

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

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 including making them more similar to vested mining provisions;
- addresses operations on new land for critical infrastructure materials uses and for mining uses;
- addresses critical dates;
- amends provisions related to vested mining operations;
- 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
17-27a-1005, as enacted by Laws of Utah 2019, Chapter 227
17-41-101, as last amended by Laws of Utah 2024, Chapter 70
17-41-402, as last amended by Laws of Utah 2019, Chapter 227
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

REPEALS:

17-41-102, as enacted by Laws of Utah 2024, Chapter 87

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

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

10-9a-901 . Definitions.

As used in this part:

- (1) "Contiguous land" means surface or subsurface land that shares a common boundary and is not separated by a highway as defined in Section 41-6a-102.
- (2) "Critical infrastructure materials" means sand, gravel, or rock aggregate.
- ~~[(2)]~~ (3) "Critical infrastructure materials [operations] use" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.
- ~~[(3)]~~ (4) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:
 - (a) owns, controls, or manages a critical infrastructure materials [operations] use; and
 - (b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials [operations] use.
- (5) "Existing legal use" means a critical infrastructure materials use that has operated in accordance with:
 - (a) a legal nonconforming use that has not been abandoned for more than 24 consecutive months; or
 - (b) a permit issued by the applicable political subdivision.
- (6) "New land" means surface or subsurface land that a critical infrastructure materials operator gains ownership or control of on or before January 1, 2026, regardless of whether that land is included in any applicable permit issued by a political subdivision or a legal nonconforming use.

~~[(4)] (7) "Vested critical infrastructure materials [operations] use" means a critical infrastructure materials [operations operating in accordance with a legal nonconforming use or a permit issued by the municipality that existed or was conducted or otherwise engaged in before:] use by a critical infrastructure materials operator that is an existing legal use.~~

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

~~[(b) January 1, 2019.]~~

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

10-9a-902 . Vested critical infrastructure materials use -- Presumption.

(1)(a) ~~[Critical-]~~ A critical infrastructure materials [operations operating in accordance with a legal nonconforming use or a permit issued by the municipality are conclusively] use is presumed to be a vested critical infrastructure materials [operations] use if the critical infrastructure materials [operations permitted by the municipality, existed or was conducted or otherwise engaged in before January 1, 2019 and before when a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations.] use meets the definition of vested critical infrastructure use in Section 10-9a-901.

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

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

(a) runs with the land; and

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

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

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

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

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

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

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

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

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

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

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

(a) progress, extend, enlarge, grow, or expand the vested critical infrastructure materials use to any contiguous land that the critical infrastructure materials operator owns or controls before May 7, 2025;

(b) expand the vested critical infrastructure materials use to new land that is contiguous land to the surface or subsurface land on which the critical infrastructure materials operator has a vested critical infrastructure materials use, including the surface or subsurface land under Subsection (1)(a);

~~(c)~~ (c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings[; and] on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025;

(d) on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025:

(i) increase production or volume;

(ii) alter the method of extracting or processing, including with respect to the vested use, the right to stockpile or hold in reserve critical infrastructure materials, to recycle, and to batch and mix concrete and asphalt; and

(iii) extract or process a different or additional critical infrastructure material than previously extracted or processed on the surface or subsurface land; and

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

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

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

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

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

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

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

(ii) to each applicable legislative body.

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

(A) hold a public meeting or hearing at the applicable legislative body's next available meeting that is no later than 30 days after receiving the notice under Subsection (2)(c); and

(B) provide reasonable, advance, written notice of the intended expansion of the vested critical infrastructure materials use and the public meeting or hearing to each owner of the surface estate of the new land.

(ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide sufficient public notice of the critical infrastructure materials operator's intent to expand the vested critical infrastructure materials use to the new land.

(e) After the public meeting or hearing under Subsection (2)(d)(i), a critical infrastructure materials operator may expand a vested critical infrastructure materials use to new land without any action by an applicable legislative body, unless the applicable legislative body finds by the preponderance of the evidence on the record that the expansion to new land will endanger the public health, safety, and welfare. If the applicable legislative body makes the finding of endangerment described in this Subsection (2)(e), Subsection (4) applies.

