

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4971**

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

[Originating in the Committee on Finance;

Reported on February 14, 2024]



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 property; making a declaration of policy;  
4 providing definitions; providing for property tax treatment of critical materials  
5 manufacturing property as its salvage value; providing for rule making authority and  
6 administration by the Tax Commissioner; and providing an effective date for assessments  
7 on or after July 1, 2024.

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

**ARTICLE 6M. CRITICAL MATERIALS MANUFACTURING PROPERTY 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 materials 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" into a raw material and directly and ancillary to the product process: *Provided*, That the  
5 personal or real property and fixtures used are not critical materials manufacturing equipment  
6 when it turns raw materials into finished goods through the use of tools or machinery, such as,  
7 without limitation, machining, casting, molding, or fabricating.

8 "Critical materials" means any non-fuel mineral, element, substance, or material, the  
9 United States Secretary of Energy has determined, or will in the future determine, has, or will have,  
10 a high risk of supply chain disruption, and which serves, or will serve, an essential function in one  
11 or more technologies, including, without limitation, technologies that produce, transmit, store, and  
12 conserve energy. As reported initially by the United States Secretary of Energy in July of 2023,  
13 critical materials are aluminum, cobalt, copper, dysprosium, electrical steel, fluorine, gallium,  
14 iridium, lithium, magnesium, natural graphite, neodymium, nickel, platinum, praseodymium,  
15 silicon, silicon carbide and terbium.

**§11-6M-3. Property Tax Treatment of Critical Materials Manufacturing Equipment.**

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 materials 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. Rulemaking and Administration by Tax Commissioner.**

1 The State Tax Commissioner shall promulgate rules, including emergency rules, and  
2 create forms for the administration of this article. The Tax Commissioner shall have the authority to  
3 make inquiries and procure information necessary to establish the salvage valuation for such  
4 property. Such rules may provide, among other things, for the identification and certification of  
5 critical materials manufacturing equipment that is directly and ancillary to the product process, the  
6 determination of whether such equipment is real or personal property, the determination of  
7 methods for the allocation or separation of values where the critical materials manufacturing

8 equipment produces non-critical materials as by-products with commercial value, and such other  
9 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.

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