

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

### **Engrossed Committee Substitute for Senate Bill 648**

BY SENATORS MORRIS, CHARNOCK, HAMILTON, HELTON,  
QUEEN, ROSE, RUCKER, TAKUBO, WOODRUM, Z.  
MAYNARD, THORNE, PHILLIPS, DEEDS, ROBERTS, SMITH  
(MR. PRESIDENT), AND TARR

[Reported February 13, 2026, from the Committee on  
the Judiciary]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,  
2 designated §15A-14-1, §15A-14-2, §15A-14-3, §15A-14-4, §15A-14-5, §15A-14-6, and  
3 §15A-14-7, relating to promoting the development and availability of strategic and critical  
4 resources through uniform statewide regulation; creating the Strategic and Critical  
5 Resources Act; providing legislative findings and purpose; defining terms and phrases;  
6 providing for state preemption of certain local regulations; clarifying the applicability of  
7 federal law, state statute and rule, and certain taxes, rates, charges, and fees; establishing  
8 certain foreign ownership limitations and restricted commerce entities; clarifying  
9 application of the act to certain activities of certain foreign adversaries; and requiring  
10 legislative rules.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 12. STRATEGIC AND CRITICAL RESOURCES.**

### **§5B-12-1. Short title.**

1 This article is and may be cited as the Strategic and Critical Resources Act.

### **§5B-12-2. Legislative findings and purpose.**

1 (a) The Legislature finds that certain minerals and materials are essential to national  
2 security, the welfare of this state, energy reliability, critical infrastructure, and economic stability,  
3 and that their availability is vulnerable to supply disruptions and foreign dependence.

4 (b) The purpose of this article is to:

5 (1) Promote the development and availability of strategic and critical resources through  
6 uniform statewide regulation;

7 (2) Reserve regulatory authority to the state and federal governments; and

8 (3) Preempt local regulation, except as expressly provided.

### **§5B-12-3. Definitions.**

1 As used in this article:

"Extraction" means the mining, removal, production, or recovery of a strategic and critical resource by a person lawfully entitled to do so;

"Foreign adversary" means any foreign government, foreign organization, or foreign person identified or designated as a foreign adversary under federal law, including entities listed on the U.S. Department of Commerce Entity List (15 C.F.R. Part 744, Supplement No. 4), or any successor designation;

"Strategic and critical resource" means any of the following items, to the extent intended to be or actually extracted, mined, withdrawn, removed, harvested, or produced from within or upon land:

(1) Aluminum, aluminum oxide fused crude, antimony, arsenic, barite, beryllium, beryl ore, bismuth, boron, cadmium, cerium, cesium, chromium, cobalt, copper, dysprosium, erbium, europium, ferrochromium, ferromanganese, fluorine, fluorspar, gadolinium, gallium, germanium, graphite, hafnium, holmium, indium, iridium, lanthanum, lead, lithium, lutetium, magnesium, manganese, mercury, molybdenum, neodymium, nickel, niobium, palladium, phosphate, platinum, potash, praseodymium, rhenium, rhodium, rubber (natural), rubidium, ruthenium, samarium, scandium, selenium, silicon, silver, strontium, tantalum, tellurium, terbium, thulium, tin, titanium, tungsten, uranium, vanadium, ytterbium, yttrium, zinc, and zirconium;

(2) Any other mineral, element, compound, substance, or material listed on, or designated after, January 1, 2025, pursuant to:

(A) The U.S. Defense Logistics Agency Strategic Materials List;

(B) The U.S. Department of Energy Critical Materials List;

(C) The Defense Production Act of 1950 (50 U.S.C. § 4501 *et seq.*); or

(D) The Energy Act of 2020 (30 U.S.C. § 1606);

(3) Any other mineral, element, compound, substance, or material with respect to which the President of the United States makes a presidential determination or executive order after January 1, 2025, specifying that item as essential to the national defense pursuant to Section

303(a)(5) of the federal Defense Production Act of 1950, as amended (50 U.S.C. § 4533(a)(5));  
and

(4) Any host material from which a strategic or critical resource is intended to be  
economically recovered as a byproduct; and

"Strategic and critical resource facility" means land, structures, equipment, or  
infrastructure reasonably necessary for the extraction of a strategic and critical resource.

**§5B-12-4. State preemption of local regulation.**

(a) Except as provided in this section, a county or municipality may not enact nor enforce  
any ordinance, regulation, resolution, administrative act, or other local law that prohibits, restricts,  
limits, or otherwise regulates the extraction of any strategic and critical resource outside municipal  
or urban areas.

(b) Except as provided in this section, a county or municipality may not enact nor enforce  
any ordinance, regulation, resolution, administrative act, or other local law that prohibits, restricts,  
limits, or otherwise regulates the acquisition, siting, development, construction, equipping, use,  
operation, expansion, repair, or maintenance of any strategic and critical resource facility outside  
municipal or urban areas.

(c) This article does not exempt an owner or operator from compliance with generally  
applicable business licenses, ad valorem property taxation, municipal sales or use taxes, utility  
rates and service charges, municipal service fees, or the State Building Code.

(d) This article does not authorize or permit the acquisition, ownership, lease, control, or  
operation of land or any strategic and critical resource facility by a foreign adversary where such  
activity is prohibited or restricted under federal law, including authorities administered by the U.S.  
Department of Commerce or the Committee on Foreign Investment in the United States.

**§5B-12-5. Federal and state law unaffected.**

(a) This article does not limit the applicability of any federal law governing environmental  
protection, natural resources, or public health, nor any state statute or legislative rule enacted  
pursuant to such a federal law.

4        (b) Except as expressly set forth in this article, this article is not intended to and does not  
5        affect or otherwise limit the applicability of any federal law or state statute or legislative rule  
6        applicable to any item designated a strategic and critical resource in this article.

**§5B-12-6. Foreign ownership and restricted commerce entities.**

1        (a) *Foreign ownership limitations.* – A person or an entity that is directly or indirectly owned  
2        or controlled by a foreign adversary or a foreign government designated under applicable federal  
3        law may not acquire, lease, or hold an ownership interest in land used primarily for extracting  
4        strategic and critical resources, except as expressly authorized by state law.

5        (b) *Restricted entities.* – A person or an entity listed on a federal restricted commerce,  
6        sanctions, or prohibited entities list, including successor lists, may not own, operate, control, or  
7        enter into material commercial agreements with a strategic and critical resource facility where  
8        such involvement would pose a risk to national security or state interests.

**§5B-12-7. Rules.**

1        (a) The Office of Energy shall propose rules for legislative approval in accordance with the  
2        provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article.