

# Union Calendar No. 482

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 520

**[Report No. 115-631]**

To require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to the economic and national security and manufacturing competitiveness of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2017

Mr. AMODEI introduced the following bill; which was referred to the Committee on Natural Resources

APRIL 11, 2018

Additional sponsors: Mr. WESTERMAN, Mr. COOK, Mr. GOSAR, Mr. DUNCAN of South Carolina, Mrs. McMORRIS RODGERS, Mr. LAMBORN, Mr. TIPTON, Mr. FLORES, Mr. PEARCE, Mr. YOUNG of Alaska, Mr. LAMALFA, Mr. CRAMER, Mr. LABRADOR, Mr. SENSENBRENNER, Mr. SIMPSON, Mr. McCLINTOCK, Mr. CULBERSON, Mr. GRAVES of Georgia, Mr. JODY B. HICE of Georgia, Mrs. LOVE, Mr. JOHNSON of Ohio, Mr. SESSIONS, Mr. BISHOP of Michigan, Mr. THOMPSON of Pennsylvania, Mr. COLE, Mr. BARR, Mr. OLSON, Mr. STEWART, Mrs. HARTZLER, Mr. RENACCI, Mr. FLEISCHMANN, Mr. GRAVES of Missouri, Mr. MOONEY of West Virginia, Mr. ROGERS of Kentucky, Ms. CHENEY, and Mr. LATTA

APRIL 11, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on January 13, 2017]

# **A BILL**

To require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to the economic and national security and manufacturing competitiveness of the United States, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4        *This Act may be cited as the “National Strategic and*  
5 *Critical Minerals Production Act”.*

6 **SEC. 2. FINDINGS.**

7        *Congress finds that—*

8            (1) *the industrialization of developing nations*  
9 *has driven demand for nonfuel minerals necessary for*  
10 *telecommunications, military technologies, healthcare*  
11 *technologies, and conventional and renewable energy*  
12 *technologies;*

13            (2) *the availability of minerals and mineral ma-*  
14 *terials are essential for economic growth, national se-*  
15 *curity, technological innovation, and the manufac-*  
16 *turing and agricultural supply chain;*

17            (3) *minerals and mineral materials are critical*  
18 *components of every transportation, water, tele-*  
19 *communications, and energy infrastructure project*  
20 *necessary to modernize the crumbling infrastructure*  
21 *of the United States;*

22            (4) *the exploration, production, processing, use,*  
23 *and recycling of minerals contribute significantly to*  
24 *the economic well-being, security, and general welfare*  
25 *of the United States; and*

1           (5) *the United States has vast mineral resources*  
2           *but is becoming increasingly dependent on foreign*  
3           *sources of mineral resources, as demonstrated by the*  
4           *fact that—*

5                   (A) *25 years ago, the United States was de-*  
6                   *pendent on foreign sources for 45 nonfuel min-*  
7                   *eral materials, of which—*

8                           (i) *8 were imported by the United*  
9                           *States to fulfill 100 percent of the require-*  
10                           *ments of the United States for those nonfuel*  
11                           *mineral materials; and*

12                           (ii) *19 were imported by the United*  
13                           *States to fulfill greater than 50 percent of*  
14                           *the requirements of the United States for*  
15                           *those nonfuel mineral materials;*

16                   (B) *by 2015 the import dependence of the*  
17                   *United States for nonfuel mineral materials in-*  
18                   *creased from dependence on the import of 45*  
19                   *nonfuel mineral materials to dependence on the*  
20                   *import of 47 nonfuel mineral materials, of*  
21                   *which—*

22                           (i) *19 were imported by the United*  
23                           *States to fulfill 100 percent of the require-*  
24                           *ments of the United States for those nonfuel*  
25                           *mineral materials; and*

1                   (ii) 22 were imported by the United  
2                   States to fulfill greater than 50 percent of  
3                   the requirements of the United States for  
4                   those nonfuel mineral materials;