- (3) If a critical infrastructure materials operator expands a vested critical infrastructure materials use to new land, as authorized under this section:
- (a) the critical infrastructure materials operator's rights under the vested critical infrastructure materials use with respect to land on which the vested critical infrastructure materials use occurs apply with equal force after the expansion to the new land; and
- (b) the critical infrastructure materials protection area that includes land on which the vested critical infrastructure materials use occurs is expanded to include the new land.
- (4)(a) If the applicable legislative body makes the finding of endangerment described in Subsection (2)(e):
- (i) the critical infrastructure materials operator shall submit to the applicable legislative body the critical infrastructure materials operator's plan for expansion under this section;
- (ii) by no later than 90 days after receipt of the plan for expansion described in Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:
- (A) evidence that the expansion to new land will endanger the public health, safety, and welfare; and
- (B) proposed measures to mitigate the endangerment of the public health, safety, and welfare; and
- (iii) the applicable legislative body shall hold a public hearing by no later than 30 days after the date the applicable legislative body complies with Subsection (4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).
- (b) The applicable legislative body may impose mitigation measures under this Subsection (4) that are reasonable and do not exceed requirements imposed by permits issued by a state agency such as an air quality permit.
- (c) A political subdivision may not prohibit the expansion of a vested critical infrastructure use if the critical infrastructure materials operator agrees to comply with the mitigation measures described in Subsection (4)(b).
- (d) The process under this Subsection (4) is not a land use application or conditional use application under this chapter.

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

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

- (1) A critical infrastructure materials operator may abandon some or all of a vested critical infrastructure materials ~~[operations]~~use only as provided in this section.

(2) To abandon some or all of a vested critical infrastructure materials ~~[operations]~~ use, a critical infrastructure materials operator shall record a written declaration of abandonment with the recorder of the county in which the vested critical infrastructure materials ~~[operations]~~ use being abandoned is located.

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

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

17-27a-1001 . Definitions.

As used in this part:

(1) "Contiguous land" means surface or subsurface land that shares a common boundary and is not separated by a highway as defined in 41-6a-102.

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

~~[(2)]~~ (3) "Critical infrastructure materials ~~[operations]~~ use" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

~~[(3)]~~ (4) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

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

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

(5) "Existing legal use" means a critical infrastructure materials use that has operated in accordance with:

(a) a legal nonconforming use that has not been abandoned for more than 24 consecutive months; or

(b) a permit issued by the applicable political subdivision.

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

~~[(4)]~~ (7) "Vested critical infrastructure materials ~~[operations]~~ use" means a critical 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~~

in before:]

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

~~[(b) January 1, 2019] use by a critical infrastructure materials operator that is an existing legal use.~~

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

17-27a-1002 . Vested critical infrastructure materials use-- Presumption.

(1)(a) ~~[Critical-]~~ A critical infrastructure materials [operations operating in accordance with a legal nonconforming use or a permit issued by the county are conclusively] use is presumed to be a vested critical infrastructure materials [operations] use if the critical infrastructure materials [operations permitted by the county, existed or was conducted or otherwise engaged in before January 1, 2019 and before when a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations.] use meets the definition of vested critical infrastructure materials use as defined in Section 17-271-1001.

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

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

(a) runs with the land; and

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

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

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

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

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

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

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

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

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

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

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

(a) progress, extend, enlarge, grow, or expand the vested critical infrastructure materials use to any contiguous land that the critical infrastructure materials operator owns or controls before May 7, 2025;

(b) expand the vested critical infrastructure materials use to new land that is contiguous land to the surface or subsurface land on which the critical infrastructure materials operator has a vested critical infrastructure materials use, including the surface or subsurface land under Subsection (1)(a);

~~[(1)]~~ (c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings[; and] , on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025;

(d) on any surface or subsurface land that the critical infrastructure materials operator owns or controls before May 7, 2025:

(i) increase production or volume;

(ii) alter the method of extracting or processing, including with respect to the vested use, the right to stockpile or hold in reserve critical infrastructure materials, to recycle, and to batch and mix concrete and asphalt; and

(iii) extract or process a different or additional critical infrastructure material than previously extracted or processed on the surface or subsurface land; and

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

- (2)(a) As used in this Subsection (2), "applicable legislative body" means the legislative body of each:
- (i) county in whose unincorporated area the new land to be included in the vested critical infrastructure materials use is located; or
 - (ii) municipality in which the new land to be included in the critical infrastructure use is located.
- (b) A critical infrastructure materials operator with a vested critical infrastructure materials use is presumed to have a right to expand the vested critical infrastructure materials use to new land.
- (c) Before expanding a vested critical infrastructure materials use to new land, a critical infrastructure materials operator shall provide written notice:
- (i) of the critical infrastructure materials operator's intent to expand the vested critical infrastructure materials use; and
 - (ii) to each applicable legislative body.
- (d)(i) An applicable legislative body shall:
- (A) hold a public meeting or hearing at the applicable legislative body's next available meeting that is no later than 30 days after receiving the notice under Subsection (2)(c); and
 - (B) provide reasonable, advance, written notice of the intended expansion of the vested critical infrastructure materials use and the public meeting or hearing to each owner of the surface estate of the new land.
- (ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide sufficient public notice of the critical infrastructure materials operator's intent to expand the vested critical infrastructure materials use to the new land.
- (e) After the public meeting or hearing under Subsection (2)(d)(i), a critical infrastructure materials operator may expand a vested critical infrastructure materials use to new land without any action by an applicable legislative body, unless the applicable legislative body finds by the preponderance of the evidence on the record that the expansion to new land will endanger the public health, safety, and welfare. If the applicable legislative body makes the finding of endangerment described in this Subsection (2)(e), Subsection (4) applies.
- (3) If a critical infrastructure materials operator expands a vested critical infrastructure materials use to new land, as authorized under this section:
- (a) the critical infrastructure materials operator's rights under the vested critical

infrastructure materials use with respect to land on which the vested critical infrastructure materials use occurs apply with equal force after the expansion to the new land; and

