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Wayne A. Harper 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. Sandali
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) "Commercial quantities," for purposes of this section, means critical infrastructure
<u>materials:</u>
(a) extracted or processed by a commercial enterprise in the ordinary course of business;
<u>and</u>
(b) in a sufficient amount that the critical infrastructure materials introduction into
commerce would create a reasonable expectation of profit.
(2) "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.
(3) "Critical infrastructure materials" means sand, gravel, or rock aggregate.
$[\underbrace{(2)}]$ $[\underbrace{4}]$ "Critical infrastructure materials [operations] \underline{use} " means the extraction, excavation,
processing, or reprocessing of critical infrastructure materials.
[(3)] (5) "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.
(6) "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

63	months; or
64	(b) a permit issued by the applicable political subdivision.
65	(7) "New land" means surface or subsurface land that a critical infrastructure materials
66	operator gains ownership or control of on or before January 1, 2026, regardless of
67	whether that land is included in any applicable permit issued by a political subdivision
68	or a legal nonconforming use.
69	$[\underbrace{(4)}]$ (8) "Vested critical infrastructure materials [operations] use" means a critical
70	infrastructure materials [operations operating in accordance with a legal nonconforming
71	use or a permit issued by the municipality that existed or was conducted or otherwise
72	engaged in before:] use by a critical infrastructure materials operator that is an existing
73	<u>legal use.</u>
74	[(a) a political subdivision prohibits, restricts, or otherwise limits the critical
75	infrastructure materials operations; and]
76	[(b) January 1, 2019.]
77	Section 2. Section 10-9a-902 is amended to read:
78	10-9a-902. Vested critical infrastructure materials use Presumption.
79	(1)(a) [Critical A critical infrastructure materials [operations operating in accordance
80	with a legal nonconforming use or a permit issued by the municipality are
81	eonelusively] use is presumed to be a vested critical infrastructure materials [
82	operations] use if the critical infrastructure materials [operations permitted by the
83	municipality, existed or was conducted or otherwise engaged in before January 1,
84	2019 and before when a political subdivision prohibits, restricts, or otherwise limits
85	the critical infrastructure materials operations.] use meets the definition of vested
86	critical infrastructure use in Section 10-9a-901.
87	(b) A person claiming that a vested critical infrastructure materials [operations has been]
88	use has not been established has the burden of proof to show by the preponderance of
89	the evidence that the vested critical infrastructure materials [operations] use has not
90	been established.
91	(2) A vested critical infrastructure materials [operations] use:
92	(a) runs with the land; and
93	(b) may be changed to another critical infrastructure materials [operations conducted
94	within the scope of a legal nonconforming use or the permit for the vested critical
95	infrastructure materials operations] use without losing its status as a vested critical
96	infrastructure materials [operations] use.

97	(3) The present or future boundary of the critical infrastructure materials use of a critical
98	infrastructure materials operator with a vested critical infrastructure materials use does
99	not limit:
100	(a) the scope of rights of a critical infrastructure materials operator with a vested critical
101	infrastructure material use; or
102	(b) the protection for a critical infrastructure materials protection area.
103	(4)(a) A critical infrastructure operator with a vested critical infrastructure materials use
104	shall file a declaration for recording in the office of the recorder of the county in
105	which the vested critical infrastructure materials use is located.
106	(b) A declaration under Subsection (4)(a) shall:
107	(i) contain a legal description of the land included within the vested critical
108	infrastructure materials use; and
109	(ii) provide notice of the vested critical infrastructure materials use.
110	Section 3. Section 10-9a-903 is amended to read:
111	10-9a-903. Rights of a critical infrastructure materials operator with a vested
112	critical infrastructure materials use.
113	(1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation
114	on a critical infrastructure materials [operations] use adopted after the establishment of
115	the critical infrastructure materials [operations] use, the rights of a critical infrastructure
116	materials operator with <u>a</u> vested critical infrastructure materials [$\frac{\text{operations}}{\text{operations}}$] <u>use</u> include
117	with respect to that existing legal use the right to:
118	(a) progress, extend, enlarge, grow, or expand the vested critical infrastructure materials
119	use to any contiguous land that the critical infrastructure materials operator owns or
120	controls before May 7, 2025;
121	(b) expand the vested critical infrastructure materials use to new land that is contiguous
122	land to the surface or subsurface land on which the critical infrastructure materials
123	operator has a vested critical infrastructure materials use, including the surface or
124	subsurface land under Subsection (1)(a);
125	[(1)] (c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair,
126	alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and
127	buildings[; and] on any surface or subsurface land that the critical infrastructure
128	materials operator owns or controls before May 7, 2025;
129	(d) on any surface or subsurface land that the critical infrastructure materials operator
130	owns or controls before May 7, 2025:

