

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4985

By Delegates Willis, Linville, Dean, Eldridge, Chiarelli,
Holstein, Stephens, G. Howell, Crouse, Zatezalo, and
J. Cannon

[Introduced January 30, 2026; referred to the
Committee on Energy and Public Works then the
Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §15A-14-1, §15A-14-2, §15A-14-3, §15A-14-4, §15A-14-5, §15A-14-6, and §15A-14-7, relating to strategic and critical resources; providing a short title; providing legislative findings and purpose; providing definitions; allowing for state preemption of local regulations; clarifying the applicability of federal law; establishing foreign ownership limitations and restricted commerce entities; and authorizing rulemaking.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13. STRATEGIC AND CRITICAL RESOURCES.

§15A-14-1. Short title.

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

§15A-14-2. Legislative findings; purpose.

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

The purpose of this article is to promote the development and availability of strategic and critical resources through uniform statewide regulation, to reserve regulatory authority to the state and federal governments, and to preempt local regulation except as expressly provided.

§15A-14-3. Definitions.

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.

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

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and critical resources" means the following items, to the extent intended to be or actually extracted, mined, withdrawn, removed, harvested, or produced from within or upon land: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

"Foreign adversary" means any foreign government, foreign organization, or foreign person identified or designated 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.

§15A-14-4. State preemption of local regulation.

(a) Except as provided in this section, counties and municipalities may not enact or enforce any ordinance, regulation, resolution, administrative act, or other local law that prohibits, restricts,

limits, or otherwise regulates, outside municipal or urban areas, the extraction of strategic and critical resources.

(b) Except as provided in this section, counties and municipalities may not enact or enforce any ordinance, regulation, resolution, administrative act, or other local law that prohibits, restricts, limits, or otherwise regulates, outside municipal or urban areas, the acquisition, siting, development, construction, equipping, use, operation, expansion, repair, or maintenance of strategic and critical resource facilities.

(c) Nothing in this article exempts 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) Nothing in this article shall be construed to authorize or permit the acquisition, ownership, lease, control, or operation of land or strategic and critical resource facilities 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.

§15A-14-5. Federal and state law unaffected.

Nothing in this article shall be construed to limit the applicability of any federal law governing environmental protection, natural resources, or public health, or any state statute or legislative rule enacted pursuant thereto.

Except as expressly set forth in this article, nothing in this article is intended or shall be deemed to affect or otherwise limit the applicability of any federal law or West Virginia statute or legislative rule applicable to any item designated a strategic and critical resource in this article.

§15A-14-6. Foreign Ownership and Restricted Commerce Entities.

(a) Foreign Ownership Limitations. No person or entity owned or controlled, directly or indirectly, by a foreign adversary or a foreign government designated under applicable federal law may acquire, lease, or hold an ownership interest in land used primarily for the extraction of

- 4 strategic and critical resources, except as expressly authorized by state law.
- 5 (b) Restricted Entities. No strategic and critical resource facility may be owned, operated,
- 6 or controlled by, or enter into material commercial agreements with, any person or entity listed on a
- 7 federal restricted commerce, sanctions, or prohibited entities list, including successor lists, where
- 8 such involvement would pose a risk to national security or state interests.

§15A-14-7. Rulemaking authority.

- 1 This department 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.

NOTE: The purpose of this bill is to promote the development and availability of strategic and critical resources through uniform statewide regulation, to reserve regulatory authority to the state and federal governments, and to preempt local regulation except as expressly provided.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.