(b) the critical infrastructure materials protection area that includes land on which the vested critical infrastructure materials use occurs is expanded to include the new land.

(4)(a) If the applicable legislative body makes the finding of endangerment described in Subsection (2)(e):

(i) the critical infrastructure materials operator shall submit to the applicable legislative body the critical infrastructure materials operator's plan for expansion under this section;

(ii) by no later than 90 days after receipt of the plan for expansion described in Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:

(A) evidence that the expansion to new land will endanger the public health, safety, and welfare; and

(B) proposed measures to mitigate the endangerment of the public health, safety, and welfare; and

(iii) the applicable legislative body shall hold a public hearing by no later than 30 days after the date the applicable legislative body complies with Subsection (4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).

(b) The applicable legislative body may impose mitigation measures under this Subsection (4) that are reasonable and do not exceed requirements imposed by permits issued by a state agency such as an air quality permit.

(c) A political subdivision may not prohibit the expansion of a vested critical infrastructure use if the critical infrastructure materials operator agrees to comply with the mitigation measures described in Subsection (4)(b).

(d) The process under this Subsection (4) is not a land use application or conditional use application under this chapter.

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

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

(1) A critical infrastructure materials operator may abandon some or all of a vested critical infrastructure materials [~~operations~~]use only as provided in this section.

(2) To abandon some or all of a vested critical infrastructure materials [~~operations~~] use, a critical infrastructure materials operator shall record a written declaration of abandonment with the recorder of the county in which the vested critical infrastructure

materials [~~operations~~] use being abandoned is located.

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

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

17-41-101 . Definitions.

As used in this chapter:

- (1) "Advisory board" means:

- (a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section 17-41-201;
- (b) for an industrial protection area, the industrial protection area advisory board created as provided in Section 17-41-201; and
- (c) for a critical infrastructure materials protection area, the critical infrastructure materials protection area advisory board created as provided in Section 17-41-201.

- (2)(a) "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.

- (b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.

- (3) "Agriculture protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

- (4) "Applicable legislative body" means:

- (a) with respect to a proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area:
 - (i) the legislative body of the county in which the land proposed to be included in the relevant protection area is located, if the land is within the unincorporated part of the county; or
 - (ii) the legislative body of the city or town in which the land proposed to be included in the relevant protection area is located; and
- (b) with respect to an existing agriculture protection area, industrial protection area, or critical infrastructure materials protection area:
 - (i) the legislative body of the county in which the relevant protection area is located, if the relevant protection area is within the unincorporated part of the county; or
 - (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).

- 471 (17)(a) "Municipal" means of or relating to a city or town.
- 472 (b) "Municipality" means a city or town.
- 473 (18) "New land" means surface or subsurface land or mineral estate that a mine operator
- 474 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;
- 483 (b) a planning advisory area planning commission if the land proposed to be included in
- 484 the agriculture protection area, industrial protection area, or critical infrastructure
- 485 materials protection area is within a planning advisory area; or
- 486 (c) a planning commission of a city or town if the land proposed to be included in the
- 487 agriculture protection area, industrial protection area, or critical infrastructure
- 488 materials protection area is within a city or town.
- 489 (22) "Political subdivision" means a county, city, town, school district, special district, or
- 490 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,
- 496 institution, officer, corporation, fund, division, office, committee, authority, laboratory,
- 497 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.
- 503 Section 10. Section **17-41-402** is amended to read:
- 504 **17-41-402 . Limitations on local regulations.**