5                   (C) according to the Department of Energy,  
6                   the United States imports greater than 50 per-  
7                   cent of the 41 metals and minerals key to clean  
8                   energy applications;

9                   (D) the United States share of worldwide  
10                  mineral exploration dollars was 7 percent in  
11                  2015, down from 19 percent in the early 1990s;

12                  (E) the 2014 Ranking of Countries for Min-  
13                  ing Investment, which ranks 25 major mining  
14                  countries, found that 7- to 10-year permitting  
15                  delays are the most significant risk to mining  
16                  projects in the United States; and

17                  (F) in late 2016, the Government Account-  
18                  ability Office found that—

19                         (i) “the Federal government’s approach  
20                         to addressing critical materials supply  
21                         issues has not been consistent with selected  
22                         key practices for interagency collaboration,  
23                         such as ensuring that agencies’ roles and re-  
24                         sponsibilities are clearly defined”; and

1                   (ii) “the Federal critical materials ap-  
2                   proach faces other limitations, including  
3                   data limitations and a focus on only a sub-  
4                   set of critical materials, a limited focus on  
5                   domestic production of critical materials,  
6                   and limited engagement with industry”.

7 **SEC. 3. DEFINITIONS.**

8       *In this Act:*

9                   (1) *AGENCY.*—The term “agency” means—

10                   (A) any agency, department, or other unit  
11                   of Federal, State, local, or tribal government; or

12                   (B) an Alaska Native Corporation.

13                   (2) *ALASKA NATIVE CORPORATION.*—The term  
14                   “Alaska Native Corporation” has the meaning given  
15                   the term “Native Corporation” in section 3 of the  
16                   Alaska Native Claims Settlement Act (43 U.S.C.  
17                   1602).

18                   (3) *LEAD AGENCY.*—The term “lead agency”  
19                   means the agency with primary responsibility for  
20                   issuing a mineral exploration or mine permit for a  
21                   project.

22                   (4) *MINERAL EXPLORATION OR MINE PERMIT.*—  
23                   The term “mineral exploration or mine permit” in-  
24                   cludes—

1           (A) an authorization of the Bureau of Land  
2           Management or the Forest Service, as applicable,  
3           for premining activities that requires an envi-  
4           ronmental impact statement or similar analysis  
5           under the National Environmental Policy Act of  
6           1969 (42 U.S.C. 4321 et seq.);

7           (B) a plan of operations issued by—

8                 (i) the Bureau of Land Management  
9                 under subpart 3809 of part 3800 of title 43,  
10                Code of Federal Regulations (or successor  
11                regulations); or

12               (ii) the Forest Service under subpart A  
13                of part 228 of title 36, Code of Federal Reg-  
14                ulations (or successor regulations); and

15           (C) a permit issued under an authority de-  
16           scribed in section 3503.13 of title 43, Code of  
17           Federal regulations (or successor regulations).

18           (5) *PROJECT*.—The term “project” means a  
19           project for which the issuance of a permit is required  
20           to conduct activities for, relating to, or incidental to  
21           mineral exploration, mining, beneficiation, proc-  
22           essing, or reclamation activities—

23                 (A) on a mining claim, millsite claim, or  
24                 tunnel site claim for any locatable mineral; or

1                   (B) in conjunction with any Federal min-  
2                   eral (other than coal and oil shale) that is leased  
3                   under—

4                   (i) the Mineral Leasing Act for Ac-  
5                   quired Lands (30 U.S.C. 351 et seq.); or

6                   (ii) section 402 of Reorganization Plan  
7                   Numbered 3 of 1946 (5 U.S.C. App.).