131	(i) increase production or volume;
132	(ii) alter the method of extracting or processing, including with respect to the vested
133	use, the right to stockpile or hold in reserve critical infrastructure materials, to
134	recycle, and to batch and mix concrete and asphalt; and
135	(iii) extract or process a different or additional critical infrastructure material than
136	previously extracted or processed on the surface or subsurface land; and
137	[(2)] (e) discontinue, suspend, terminate, deactivate, or continue and reactivate,
138	temporarily or permanently, all or any part of the critical infrastructure materials [
139	operations] use.
140	(2)(a) As used in this Subsection (2), "applicable legislative body" means the legislative
141	body of each:
142	(i) county in whose unincorporated area the new land to be included in the vested
143	critical infrastructure materials use is located; or
144	(ii) municipality in which the new land to be included in the critical infrastructure
145	materials use is located.
146	(b) A critical infrastructure materials operator with a vested critical infrastructure
147	materials use is presumed to have a right to expand the vested critical infrastructure
148	materials use to new land.
149	(c) Before expanding a vested critical infrastructure materials use to new land, a critical
150	infrastructure materials operator shall provide written notice:
151	(i) of the critical infrastructure materials operator's intent to expand the vested critical
152	infrastructure materials use; and
153	(ii) to each applicable legislative body.
154	(d)(i) An applicable legislative body shall:
155	(A) hold a public meeting or hearing at the applicable legislative body's next
156	available meeting that is no later than 30 days after receiving the notice under
157	Subsection (2)(c); and
158	(B) provide reasonable, advance, written notice of the intended expansion of the
159	vested critical infrastructure materials use and the public meeting or hearing to
160	each owner of the surface estate of the new land.
161	(ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide
162	sufficient public notice of the critical infrastructure materials operator's intent to
163	expand the vested critical infrastructure materials use to the new land.
164	(e) After the public meeting or hearing under Subsection (2)(d)(i), a critical

165	infrastructure materials operator may expand a vested critical infrastructure materials
166	use to new land without any action by an applicable legislative body, unless the
167	applicable legislative body finds by the preponderance of the evidence on the record
168	that the expansion to new land will endanger the public health, safety, and welfare. If
169	the applicable legislative body makes the finding of endangerment described in this
170	Subsection (2)(e), Subsection (4) applies.
171	(3) If a critical infrastructure materials operator expands a vested critical infrastructure
172	materials use to new land, as authorized under this section:
173	(a) the critical infrastructure materials operator's rights under the vested critical
174	infrastructure materials use with respect to land on which the vested critical
175	infrastructure materials use occurs apply with equal force after the expansion to the
176	new land; and
177	(b) the critical infrastructure materials protection area that includes land on which the
178	vested critical infrastructure materials use occurs is expanded to include the new land.
179	(4)(a) If the applicable legislative body makes the finding of endangerment described in
180	Subsection (2)(e):
181	(i) the critical infrastructure materials operator shall submit to the applicable
182	legislative body the critical infrastructure materials operator's plan for expansion
183	under this section;
184	(ii) by no later than 90 days after receipt of the plan for expansion described in
185	Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:
186	(A) evidence that the expansion to new land will endanger the public health,
187	safety, and welfare; and
188	(B) proposed measures to mitigate the endangerment of the public health, safety,
189	and welfare; and
190	(iii) the applicable legislative body shall hold a public hearing by no later than 30
191	days after the date the applicable legislative body complies with Subsection
192	(4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).
193	(b) The applicable legislative body may impose mitigation measures under this
194	Subsection (4) that are reasonable and do not exceed requirements imposed by
195	permits issued by a state agency such as an air quality permit.
196	(c) A political subdivision may not prohibit the expansion of a vested critical
197	infrastructure use if the critical infrastructure materials operator agrees to comply
198	with the mitigation measures described in Subsection (4)(b).

