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CRITICAL MINERAL CONSISTENCY ACT DESIGNATION

FEBRUARY 11, 2026.—Ordered to be printed

Mr. LEE, from the Committee on Energy and Natural Resources,
submitted the following

R E P O R T

[To accompany S. 714]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 714) to amend the Energy Act of 2020 to include critical materials in the definition of critical mineral, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title, and recommends that the bill, as amended, do pass.

AMENDMENTS

1. Strike all after the enacting clause and insert the following:

SEC. 1. SHORT TITLE. This Act may be cited as the “Critical Mineral Consistency Act of 2025.”

SEC. 2. CRITICAL MINERALS AND MATERIALS LIST. Section 7002 of the Energy Act of 2020 (30 U.S.C. 1606) is amended—

- (1) in subsection (c)(4)(C), by inserting “minerals or materials” after “critical”;
- (2) by redesignating subsection (o) as subsection (p); and
- (3) by inserting after subsection (n) the following:

“(o) CRITICAL MINERALS AND MATERIALS LIST.—

“(1) IN GENERAL.—Not later than 45 days after the date of enactment of the Critical Mineral Consistency Act of 2025, the Secretary shall publish a Critical Minerals and Materials List, which shall include—

“(A) any critical mineral designated by the Secretary under subsection (c);
and

“(B) any non-fuel mineral, element, substance, or material that the Secretary of Energy has determined to be a critical material under subsection (a)(2) as of that date of enactment.

“(2) UPDATES.—The Secretary shall update the Critical Minerals and Materials List published under paragraph (1)—

“(A) not later than 45 days after the date on which the Secretary updates a critical mineral designation under subsection (c); and

“(B) not later than 45 days after the date on which the Secretary of Energy updates a critical material designation under subsection (a)(2).

“(3) PUBLICATION ALIGNMENT.—To the maximum extent practicable, the Secretary and the Secretary of Energy shall coordinate when updates to the Critical Minerals and Materials List may be required under paragraph (2).

“(4) ADMINISTRATION.—For the purposes of administering programs involving critical minerals or critical materials, the Secretary, the Secretary of Energy, and the heads of other Federal departments and agencies where such department or agency has incorporated by reference the definition of ‘critical mineral’ or ‘critical material’ from this section, as applicable, shall use the most recently published version of the Critical Minerals and Materials List published under paragraph (1).”

2. Amend the title so as to read: “A bill to amend the Energy Act of 2020 to harmonize the lists of critical minerals and critical materials, and for other purposes.”.

PURPOSE

The purpose of S. 714 is to amend the Energy Act of 2020 to harmonize the lists of critical minerals and critical materials.

BACKGROUND AND NEED

Section 7002 of the Energy Act of 2020 requires the Secretary of the Interior to compile and publish a list of “critical minerals”, known as the Critical Minerals List (CML), every three years. Section 7002(a)(3) defines a “critical mineral” as a non-fuel mineral, element, substance or material “designated as critical by the Secretary under subsection (c).” Subsection (c)(4) directs the Secretary to designate as critical minerals those he determines—(i) are essential to the economic or national security of the United States; (ii) the supply chain of which is vulnerable to disruption; and (iii) serve an essential function in the manufacturing of a product that is significant for the economic or national security of the United States. In February 2022, the U.S. Geological Survey published a final list of 50 critical minerals. 87 Fed. Reg. 10381 (Feb. 24, 2022). In November 2025, the Geological Survey published a new list of 60 critical minerals. 90 Fed. Reg. 50494 (Nov. 7, 2025).

Section 7002 also requires the Secretary of Energy to designate “critical materials.” Section 7002(a)(2) defines a “critical material” as either (A) a non-fuel mineral, element, substance, or material that the Secretary of Energy determines: (i) has a high risk of supply chain disruption; and (ii) serves an essential function in one or more energy technologies, or (B) is a “critical mineral” designated by the Secretary of the Interior. The Department of Energy published its Critical Materials List in August 2023. It listed 18 “critical materials for energy” and the 50 “critical minerals” on the Critical Minerals List published by the United States Geological Survey in 2022. 88 Fed. Reg. 51792 (Aug. 4, 2023). It added metallurgical coal used in the production of steel to its Critical Materials List earlier this year. 90 Fed. Reg. 22711 (May 29, 2025).

These two different but overlapping lists have caused considerable confusion. All “critical minerals” designated by the Department of the Interior are, by definition, “critical materials,” but not all minerals or materials designated as “critical materials” by the Department of Energy are “critical minerals.” Six “critical materials” designated by the Department of Energy—copper, electrical

steel, fluorine, silicon, silicon carbide, and metallurgical coal—were not on the Interior Department’s 2022 Critical Mineral List, though two—copper and silicon—have been added to the 2025 Critical Minerals List.

While both lists identify potential supply chain risk in respective elements of the U.S. economy, the discrepancies in the two lists have created negative implications and uncertainty for particular commodities in response to policies and funding opportunities that benefit activities supporting minerals named on one list but not the other. To clear up this confusion, S. 714 requires the Secretary of the Interior to publish a combined “Critical Minerals and Materials List,” which includes both “critical minerals” designated by the Secretary of the Interior and “critical materials” designated by the Secretary of Energy.

LEGISLATIVE HISTORY

S. 714 was introduced by Senators Lee and Kelly on February 25, 2025. Senators Ossoff, Cassidy, Curtis, and Risch cosponsored the bill. Representative Ciscomani introduced a companion measure in the House of Representatives, H.R. 755, on January 28, 2025. The Committee on Energy and Natural Resources held a hearing on March 12, 2025. The Committee ordered S. 714 reported favorably with amendments on April 30, 2025.

Similar legislation, S. 5274, was introduced by Senators Sinema and Lee on September 25, 2024. No further action was taken on S. 5274. A companion to S. 5274, introduced by Representative Ciscomani, passed the House of Representatives on November 14, 2024.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on April 30, 2025, by a majority voice vote of a quorum present, recommends that the Senate pass S. 714, if amended as described herein.

COMMITTEE AMENDMENTS

During its consideration of S. 714, the committee adopted an amendment in the nature of a substitute that directs the consulting agencies to discuss both critical minerals and materials to ensure interagency coordination on both the Department of the Interior (DOI) and Department of Energy (DOE) lists. It directs the Secretary of the Interior to publish within 45 days of enactment a joint “Critical Minerals and Materials List.” This approach would allow DOI and DOE to complete their own reviews of the minerals and materials most critical under their respective methodologies described in the Energy Act of 2020, but would effectively compile their respective findings into a single list. This amendment also requires DOI to update subsequent lists within 45 days of DOE’s updated critical materials list publications. As the lists are currently published on staggered cadences, the amendment requires that DOI and DOE coordinate publication of their respective lists on the same timeline to the maximum extent practicable. Lastly, the amendment directs the heads of DOI, DOE, or other Federal departments to use the Critical Minerals and Materials List for pur-

poses of administering programs involving critical minerals or critical materials.

The Committee also adopted a title amendment that reflects the changes in the amendment in the nature of a substitute.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 contains the short title, the Critical Mineral Consistency Act of 2025.

Section 2. Critical Minerals and Materials List

Section 2 directs the Secretary of the Interior to publish a Critical Minerals and Materials List, not later than 45 days after the date of enactment of S. 714, which shall include any critical mineral designated by the Secretary under subsection (c) of section 7002 of the Energy Act of 2020 (30 U.S.C. 1606) and any non-fuel mineral, element, substance, or material that the Secretary of Energy has determined to be a critical material under subsection (a)(2) as of that date of enactment. It also directs the Secretary to update the Critical Minerals and Materials List not later than 45 days after the date on which the Secretary of the Interior updates a critical mineral designation or the Secretary of Energy updates a critical material designation. To the extent practicable, both Secretaries of the Interior and Energy shall coordinate when updates to the Critical Minerals and Materials List may be required. For the purposes of administering programs involving critical minerals or critical materials, the Secretary of the Interior and the Secretary of Energy, and the heads of other Federal departments and agencies where such department of agency has incorporated by reference the definition of “critical mineral” or “critical material” from this section, as applicable, shall use the most recently published version of the Critical Minerals and Materials List.

COST AND BUDGETARY CONSIDERATIONS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

By Fiscal Year, Millions of Dollars	2026	2026-2030	2026-2035
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2036?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2036?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 714 would require the U.S. Geological Survey (USGS) to update its list of minerals essential to the United States' economy or national security to include any materials that the Department of Energy (DOE) has designated as critical for energy technologies. Currently, there are six materials designated as critical by DOE that are not included in the USGS's list of critical minerals. If those materials were added to the list, the agency would be required to identify all known sources of each material and annually report on each material's projected supply and demand. Using information from the USGS about the costs of its current assessments, CBO estimates that listing and assessing the six additional materials would cost \$2 million over the 2026–2030 period.

If DOE designates new materials after enactment, the USGS would be required to include them on its list and in subsequent annual reports. Using information about the timing of past updates to DOE's list and the costs of the USGS's current assessments, CBO estimates that listing and reporting on any new DOE designations would cost \$1 million over the 2026–2030 period.

CBO expects that the \$50 million that is authorized to be appropriated each year over the 2026–2029 period under current law would be sufficient to cover the costs of those activities through 2029. CBO estimates that there would be insignificant costs to implement the bill in 2030; any related spending would be subject to the availability of appropriated funds. The CBO staff contact for this estimate is Emma Uebelhor. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 714. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little, if any, additional paperwork would result from the enactment of S. 714, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 714, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The Committee on Energy and Natural Resources has not received any executive communication regarding S. 714.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S.

714, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

Public Law 116–260

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DIVISION Z—ENERGY ACT OF 2020

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TITLE VII—CRITICAL MINERALS

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SEC. 7002. MINERAL SECURITY.

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(c) **CRITICAL MINERAL DESIGNATIONS.**—

(1) **DRAFT METHODOLOGY AND LIST.**—The Secretary, acting through the Director of the United States Geological Survey (referred to in this subsection as the “Secretary”), shall publish in the Federal Register for public comment—

(A) a description of the draft methodology used to identify a draft list of critical minerals;

(B) a draft list of minerals, elements, substances, and materials that qualify as critical minerals; and

(C) a draft list of critical minerals recovered as byproducts and their host minerals.

(2) **AVAILABILITY OF DATA.**—If available data is insufficient to provide a quantitative basis for the methodology developed under this subsection, qualitative evidence may be used to the extent necessary.

(3) **FINAL METHODOLOGY AND LIST.**—After reviewing public comments on the draft methodology and the draft lists published under paragraph (1) and updating the methodology and lists as appropriate, not later than 45 days after the date on which the public comment period with respect to the draft methodology and draft lists closes, the Secretary shall publish in the Federal Register—

(A) a description of the final methodology for determining which minerals, elements, substances, and materials qualify as critical minerals;

(B) the final list of critical minerals; and

(C) the final list of critical minerals recovered as byproducts and their host minerals.

(4) **DESIGNATIONS.**—

(A) **IN GENERAL.**—For purposes of carrying out this subsection, the Secretary shall maintain a list of minerals, elements, substances, and materials designated as critical, pursuant to the final methodology published under paragraph (3), that the Secretary determines—

(i) are essential to the economic or national security of the United States;

(ii) the supply chain of which is vulnerable to disruption (including restrictions associated with foreign political risk, abrupt demand growth, military conflict, violent unrest, anti-competitive or protectionist behaviors, and other risks throughout the supply chain); and

(iii) serve an essential function in the manufacturing of a product (including energy technology-, defense-, currency-, agriculture-, consumer electronics-, and health care-related applications), the absence of which would have significant consequences for the economic or national security of the United States.

(B) INCLUSIONS.—Notwithstanding the criteria under paragraph (3), the Secretary may designate and include on the list any mineral, element, substance, or material determined by another Federal agency to be strategic and critical to the defense or national security of the United States.

(C) REQUIRED CONSULTATION.—The Secretary shall consult with the Secretaries of Defense, Commerce, Agriculture, Health and Human Services, and Energy and the United States Trade Representative in designating minerals, elements, substances, and materials as critical *minerals or materials* under this paragraph.

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(n) ADMINISTRATION.—

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(3) SAVINGS CLAUSES.—

(A) IN GENERAL.—Nothing in this section or an amendment made by this section modifies any requirement or authority provided by—

(i) the matter under the heading “geological survey” of the first section of the Act of March 3, 1879 (43 U.S.C. 31(a)); or

(ii) the first section of Public Law 87–626 (43 U.S.C. 31(b)).

(B) EFFECT ON DEPARTMENT OF DEFENSE.—Nothing in this section or an amendment made by this section affects the authority of the Secretary of Defense with respect to the work of the Department of Defense on critical material supplies in furtherance of the national defense mission of the Department of Defense.

(C) SECRETARIAL ORDER NOT AFFECTED.—This section shall not apply to any mineral described in Secretarial Order 3324, issued by the Secretary on December 3, 2023, in any area to which the order applies.

(o) CRITICAL MINERALS AND MATERIALS LIST.—

(1) IN GENERAL.—Not later than 45 days after the date of enactment of the Critical Mineral Consistency Act of 2025, the Secretary shall publish a *Critical Minerals and Materials List*, which shall include—

(A) any critical mineral designated by the Secretary under subsection (c); and

(B) any non-fuel mineral, element, substance, or material that the Secretary of Energy has determined to be a critical

material under subsection (a)(2) as of that date of enactment.

(2) *UPDATES.—The Secretary shall update the Critical Minerals and Materials List published under paragraph (1)—*

(A) not later than 45 days after the date on which the Secretary updates a critical mineral designation under subsection (c); and

(B) not later than 45 days after the date on which the Secretary of Energy updates a critical material designation under subsection (a)(2).

(3) *PUBLICATION ALIGNMENT.—To the maximum extent practicable, the Secretary and the Secretary of Energy shall coordinate when updates to the Critical Minerals and Materials List may be required under paragraph (2).*

(4) *ADMINISTRATION.—For the purposes of administering programs involving critical minerals or critical materials, the Secretary, the Secretary of Energy, and the heads of other Federal departments and agencies where such department or agency has incorporated by reference the definition of ‘critical mineral’ or ‘critical material’ from this section, as applicable, shall use the most recently published version of the Critical Minerals and Materials List published under paragraph (1).*

[o] (p) *AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section \$50,000,000 for each of fiscal years 2021 through 2029.*