8 **SEC. 4. IMPROVING DEVELOPMENT OF STRATEGIC AND**  
9 **CRITICAL MINERALS.**

10           (a) *DEFINITION OF STRATEGIC AND CRITICAL MIN-*  
11 *ERALS.*—*In this section, the term “strategic and critical*  
12 *minerals” means minerals that are necessary—*

13                   (1) *for the national defense and national security*  
14 *requirements;*

15                   (2) *for the energy infrastructure of the United*  
16 *States, including—*

17                           (A) *pipelines;*

18                           (B) *refining capacity;*

19                           (C) *electrical power generation and trans-*  
20 *mission; and*

21                           (D) *renewable energy production;*

22                   (3) *for community resiliency, coastal restoration,*  
23 *and ecological sustainability for the coastal United*  
24 *States;*

1           (4) *to support domestic manufacturing, agri-*  
2           *culture, housing, telecommunications, healthcare, and*  
3           *transportation infrastructure; or*

4           (5) *for the economic security of, and balance of*  
5           *trade in, the United States.*

6           **(b) CONSIDERATION OF CERTAIN DOMESTIC MINES AS**  
7           **INFRASTRUCTURE PROJECTS.**—*A domestic mine that, as*  
8           *determined by the lead agency, will provide strategic and*  
9           *critical minerals shall be considered to be an infrastructure*  
10          *project, as described in Executive Order 13807.*

11          **SEC. 5. RESPONSIBILITIES OF THE LEAD AGENCY.**

12          **(a) IN GENERAL.**—*The lead agency shall appoint a*  
13          *project lead within the lead agency, who shall coordinate*  
14          *and consult with cooperating agencies and any other agen-*  
15          *cies involved in the permitting process, project proponents,*  
16          *and contractors to ensure that cooperating agencies and*  
17          *other agencies involved in the permitting process, project*  
18          *proponents, and contractors—*

19                  (1) *minimize delays;*

20                  (2) *set and adhere to timelines and schedules for*  
21          *completion of the permitting process;*

22                  (3) *set clear permitting goals; and*

23                  (4) *track progress against those goals.*

24          **(b) DETERMINATION UNDER NEPA.**—

1           (1) *IN GENERAL.*—*To the extent that the Na-*  
2           *tional Environmental Policy Act of 1969 (42 U.S.C.*  
3           *4321 et seq.) applies to the issuance of any mineral*  
4           *exploration or mine permit, the requirements of that*  
5           *Act shall be considered to have been procedurally and*  
6           *substantively satisfied if the lead agency determines*  
7           *that any State or Federal agency acting under State*  
8           *or Federal law has addressed or will address the fol-*  
9           *lowing factors:*

10                   (A) *The environmental impact of the action*  
11                   *to be conducted under the permit.*

12                   (B) *Possible adverse environmental effects of*  
13                   *actions under the permit.*

14                   (C) *Possible alternatives to issuance of the*  
15                   *permit.*

16                   (D) *The relationship between long- and*  
17                   *short-term uses of the local environment and the*  
18                   *maintenance and enhancement of long-term pro-*  
19                   *ductivity.*

20                   (E) *Any irreversible and irretrievable com-*  
21                   *mitment of resources that would be involved in*  
22                   *the proposed action.*

23                   (F) *That public participation will occur*  
24                   *during the decisionmaking process for author-*  
25                   *izing actions under the permit.*

1           (2) *WRITTEN REQUIREMENT.*—*In making a de-*  
2           *termination under paragraph (1), not later than 90*  
3           *days after receipt of an application for the permit,*  
4           *the lead agency, in a written record of decision,*  
5           *shall—*

6                     (A) *explain the rationale used in reaching*  
7                     *the determination;*

8                     (B) *state the facts in the record that are the*  
9                     *basis for the determination; and*

10                    (C) *show that the facts in the record could*  
11                    *allow a reasonable person to reach the same de-*  
12                    *termination as the lead agency did.*

13           (c) *COORDINATION ON PERMITTING PROCESS.*—

14                    (1) *IN GENERAL.*—*The lead agency shall enhance*  
15                    *government coordination for the permitting process*  
16                    *by—*