199	(d) The process under this Subsection (4) is not a land use application or conditional use
200	application under this chapter.
201	Section 4. Section 10-9a-905 is amended to read:
202	10-9a-905. Abandonment of a vested critical infrastructure materials use.
203	(1) A critical infrastructure materials operator may abandon some or all of a vested critical
204	infrastructure materials [operations-]use only as provided in this section.
205	(2) To abandon some or all of a vested critical infrastructure materials [operations] use, a
206	critical infrastructure materials operator shall record a written declaration of
207	abandonment with the recorder of the county in which the vested critical infrastructure
208	materials [operations] use being abandoned is located.
209	(3) The written declaration of abandonment under Subsection (2) shall specify the vested
210	critical infrastructure materials [operations] use or the portion of the vested critical
211	infrastructure materials [operations] use being abandoned.
212	Section 5. Section 17-27a-1001 is amended to read:
213	17-27a-1001 . Definitions.
214	As used in this part:
215	(1) "Commercial quantities," for purposes of this section, means critical infrastructure
216	materials:
217	(a) extracted or processed by a commercial enterprise in the ordinary course of business;
218	<u>and</u>
219	(b) in a sufficient amount that the critical infrastructure materials introduction into
220	commerce would create a reasonable expectation of profit.
221	(2) "Contiguous land" means surface or subsurface land that shares a common boundary
222	and is not separated by a highway as defined in Section 41-6a-102.
223	(3) "Critical infrastructure materials" means sand, gravel, or rock aggregate.
224	[(2)] (4) "Critical infrastructure materials [operations] use" means the extraction, excavation,
225	processing, or reprocessing of critical infrastructure materials.
226	[(3)] (5) "Critical infrastructure materials operator" means a natural person, corporation,
227	association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary,
228	agent, or other organization or representative, either public or private, including a
229	successor, assign, affiliate, subsidiary, and related parent company, that:
230	(a) owns, controls, or manages a critical infrastructure materials [operations] use; and
231	(b) has produced commercial quantities of critical infrastructure materials from the
232	critical infrastructure materials [operations] use

233	(6) "Existing legal use" means a critical infrastructure materials use that has operated in
234	accordance with:
235	(a) a legal nonconforming use that has not been abandoned for more than 24 consecutive
236	months; or
237	(b) a permit issued by the applicable political subdivision.
238	(7) "New land" means surface or subsurface land that a critical infrastructure materials
239	operator gains ownership or control of on or before January 1, 2026, regardless of
240	whether that land is included in any applicable permit issued by a political subdivision
241	or a legal nonconforming use.
242	$[\underbrace{(4)}]$ (8) "Vested critical infrastructure materials [operations] use" means a critical
243	infrastructure materials operations [operating in accordance with a legal nonconforming
244	use or a permit issued by the county that existed or was conducted or otherwise engaged
245	in before:]
246	[(a) a political subdivision prohibits, restricts, or otherwise limits the critical
247	infrastructure materials operations; and]
248	[(b) January 1, 2019] use by a critical infrastructure materials operator that is an existing
249	<u>legal use</u> .
250	Section 6. Section 17-27a-1002 is amended to read:
251	17-27a-1002 . Vested critical infrastructure materials use Presumption.
252	(1)(a) [Critical A critical infrastructure materials [operations operating in accordance
253	with a legal nonconforming use or a permit issued by the county are conclusively] use
254	\underline{is} presumed to be \underline{a} vested critical infrastructure materials [operations] \underline{use} if the
255	critical infrastructure materials [operations permitted by the county, existed or was
256	conducted or otherwise engaged in before January 1, 2019 and before when a
257	political subdivision prohibits, restricts, or otherwise limits the critical infrastructure
258	materials operations.] use meets the definition of vested critical infrastructure
259	materials use as defined in Section 17-27a-1001.
260	(b) A person claiming that a vested critical infrastructure materials [operations has been]
261	use has not been established has the burden of proof to show by the preponderance of
262	the evidence that the vested critical infrastructure materials [operations has been] use
263	has not been established.
264	(2) A vested critical infrastructure materials [operations] <u>use</u> :
265	(a) runs with the land; and
266	(b) may be changed to another critical infrastructure materials [operations conducted

