522 (3) Except as provided by Section 19-4-113, a political subdivision may not change the 523 zoning designation of or a zoning regulation affecting land within an industrial 524 protection area unless the political subdivision receives written approval for the change 525 from all the landowners within the industrial protection area affected by the change.
 - (4) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within a critical infrastructure materials protection area unless the political subdivision receives written approval for the change from each critical infrastructure materials operator within the relevant area.
- 530 (5) A political subdivision may not change the zoning designation of or a zoning regulation 531 affecting land within a mining protection area unless the political subdivision receives 532 written approval for the change from each mine operator within the area.
- 533 (6) A county, city, or town may not:
- 534 (a) adopt, enact, or amend an existing land use regulation, ordinance, or regulation that
 535 would prohibit, restrict, regulate, or otherwise limit critical infrastructure materials
 536 operations[, including-] with a vested critical infrastructure materials [operations] use
 537 as defined in Section 10-9a-901 or 17-27a-1001; or
 - (b) initiate proceedings to amend the county's, city's, or town's land use ordinances as

539	described in Subsection 10-9a-509(1)(a)(ii) or 17-27a-508(1)(a)(ii) as it regards the
540	rights of a critical infrastructure materials operator with a vested critical
541	infrastructure materials use.
542	Section 11. Section 17-41-502 is amended to read:
543	17-41-502. Rights of a mine operator with a vested mining use Expanding
544	vested mining use.
545	(1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a
546	mining use adopted after the establishment of the mining use, the rights of a mine
547	operator with a vested mining use include the rights to:
548	(a) progress, extend, enlarge, grow, or expand the vested mining use to any surface or
549	subsurface land or mineral estate that the mine operator owns or controls;
550	(b) expand the vested mining use to any new land that:
551	(i) is contiguous and related in mineralization to surface or subsurface land or a
552	mineral estate that the mine operator already owns or controls;
553	(ii) contains minerals that are part of the same mineral trend as the minerals that the
554	mine operator already owns or controls; or
555	(iii) is a geologic offshoot to surface or subsurface land or a mineral estate that the
556	mine operator already owns or controls;
557	(c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter,
558	substitute, modernize, upgrade, and replace equipment, processes, facilities, and
559	buildings on any surface or subsurface land or mineral estate that the mine operator
560	owns or controls;
561	(d) increase production or volume, alter the method of mining or processing, and mine
562	or process a different or additional mineral than previously mined or owned on any
563	surface or subsurface land or mineral estate that the mine operator owns or controls;
564	and
565	(e) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily
566	or permanently, all or any part of the mining use.
567	(2)(a) As used in this Subsection (2), "applicable legislative body" means the legislative
568	body of each:
569	(i) county in whose unincorporated area the new land to be included in the vested
570	mining use is located; and
571	(ii) municipality in which the new land to be included in the vested mining use is
572	located.

573	(b) A mine operator with a vested mining use is presumed to have a right to expand the
574	vested mining use to new land.
575	(c) Before expanding a vested mining use to new land, a mine operator shall provide
576	written notice:
577	(i) of the mine operator's intent to expand the vested mining use; and
578	(ii) to each applicable legislative body.
579	(d)(i) An applicable legislative body shall:
580	(A) hold a public meeting or hearing at its next available meeting that is more than
581	10 days after receiving the notice under Subsection (2)(c); and
582	(B) provide reasonable, advance, written notice:
583	(I) of:
584	(Aa) the intended expansion of the vested mining use; and
585	(Bb) the public meeting or hearing; and
586	(II) to each owner of the surface estate of the new land.
587	(ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide
588	sufficient public notice of the mine operator's intent to expand the vested mining
589	use to the new land.
590	(e) After the public meeting or hearing under Subsection (2)(d)(ii), a mine operator may
591	expand a vested mining use to new land without any action by an applicable
592	legislative body, unless the applicable legislative body finds that there is clear and
593	convincing evidence in the record that the expansion to new land will imminently
594	endanger the public health, safety, and welfare. If the applicable legislative body
595	makes the finding of endangerment described in this Subsection (2)(e), Subsection (4)
596	applies.
597	(3) If a mine operator expands a vested mining use to new land, as authorized under this
598	section:
599	(a) the mine operator's rights under the vested mining use with respect to land on which
600	the vested mining use occurs apply with equal force after the expansion to the new
601	land; and
602	(b) the mining protection area that includes land on which the vested mining use occurs
603	is expanded to include the new land.
504	(4)(a) If the applicable legislative body makes the finding of endangerment described in
605	Subsection (2)(e):
606	(i) the mining operator shall submit to the applicable legislative body the mining