17                             (A) *avoiding duplicative reviews;*

18                             (B) *minimizing paperwork; and*

19                             (C) *engaging other agencies and stake-*  
20                             *holders early in the process.*

21                    (2) *CONSIDERATIONS.*—*In carrying out para-*  
22                    *graph (1), the lead agency shall consider—*

23                             (A) *deferring to, and relying on, baseline*  
24                             *data, analyses, and reviews performed by State*

1           *agencies with jurisdiction over the proposed*  
2           *project; and*

3                   *(B) to the maximum extent practicable,*  
4           *conducting any consultations or reviews concu-*  
5           *rently rather than sequentially if the concurrent*  
6           *consultation or review would expedite the proc-*  
7           *ess.*

8           *(3) MEMORANDUM OF AGENCY AGREEMENT.—If*  
9           *requested at any time by a State or local planning*  
10          *agency, the lead agency, in consultation with other*  
11          *Federal agencies with relevant jurisdiction in the en-*  
12          *vironmental review process, may establish memo-*  
13          *randa of agreement with the project sponsor, State*  
14          *and local governments, and other appropriate entities*  
15          *to accomplish the coordination activities described in*  
16          *this subsection.*

17          *(d) SCHEDULE FOR PERMITTING PROCESS.—*

18                   *(1) IN GENERAL.—For any project for which the*  
19          *lead agency cannot make the determination described*  
20          *subsection (b), at the request of a project proponent,*  
21          *the lead agency, cooperating agencies, and any other*  
22          *agencies involved with the mineral exploration or*  
23          *mine permitting process shall enter into an agreement*  
24          *with the project proponent that sets time limits for*  
25          *each part of the permitting process, including—*

1           (A) *the decision on whether to prepare an*  
2 *environmental impact statement or similar anal-*  
3 *ysis required under the National Environmental*  
4 *Policy Act of 1969 (42 U.S.C. 4321 et seq.);*

5           (B) *a determination of the scope of any en-*  
6 *vironmental impact statement or similar anal-*  
7 *ysis required under the National Environmental*  
8 *Policy Act of 1969 (42 U.S.C. 4321 et seq.);*

9           (C) *the scope of, and schedule for, the base-*  
10 *line studies required to prepare an environ-*  
11 *mental impact statement or similar analysis re-*  
12 *quired under the National Environmental Policy*  
13 *Act of 1969 (42 U.S.C. 4321 et seq.);*

14           (D) *preparation of any draft environmental*  
15 *impact statement or similar analysis required*  
16 *under the National Environmental Policy Act of*  
17 *1969 (42 U.S.C. 4321 et seq.);*

18           (E) *preparation of a final environmental*  
19 *impact statement or similar analysis required*  
20 *under the National Environmental Policy Act of*  
21 *1969 (42 U.S.C. 4321 et seq.);*

22           (F) *any consultations required under appli-*  
23 *cable law;*

24           (G) *submission and review of any comments*  
25 *required under applicable law;*

1           (H) publication of any public notices re-  
2           quired under applicable law; and

3           (I) any final or interim decisions.

4           (2) *TIME LIMIT FOR PERMITTING PROCESS.*—*Ex-*  
5           *cept if extended by mutual agreement of the project*  
6           *proponent and the lead agency, the time period for*  
7           *the total review process described in paragraph (1)*  
8           *shall not exceed 30 months.*

9           (e) *LIMITATION ON ADDRESSING PUBLIC COM-*  
10          *MENTS.*—*The lead agency shall not be required to address*  
11          *any agency or public comments that were not submitted—*

12           (1) *during a public comment period or consulta-*  
13          *tion period provided during the permitting process; or*