267	within the scope of a legal nonconforming use or the permit for the vested critical
268	infrastructure materials operations] use without losing its status as a vested critical
269	infrastructure materials [operations] use.
270	(3) The present or future boundary of the critical infrastructure materials use of a critical
271	infrastructure materials operator with a vested critical infrastructure materials use does
272	not limit:
273	(a) the scope of rights of a critical infrastructure materials operator with a vested critical
274	infrastructure material use; or
275	(b) the protection for a critical infrastructure materials protection area.
276	(4)(a) A critical infrastructure operator with a vested critical infrastructure materials use
277	shall file a declaration for recording in the office of the recorder of the county in
278	which the vested critical infrastructure materials use is located.
279	(b) A declaration under Subsection (4)(a) shall:
280	(i) contain a legal description of the land included within the vested critical
281	infrastructure materials use; and
282	(ii) provide notice of the vested critical infrastructure materials use.
283	Section 7. Section 17-27a-1003 is amended to read:
284	17-27a-1003. Rights of a critical infrastructure materials operator with a vested
285	critical infrastructure materials use.
286	(1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation
287	on a critical infrastructure materials [operations] use adopted after the establishment of
288	the critical infrastructure materials [operations] use, the rights of a critical infrastructure
289	materials operator with \underline{a} vested critical infrastructure materials [operations] \underline{use} include
290	with respect to that existing legal use the right to:
291	(a) progress, extend, enlarge, grow, or expand the vested critical infrastructure materials
292	use to any contiguous land that the critical infrastructure materials operator owns or
293	controls before May 7, 2025;
294	(b) expand the vested critical infrastructure materials use to new land that is contiguous
295	land to the surface or subsurface land on which the critical infrastructure materials
296	operator has a vested critical infrastructure materials use, including the surface or
297	subsurface land under Subsection (1)(a);
298	[(1)] (c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair,
299	alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and
300	buildings[; and], on any surface or subsurface land that the critical infrastructure

301	materials operator owns or controls before May 7, 2025;
302	(d) on any surface or subsurface land that the critical infrastructure materials operator
303	owns or controls before May 7, 2025:
304	(i) increase production or volume;
305	(ii) alter the method of extracting or processing, including with respect to the vested
306	use, the right to stockpile or hold in reserve critical infrastructure materials, to
307	recycle, and to batch and mix concrete and asphalt; and
308	(iii) extract or process a different or additional critical infrastructure material than
309	previously extracted or processed on the surface or subsurface land; and
310	[(2)] (e) discontinue, suspend, terminate, deactivate, or continue and reactivate,
311	temporarily or permanently, all or any part of the critical infrastructure materials [
312	operations] <u>use</u> .
313	(2)(a) As used in this Subsection (2), "applicable legislative body" means the legislative
314	body of each:
315	(i) county in whose unincorporated area the new land to be included in the vested
316	critical infrastructure materials use is located; or
317	(ii) municipality in which the new land to be included in the critical infrastructure use
318	is located.
319	(b) A critical infrastructure materials operator with a vested critical infrastructure
320	materials use is presumed to have a right to expand the vested critical infrastructure
321	materials use to new land.
322	(c) Before expanding a vested critical infrastructure materials use to new land, a critical
323	infrastructure materials operator shall provide written notice:
324	(i) of the critical infrastructure materials operator's intent to expand the vested critical
325	infrastructure materials use; and
326	(ii) to each applicable legislative body.
327	(d)(i) An applicable legislative body shall:
328	(A) hold a public meeting or hearing at the applicable legislative body's next
329	available meeting that is no later than 30 days after receiving the notice under
330	Subsection (2)(c); and
331	(B) provide reasonable, advance, written notice of the intended expansion of the
332	vested critical infrastructure materials use and the public meeting or hearing to
333	each owner of the surface estate of the new land.
334	(ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide

335	sufficient public notice of the critical infrastructure materials operator's intent to
336	expand the vested critical infrastructure materials use to the new land.
337	(e) After the public meeting or hearing under Subsection (2)(d)(i), a critical
338	infrastructure materials operator may expand a vested critical infrastructure materials
339	use to new land without any action by an applicable legislative body, unless the
340	applicable legislative body finds by the preponderance of the evidence on the record
341	that the expansion to new land will endanger the public health, safety, and welfare. If
342	the applicable legislative body makes the finding of endangerment described in this
343	Subsection (2)(e), Subsection (4) applies.
344	(3) If a critical infrastructure materials operator expands a vested critical infrastructure
345	materials use to new land, as authorized under this section:
346	(a) the critical infrastructure materials operator's rights under the vested critical
347	infrastructure materials use with respect to land on which the vested critical
348	infrastructure materials use occurs apply with equal force after the expansion to the
349	new land; and
350	(b) the critical infrastructure materials protection area that includes land on which the
351	vested critical infrastructure materials use occurs is expanded to include the new land
352	(4)(a) If the applicable legislative body makes the finding of endangerment described in
353	Subsection (2)(e):
354	(i) the critical infrastructure materials operator shall submit to the applicable
355	legislative body the critical infrastructure materials operator's plan for expansion
356	under this section;
357	(ii) by no later than 90 days after receipt of the plan for expansion described in
358	Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:
359	(A) evidence that the expansion to new land will endanger the public health,
360	safety, and welfare; and
361	(B) proposed measures to mitigate the endangerment of the public health, safety,
362	and welfare; and
363	(iii) the applicable legislative body shall hold a public hearing by no later than 30
364	days after the date the applicable legislative body complies with Subsection
365	(4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).
366	(b) The applicable legislative body may impose mitigation measures under this
367	Subsection (4) that are reasonable and do not exceed requirements imposed by
368	permits issued by a state agency such as an air quality permit.

369	(c) A political subdivision may not prohibit the expansion of a vested critical
370	infrastructure use if the critical infrastructure materials operator agrees to comply
371	with the mitigation measures described in Subsection (4)(b).
372	(d) The process under this Subsection (4) is not a land use application or conditional use
373	application under this chapter.
374	Section 8. Section 17-27a-1005 is amended to read:
375	17-27a-1005. Abandonment of a vested critical infrastructure materials use.
376	(1) A critical infrastructure materials operator may abandon some or all of a vested critical
377	infrastructure materials [operations-]use only as provided in this section.
378	(2) To abandon some or all of a vested critical infrastructure materials [operations] use, a
379	critical infrastructure materials operator shall record a written declaration of
380	abandonment with the recorder of the county in which the vested critical infrastructure
381	materials [operations] use being abandoned is located.
382	(3) The written declaration of abandonment under Subsection (2) shall specify the vested
383	critical infrastructure materials [operations] use or the portion of the vested critical
384	infrastructure materials [operations] use being abandoned.
385	Section 9. Section 17-41-101 is amended to read:
386	17-41-101 . Definitions.
387	As used in this chapter:
388	(1) "Advisory board" means:
389	(a) for an agriculture protection area, the agriculture protection area advisory board
390	created as provided in Section 17-41-201;
391	(b) for an industrial protection area, the industrial protection area advisory board created
392	as provided in Section 17-41-201; and
393	(c) for a critical infrastructure materials protection area, the critical infrastructure
394	materials protection area advisory board created as provided in Section 17-41-201.
395	(2)(a) "Agriculture production" means production for commercial purposes of crops,
396	livestock, and livestock products.
397	(b) "Agriculture production" includes the processing or retail marketing of any crops,
398	livestock, and livestock products when more than 50% of the processed or
399	merchandised products are produced by the farm operator.
400	(3) "Agriculture protection area" means a geographic area created under the authority of
401	this chapter that is granted the specific legal protections contained in this chapter.
402	(4) "Applicable legislative body" means:

403	(a) with respect to a proposed agriculture protection area, industrial protection area, or
404	critical infrastructure materials protection area:
405	(i) the legislative body of the county in which the land proposed to be included in
406	relevant protection area is located, if the land is within the unincorporated part
407	the county; or
408	(ii) the legislative body of the city or town in which the land proposed to be includ
409	in the relevant protection area is located; and
410	(b) with respect to an existing agriculture protection area, industrial protection area, or
411	critical infrastructure materials protection area:
412	(i) the legislative body of the county in which the relevant protection area is locate
413	if the relevant protection area is within the unincorporated part of the county; or
414	(ii) the legislative body of the city or town in which the relevant protection area is
415	located.
416	(5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.
417	(6) "Critical infrastructure materials" means sand, gravel, or rock aggregate.
418	(7) "Critical infrastructure materials operations" means the extraction, excavation,
419	processing, or reprocessing of critical infrastructure materials.
420	(8) "Critical infrastructure materials operator" means a natural person, corporation,
421	association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary,
422	agent, or other organization or representative, either public or private, including a
423	successor, assign, affiliate, subsidiary, and related parent company, that:
424	(a) owns, controls, or manages a critical infrastructure materials operation; and
425	(b) has produced commercial quantities of critical infrastructure materials from the
426	critical infrastructure materials operations.
427	(9) "Critical infrastructure materials protection area" means a geographic area created under
428	the authority of this chapter on or after May 14, 2019, that is granted the specific legal
429	protections contained in this chapter.
430	(10) "Crops, livestock, and livestock products" includes:
431	(a) land devoted to the raising of useful plants and animals with a reasonable expectation
432	of profit, including:
433	(i) forages and sod crops;
434	(ii) grains and feed crops;
435	(iii) livestock as defined in Section 59-2-102;
436	(iv) trees and fruits; or

437	(v) vegetables, nursery, floral, and ornamental stock; or
438	(b) land devoted to and meeting the requirements and qualifications for payments or
439	other compensation under a crop-land retirement program with an agency of the state
440	or federal government.
441	(11) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.
442	(12) "Industrial protection area" means a geographic area created under the authority of this
443	chapter that is granted the specific legal protections contained in this chapter.
444	(13) "Mine operator" means a natural person, corporation, association, partnership,
445	receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other
446	organization or representative, either public or private, including a successor, assign,
447	affiliate, subsidiary, and related parent company, that, [as of] before January 1, 2019:
448	(a) owns, controls, or manages a mining use under a large mine permit issued by the
449	division or the board; and
450	(b) has produced commercial quantities of a mineral deposit from the mining use.
451	(14) "Mineral deposit" means the same as that term is defined in Section 40-8-4.
452	(15) "Mining protection area" means land where a vested mining use occurs, including each
453	surface or subsurface land or mineral estate that a mine operator with a vested mining
454	use owns or controls on January 1, 2026.
455	(16) "Mining use":
456	(a) means:
457	(i) the full range of activities, from prospecting and exploration to reclamation and
458	closure, associated with the exploitation of a mineral deposit; and
459	(ii) the use of the surface and subsurface and groundwater and surface water of an
460	area in connection with the activities described in Subsection (16)(a)(i) that have
461	been, are being, or will be conducted; and
462	(b) includes, whether conducted on-site or off-site:
463	(i) any sampling, staking, surveying, exploration, or development activity;
464	(ii) any drilling, blasting, excavating, or tunneling;
465	(iii) the removal, transport, treatment, deposition, and reclamation of overburden,
466	development rock, tailings, and other waste material;
467	(iv) any removal, transportation, extraction, beneficiation, or processing of ore;
468	(v) any smelting, refining, autoclaving, or other primary or secondary processing
469	operation;
470	(vi) the recovery of any mineral left in residue from a previous extraction or