- (1) A political subdivision within which an agriculture protection area, industrial protection area, or critical infrastructure materials protection area is created or with a mining protection area within its boundary shall encourage the continuity, development, and viability of agriculture use, industrial use, critical infrastructure materials operations, or mining use, within the relevant protection area by not enacting a local law, ordinance, or regulation that, unless the law, ordinance, or regulation bears a direct relationship to public health or safety, would unreasonably restrict:
- (a) in the case of an agriculture protection area, a farm structure or farm practice;
 - (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.
- (2) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within an agriculture protection area unless the political subdivision receives written approval for the change from all the landowners within the agriculture protection area affected by the change.
- (3) Except as provided by Section 19-4-113, a political subdivision may not change the zoning designation of or a zoning regulation affecting land within an industrial protection area unless the political subdivision receives written approval for the change 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.
- (5) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within a mining protection area unless the political subdivision receives written approval for the change from each mine operator within the area.
- (6) A county, city, or town may not:
- (a) adopt, enact, or amend an existing land use regulation, ordinance, or regulation that would prohibit, restrict, regulate, or otherwise limit critical infrastructure materials operations~~[, including]~~ with a vested critical infrastructure materials [operations] use 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

described in Subsection 10-9a-509(1)(a)(ii) or 17-27a-508(1)(a)(ii) as it regards the rights of a critical infrastructure materials operator with a vested critical infrastructure materials use.

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

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

(1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a mining use adopted after the establishment of the mining use, the rights of a mine operator with a vested mining use include the rights to:

- (a) progress, extend, enlarge, grow, or expand the vested mining use to any surface or subsurface land or mineral estate that the mine operator owns or controls;
- (b) expand the vested mining use to any new land that:
 - (i) is contiguous and related in mineralization to surface or subsurface land or a mineral estate that the mine operator already owns or controls;
 - (ii) contains minerals that are part of the same mineral trend as the minerals that the mine operator already owns or controls; or
 - (iii) is a geologic offshoot to surface or subsurface land or a mineral estate that the mine operator already owns or controls;
- (c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings on any surface or subsurface land or mineral estate that the mine operator owns or controls;
- (d) increase production or volume, alter the method of mining or processing, and mine or process a different or additional mineral than previously mined or owned on any surface or subsurface land or mineral estate that the mine operator owns or controls; and
- (e) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily or permanently, all or any part of the mining use.

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

- (i) county in whose unincorporated area the new land to be included in the vested mining use is located; and
- (ii) municipality in which the new land to be included in the vested mining use is located.

(b) A mine operator with a vested mining use is presumed to have a right to expand the vested mining use to new land.

(c) Before expanding a vested mining use to new land, a mine operator shall provide written notice:

(i) of the mine operator's intent to expand the vested mining use; and

(ii) to each applicable legislative body.

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

(A) hold a public meeting or hearing at its next available meeting that is more than 10 days after receiving the notice under Subsection (2)(c); and

(B) provide reasonable, advance, written notice:

(I) of:

(Aa) the intended expansion of the vested mining use; and

(Bb) the public meeting or hearing; and

(II) to each owner of the surface estate of the new land.

(ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide sufficient public notice of the mine operator's intent to expand the vested mining use to the new land.

(e) After the public meeting or hearing under Subsection (2)(d)(ii), a mine operator may expand a vested mining use to new land without any action by an applicable legislative body, unless the applicable legislative body finds that there is clear and convincing evidence in the record that the expansion to new land will imminently endanger the public health, safety, and welfare. If the applicable legislative body makes the finding of endangerment described in this Subsection (2)(e), Subsection (4) applies.

(3) If a mine operator expands a vested mining use to new land, as authorized under this section:

(a) the mine operator's rights under the vested mining use with respect to land on which the vested mining use occurs apply with equal force after the expansion to the new land; and

(b) the mining protection area that includes land on which the vested mining use occurs is expanded to include the new land.

(4)(a) If the applicable legislative body makes the finding of endangerment described in Subsection (2)(e):

(i) the mining operator shall submit to the applicable legislative body the mining

- operator's plan for expansion under this section;
- (ii) by no later than 30 days after receipt of the plan for expansion described in Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:
- (A) evidence that the expansion to new land will endanger the public health, safety, and welfare; and
- (B) proposed measures to mitigate the endangerment of the public health, safety, and welfare; and
- (iii) the applicable legislative body shall hold a public hearing by no later than 30 days after the date the applicable legislative body complies with Subsection (4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).
- (b) The applicable legislative body may impose mitigation measures under this Subsection (4) that are reasonable and do not exceed requirements imposed by permits issued by a state agency such as an air quality permit.
- (c) A political subdivision may not prohibit the expansion of a vested mining use if the mining operator agrees to comply with the mitigation measures described in Subsection (4)(b).
- (d) The process under this Subsection (4) is not a land use application or conditional use application under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, or Chapter 27a, County Land Use, Development, and Management Act.

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

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

- (1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action.
- (2) A nuisance may include the following:
- (a) drug houses and drug dealing as provided in Section 78B-6-1107;
- (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;
- (c) criminal activity committed in concert with three or more persons as provided in Section 76-3-203.1;
- (d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;
- (e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

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

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

(3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a 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).

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

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

(b) a hotel or motel room.

(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 57-19-2.

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

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

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

(9) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or 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.