14           (2) *as otherwise required by law.*

15          (f) *FINANCIAL ASSURANCE.*—*The lead agency shall de-*  
16          *termine the amount of financial assurance required for rec-*  
17          *lamation of a mineral exploration or mining site, on the*  
18          *condition that the financial assurance shall cover the esti-*  
19          *mated cost if the lead agency were to contract with a third*  
20          *party to reclaim the operations according to the reclama-*  
21          *tion plan, including construction and maintenance costs for*  
22          *any treatment facilities necessary to meet Federal, State,*  
23          *or tribal environmental standards.*

1           (g) *PROJECTS WITHIN NATIONAL FORESTS.*—With re-  
2 spect to projects on National Forest System land, the lead  
3 agency shall—

4           (1) *exempt from the requirements of part 294 of*  
5 *title 36, Code of Federal Regulations (or successor reg-*  
6 *ulations)*—

7           (A) *all areas of identified mineral resources*  
8 *in land use designations, other than nondevelop-*  
9 *ment land use designations, in existence on the*  
10 *date of enactment of this Act; and*

11           (B) *all additional routes and areas that the*  
12 *lead agency determines necessary to facilitate the*  
13 *construction, operation, maintenance, and res-*  
14 *toration of an area described in paragraph (1);*  
15 *and*

16           (2) *continue to apply the exemptions described*  
17 *in paragraph (1) after the date on which approval of*  
18 *the minerals plan of operations described in section*  
19 *3(4)(B)(ii) for the National Forest System land.*

20           (h) *APPLICATION TO EXISTING PERMIT APPLICA-*  
21 *TIONS.*—

22           (1) *IN GENERAL.*—*This section applies to a min-*  
23 *eral exploration or mine permit for which an appli-*  
24 *cation was submitted before the date of enactment of*

1        *this Act if the applicant for the permit submits a*  
2        *written request to the lead agency for the permit.*

3            (2) *IMPLEMENTATION.—The lead agency shall*  
4        *begin implementing this section with respect to an*  
5        *application described in paragraph (1) not later than*  
6        *30 days after the date on which the lead agency re-*  
7        *ceives the written request for the permit.*

8        **SEC. 6. FEDERAL REGISTER PROCESS FOR MINERAL EXPLO-**  
9            **RATION AND MINING PROJECTS.**

10        (a) *DEPARTMENTAL REVIEW.—Absent any extraor-*  
11        *dinary circumstances, as determined by the Secretary of the*  
12        *Interior or the Secretary of Agriculture, as applicable, and*  
13        *except as otherwise required by law, the Secretary of the*  
14        *Interior or the Secretary of Agriculture, as applicable, shall*  
15        *ensure that each Federal Register notice associated with the*  
16        *issuance of a mineral exploration or mine permit and re-*  
17        *quired by law shall be—*

18            (1) *subject to any required reviews within the*  
19        *Department of the Interior or the Department of Ag-*  
20        *riculture, as applicable; and*

21            (2) *published in final form in the Federal Reg-*  
22        *ister not later than 45 days after the date of initial*  
23        *preparation of the notice.*

1           (b) *PREPARATION.*—*The preparation of any Federal*  
2 *Register notice described in subsection (a) shall be delegated*  
3 *to the organizational level within the lead agency.*

4           (c) *TRANSMISSION.*—*All Federal Register notices de-*  
5 *scribed in subsection (a) regarding official document avail-*  
6 *ability, announcements of meetings, or notices of intent to*  
7 *undertake an action shall originate in, and be transmitted*  
8 *to the Federal Register from, the office in which, as applica-*  
9 *ble—*

10                   (1) *the documents or meetings are held; or*

11                   (2) *the activity is initiated.*

12 **SEC. 7. SECRETARIAL ORDER NOT AFFECTED.**

13           *This Act shall not apply to any mineral described in*  
14 *Secretarial Order 3324, issued by the Secretary of the Inte-*  
15 *rior on December 3, 2012, in any area to which the order*  
16 *applies.*

Union Calendar No. 482

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 520**

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## **A BILL**

To require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to the economic and national security and manufacturing competitiveness of the United States, and for other purposes.

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APRIL 11, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed