



**HB 1459**  
**February 6, 2025**  
**House Energy & Natural Resources Committee**  
**Testimony of Nathan Anderson**

**Introduced by Representatives D. Anderson, Berg, Bosch, Mitskog, Novak, O'Brien, J. Olson, Porter, Lefor Senators Hogue, Marcellais, Patten**

**A BILL for an Act to create and enact a new chapter to title 38 of the North Dakota Century Code, relating to regulations, development, and production of critical minerals and rare earth elements; to amend and reenact section 47-10-24 of the North Dakota Century Code, relating to descriptions and definitions of minerals in leases and conveyances; and to provide a penalty.**

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In 2010, the Chinese government reportedly stopped all shipments of rare earth elements to Japan in retaliation over a territorial fishing dispute between the two countries. Although the ban was brief, it served notice to countries around the world that the Chinese, the largest producers of rare earth elements in the World both then and now, had no qualms about punishing countries by withholding those vital elements. In July 2023, China announced export controls on gallium and germanium. Then in December 2024, China banned exports to the U.S. of the critical minerals gallium, germanium, and antimony because of their potential military application in response to a U.S. crackdown on China's semiconductor industry. Just in the last few days, in response to recent US tariffs on China, China has threatened increased control on critical mineral exports to the US.

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On January 20, 2025 an Executive Order was issued

### **DECLARING A NATIONAL ENERGY EMERGENCY**

**By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 et seq.) ("NEA"), and section 301 of title 3, United States Code, it is hereby ordered:**

**Section 1. Purpose. The energy and critical minerals ("energy") identification, leasing, development, production, transportation, refining, and generation capacity of the United States are all far too inadequate to meet our Nation's needs. We need a reliable, diversified, and affordable supply of energy to drive our Nation's manufacturing, transportation, agriculture, and defense industries, and to sustain the basics of modern life and military preparedness.....**

**An affordable and reliable domestic supply of energy is a fundamental requirement for the national and economic security of any nation.....**

**The integrity and expansion of our Nation's energy infrastructure — from coast to coast — is an immediate and pressing priority for the protection of the United States' national and economic security. It is imperative that the Federal government puts the physical and economic wellbeing of the American people first.....**

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**Sec. 2. Emergency Approvals. (a) The heads of executive departments and agencies (“agencies”) shall identify and exercise any lawful emergency authorities available to them, as well as all other lawful authorities they may possess, to facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources, including, but not limited to, on Federal lands.....**

**Sec. 8. Definitions. For purposes of this order, the following definitions shall apply:**

**(a) The term “energy” or “energy resources” means crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, geothermal heat, the kinetic movement of flowing water, and critical minerals, as defined by 30 U.S.C. 1606 (a)(3).**

**(b) The term “production” means the extraction or creation of energy.....**

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The above examples of potentially disrupted supply chains are why the U.S. Dept of Interior created a critical minerals list in 2018, with rare earth elements as a subset. Critical minerals are essential to the US economy and national security and have a supply chain that is vulnerable to disruption. In 2022, the list of critical minerals was amended.

Over the last 10 years the Department of Mineral Resources has collected more than 2,000 rock samples (primarily lignite) in western North Dakota and had them analyzed for their critical mineral concentrations. The primary goal of this DMR project has been to identify stratigraphic horizons enriched in critical minerals and to develop an exploration model that can be utilized by the mineral industry. The ultimate goal for the DMR has been to place North Dakota at the forefront of critical mineral development and to provide these important elements to the U.S. The Geological Survey has worked hard on this project with three separate funding requests granted by the legislature. Because of this, we have a much greater understanding of North Dakota’s critical mineral resources.

The Industrial Commission and the Department of Mineral Resources are uniquely situated to regulate critical minerals processing facilities with our background in critical mineral studies, 57 years administering the subsurface mineral program, 49 years administering the coal exploration program, and 84 years regulating the oil and gas industry. Regulatory authority over the latter has given DMR experience on the topics of rulemaking, hearings, orders, pooling, co-mingling and all other oil and gas related topics, many of which have similarities with critical mineral topics.

The Department of Mineral Resources is supportive of HB 1459 and its effort to move forward with a process to enable critical minerals to be produced from coal in North Dakota. This is new ground and North Dakota is well positioned to lead. This bill is a reasonable first step.