471	processing operation;
472	(vii) a mining activity that is identified in a work plan or permitting document;
473	(viii) the use, operation, maintenance, repair, replacement, or alteration of a building,
474	structure, facility, equipment, machine, tool, or other material or property that
475	results from or is used in a surface or subsurface mining operation or activity;
476	(ix) any accessory, incidental, or ancillary activity or use, both active and passive,
477	including a utility, private way or road, pipeline, land excavation, working,
478	embankment, pond, gravel excavation, mining waste, conveyor, power line,
479	trackage, storage, reserve, passive use area, buffer zone, and power production
480	facility;
481	(x) the construction of a storage, factory, processing, or maintenance facility; and
482	(xi) an activity described in Subsection 40-8-4(19)(a).
483	(17)(a) "Municipal" means of or relating to a city or town.
484	(b) "Municipality" means a city or town.
485	(18) "New land" means surface or subsurface land or mineral estate that a mine operator
486	gains ownership or control of, whether that land or mineral estate is included in the mine
487	operator's large mine permit.
488	(19) "Off-site" means the same as that term is defined in Section 40-8-4.
489	(20) "On-site" means the same as that term is defined in Section 40-8-4.
490	(21) "Planning commission" means:
491	(a) a countywide planning commission if the land proposed to be included in the
492	agriculture protection area, industrial protection area, or critical infrastructure
493	materials protection area is within the unincorporated part of the county and not
494	within a planning advisory area;
495	(b) a planning advisory area planning commission if the land proposed to be included in
496	the agriculture protection area, industrial protection area, or critical infrastructure
497	materials protection area is within a planning advisory area; or
498	(c) a planning commission of a city or town if the land proposed to be included in the
499	agriculture protection area, industrial protection area, or critical infrastructure
500	materials protection area is within a city or town.
501	(22) "Political subdivision" means a county, city, town, school district, special district, or
502	special service district.
503	(23) "Proposal sponsors" means the owners of land in agricultural production, industrial
504	use, or critical infrastructure materials operations who are sponsoring the proposal for

- 505 creating an agriculture protection area, industrial protection area, or critical infrastructure materials protection area.
 - (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.
- 510 (25) "Unincorporated" means not within a city or town.
- 511 (26) "Vested mining use" means a mining use:
 - (a) by a mine operator; and
 - (b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.
 - Section 10. Section 17-41-402 is amended to read:

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

539		affecting land within a critical infrastructure materials protection area unless the political
540		subdivision receives written approval for the change from each critical infrastructure
541		materials operator within the relevant area.
542	(5)	A political subdivision may not change the zoning designation of or a zoning regulation
543		affecting land within a mining protection area unless the political subdivision receives
544		written approval for the change from each mine operator within the area.
545	(6)	A county, city, or town may not:
546		(a) adopt, enact, or amend an existing land use regulation, ordinance, or regulation that
547		would prohibit, restrict, regulate, or otherwise limit critical infrastructure materials
548		operations[, including-] with a vested critical infrastructure materials [operations] use
549		as defined in Section 10-9a-901 or 17-27a-1001; or
550		(b) initiate proceedings to amend the county's, city's, or town's land use ordinances as
551		described in Subsection 10-9a-509(1)(a)(ii) or 17-27a-508(1)(a)(ii) as it regards the
552		rights of a critical infrastructure materials operator with a vested critical
553		infrastructure materials use.
554		Section 11. Section 17-41-502 is amended to read:
555		17-41-502. Rights of a mine operator with a vested mining use Expanding
556	ves	ted mining use.
557	(1)	Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a
558		mining use adopted after the establishment of the mining use, the rights of a mine
559		operator with a vested mining use include the rights to:
560		(a) progress, extend, enlarge, grow, or expand the vested mining use to any surface or
561		subsurface land or mineral estate that the mine operator owns or controls;
562		(b) expand the vested mining use to any new land that:
563		(i) is contiguous and related in mineralization to surface or subsurface land or a
564		mineral estate that the mine operator already owns or controls;
565		(ii) contains minerals that are part of the same mineral trend as the minerals that the
566		mine operator already owns or controls; or
567		(iii) is a geologic offshoot to surface or subsurface land or a mineral estate that the
568		mine operator already owns or controls;
569		(c) use, operate, construct, reconstruct, restore, extend, expand, maintain, repair, alter,
570		substitute, modernize, upgrade, and replace equipment, processes, facilities, and
571		buildings on any surface or subsurface land or mineral estate that the mine operator
572		owns or controls:

573	(d) increase production or volume, alter the method of mining or processing, and mine
574	or process a different or additional mineral than previously mined or owned on any
575	surface or subsurface land or mineral estate that the mine operator owns or controls;
576	and
577	(e) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily
578	or permanently, all or any part of the mining use.
579	(2)(a) As used in this Subsection (2), "applicable legislative body" means the legislative
580	body of each:
581	(i) county in whose unincorporated area the new land to be included in the vested
582	mining use is located; and
583	(ii) municipality in which the new land to be included in the vested mining use is
584	located.
585	(b) A mine operator with a vested mining use is presumed to have a right to expand the
586	vested mining use to new land.
587	(c) Before expanding a vested mining use to new land, a mine operator shall provide
588	written notice:
589	(i) of the mine operator's intent to expand the vested mining use; and
590	(ii) to each applicable legislative body.
591	(d)(i) An applicable legislative body shall:
592	(A) hold a public meeting or hearing at its next available meeting that is more than
593	10 days after receiving the notice under Subsection (2)(c); and
594	(B) provide reasonable, advance, written notice:
595	(I) of:
596	(Aa) the intended expansion of the vested mining use; and
597	(Bb) the public meeting or hearing; and
598	(II) to each owner of the surface estate of the new land.
599	(ii) A public meeting or hearing under Subsection (2)(d)(i) serves to provide
600	sufficient public notice of the mine operator's intent to expand the vested mining
601	use to the new land.
602	(e) After the public meeting or hearing under Subsection (2)(d)(ii), a mine operator may
603	expand a vested mining use to new land without any action by an applicable
604	legislative body, unless the applicable legislative body finds that there is clear and
605	convincing evidence in the record that the expansion to new land will imminently
606	endanger the public health, safety, and welfare. If the applicable legislative body

507	makes the finding of endangerment described in this Subsection (2)(e), Subsection (4)
508	applies.
509	(3) If a mine operator expands a vested mining use to new land, as authorized under this
510	section:
511	(a) the mine operator's rights under the vested mining use with respect to land on which
512	the vested mining use occurs apply with equal force after the expansion to the new
513	land; and
514	(b) the mining protection area that includes land on which the vested mining use occurs
515	is expanded to include the new land.
616	(4)(a) If the applicable legislative body makes the finding of endangerment described in
517	Subsection (2)(e):
518	(i) the mining operator shall submit to the applicable legislative body the mining
519	operator's plan for expansion under this section;
620	(ii) by no later than 30 days after receipt of the plan for expansion described in
521	Subsection (4)(a)(i), the applicable legislative body shall notify the operator of:
522	(A) evidence that the expansion to new land will endanger the public health,
523	safety, and welfare; and
524	(B) proposed measures to mitigate the endangerment of the public health, safety,
525	and welfare; and
526	(iii) the applicable legislative body shall hold a public hearing by no later than 30
527	days after the date the applicable legislative body complies with Subsection
528	(4)(a)(ii) to present mitigation measures proposed under Subsection (4)(a)(ii).
529	(b) The applicable legislative body may impose mitigation measures under this
630	Subsection (4) that are reasonable and do not exceed requirements imposed by
531	permits issued by a state agency such as an air quality permit.
632	(c) A political subdivision may not prohibit the expansion of a vested mining use if the
533	mining operator agrees to comply with the mitigation measures described in
534	Subsection (4)(b).
535	(d) The process under this Subsection (4) is not a land use application or conditional use
636	application under Title 10, Chapter 9a, Municipal Land Use, Development, and
537	Management Act, or Chapter 27a, County Land Use, Development, and Management
638	Act.
539	Section 12. Section 78B-6-1101 is amended to read:
540	78B-6-1101. Definitions Nuisance Right of action Agriculture operations.

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- 641 (1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an 642 obstruction to the free use of property, so as to interfere with the comfortable enjoyment 643 of life or property. A nuisance may be the subject of an action.
- 644 (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;
- 647 (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.
- 655 (3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a 656 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.
- 666 (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.
- 670 (8) "Critical infrastructure materials operations" means the same as [that term] the term
 671 "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,

675	commodities, or physical objects or where such materials, commodities, or physical
676	objects are combined to form a new material, commodity, or physical object.
677	Section 13. Repealer.
678	This bill repeals:
679	Section 17-41-102, Study of critical infrastructure materials operations and related
680	mining.
681	Section 14. Effective Date.
682	This bill takes effect on May 7, 2025.