

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4971

By Delegates Criss, Anderson, Cooper, Heckert,
Fehrenbacher, Street, Young, Hansen, Horst and Hott

[Introduced January 22, 2024; Referred to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §11-6M-1, §11-6M-2, §11-6M-3, §11-6M-4, and §11-6M-5, all relating to limiting
 3 property tax on critical materials manufacturing; and providing an effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6M. CRITICAL MATERIALS MANUFACTURING TAX TREATMENT.

§11-6M-1. Declaration of policy.

1 It is declared to be the public policy of the State of West Virginia to encourage the
 2 manufacturing of critical materials in this state in support of the nation’s economic security. Under
 3 the authority of the Energy Act of 2020, the United States Secretary of Energy has evaluated and
 4 defined a critical material as any non-fuel mineral, element, substance, or material that has a high
 5 risk of supply chain disruption and serves an essential function in one or more technologies,
 6 including technologies that produce, transmit, store, and conserve energy. Having reviewed the
 7 United States Secretary of Energy’s most recent report on critical materials, and, having fully
 8 considered the negative consequences of a supply disruption to the nation’s economy, the
 9 Legislature is compelled to recognize and declare that property which processes or manufactures
 10 critical materials are required for the economic security and general welfare of the people, and
 11 consequently, said property does not have a market value after installation in excess of its salvage
 12 value.

§11-6M-2. Definitions.

1 As used in this article, "critical material manufacturing equipment" means any personal or
 2 real property and fixtures thereon, which are designed, constructed, and installed primarily for the
 3 purpose of processing, concentrating, converting, transforming, or manufacturing "critical
 4 materials."

5 "Critical materials" means any non-fuel mineral, element, substance, or material, the
 6 United States Secretary of Energy has determined, or will in the future determine, has, or will have,
 7 a high risk of supply chain disruption, and which serves, or will serve, an essential function in one

8 or more technologies, including, without limitation, technologies that produce, transmit, store, and
 9 conserve energy. As reported initially by the United States Secretary of Energy in July of 2023,
 10 critical materials are aluminum, cobalt, copper, dysprosium, electrical steel, fluorine, gallium,
 11 iridium, lithium, magnesium, natural graphite, neodymium, nickel, platinum, praseodymium,
 12 silicon, silicon carbide and terbium.

§11-6M-3. Tax treatment of pollution control facilities.

1 Notwithstanding any other provision of this code to contrary, for all assessments made on
 2 or after July 1, 2024, the value of critical material manufacturing equipment, for the purpose of ad
 3 valorem property taxation under this chapter, shall be its salvage value, being no more than five
 4 percent of its fair market value for which such equipment would sell in place if voluntarily offered for
 5 sale by an owner thereof.

§11-6M-4. Rules and Regulations.

1 The State Tax Commissioner shall promulgate rules, including emergency rules, and
 2 create forms for the administration of this article, including the authority to make inquiries and
 3 procure information necessary to establish the salvage valuation. Such rules may provide, among
 4 other things, for the identification and certification of critical material manufacturing equipment, the
 5 determination of whether such equipment is real or personal property, the determination of
 6 methods for the allocation or separation of values where the critical material manufacturing
 7 equipment produces non-critical materials as by-products with commercial value, and such other
 8 matters as may be related to the administration of this article.

§11-6M-5. Effective Date.

1 This article shall be effective for all assessments made on and after July 1, 2024.

NOTE: The purpose of this bill is to limit property tax on critical materials manufacturing.

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