607	operator's plan for expansion under this section;
608	(ii) by no later than 30 days after receipt of the plan for expansion described in
609	Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:
610	(A) evidence that the expansion to new land will endanger the public health,
611	safety, and welfare; and
612	(B) proposed measures to mitigate the endangerment of the public health, safety,
613	and welfare; and
614	(iii) the applicable legislative body shall hold a public hearing by no later than 30
615	days after the date the applicable legislative body complies with Subsection
616	(4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).
617	(b) The applicable legislative body may impose mitigation measures under this
618	Subsection (4) that are reasonable and do not exceed requirements imposed by
619	permits issued by a state agency such as an air quality permit.
620	(c) A political subdivision may not prohibit the expansion of a vested mining use if the
621	mining operator agrees to comply with the mitigation measures described in
622	Subsection (4)(b).
623	(d) The process under this Subsection (4) is not a land use application or conditional use
624	application under Title 10, Chapter 9a, Municipal Land Use, Development, and
625	Management Act, or Chapter 27a, County Land Use, Development, and Management
626	Act.
627	Section 12. Section 78B-6-1101 is amended to read:
628	78B-6-1101 . Definitions Nuisance Right of action Agriculture operations.
629	(1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an
630	obstruction to the free use of property, so as to interfere with the comfortable enjoyment
631	of life or property. A nuisance may be the subject of an action.
632	(2) A nuisance may include the following:
633	(a) drug houses and drug dealing as provided in Section 78B-6-1107;
634	(b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;
635	(c) criminal activity committed in concert with three or more persons as provided in
636	Section 76-3-203.1;
637	(d) criminal activity committed for the benefit of, at the direction of, or in association
638	with any criminal street gang as defined in Section 76-9-802;
639	(e) criminal activity committed to gain recognition, acceptance, membership, or
640	increased status with a criminal street gang as defined in Section 76-9-802;

641	(f) party houses that frequently create conditions defined in Subsection (1); and
642	(g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.
643	(3) A nuisance under this part includes tobacco smoke that drifts into a residential ur

- 643 (3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a 644 person rents, leases, or owns, from another residential or commercial unit and the smoke:
- (a) drifts in more than once in each of two or more consecutive seven-day periods; and
- (b) creates any of the conditions under Subsection (1).
- 647 (4) Subsection (3) does not apply to:
- 648 (a) a residential rental unit available for temporary rental, such as for a vacation, or 649 available for only 30 or fewer days at a time; or
- (b) a hotel or motel room.
- 651 (5) Subsection (3) does not apply to a unit that is part of a timeshare development, as
- defined in Section 57-19-2, or subject to a timeshare interest as defined in Section
- 653 57-19-2.
- 654 (6) An action may be brought by a person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.
- 656 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.
- 658 (8) "Critical infrastructure materials operations" means the same as [that term] the term 659 "critical infrastructure materials use" is defined in Section 10-9a-901.
- 660 (9) "Manufacturing facility" means a factory, plant, or other facility including its 661 appurtenances, where the form of raw materials, processed materials, commodities, or 662 other physical objects is converted or otherwise changed into other materials,
- commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.
- Section 13. **Repealer.**
- This bill repeals:
- Section 17-41-102, Study of critical infrastructure materials operations and related mining.
- Section 14. **Effective Date.**
- This bill takes effect on May 7, 2025.