

Calendar No. 196

118TH CONGRESS }
1st Session }

SENATE

{ REPORT
118-93

INTERGOVERNMENTAL CRITICAL MINERALS
TASK FORCE ACT

—
R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1871

TO CREATE INTERGOVERNMENTAL COORDINATION BETWEEN
STATE, LOCAL, TRIBAL, AND TERRITORIAL JURISDICTIONS,
AND THE FEDERAL GOVERNMENT TO COMBAT UNITED STATES
RELIANCE ON THE PEOPLE'S REPUBLIC OF CHINA AND OTHER
COVERED COUNTRIES FOR CRITICAL MINERALS AND RARE EARTH
METALS, AND FOR OTHER PURPOSES



SEPTEMBER 5, 2023.—Ordered to be printed

—
U.S. GOVERNMENT PUBLISHING OFFICE

39-010

WASHINGTON : 2023

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SEPTEMBER 5, 2023.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1871]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1871) to create intergovernmental coordination between State, local, Tribal, and territorial jurisdictions, and the Federal Government to combat United States reliance on the People’s Republic of China and other covered countries for critical minerals and rare earth metals, and for other purposes, having considered the same, reports favorably thereon with an amendment, in the nature of a substitute, and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 1871, the *Intergovernmental Critical Minerals Task Force Act*, would create an intergovernmental taskforce to strengthen domestic critical mineral supply chains and combat the United States’ reliance on the People’s Republic of China and other adversarial countries for critical minerals. The bill requires the task force—comprised of representatives from more than 17 different federal

agencies and components—to consult with state, local, tribal, and territorial governments, along with public and private sector stakeholders, in performing its duties. Among its responsibilities, the task force would help address homeland security risks related to the critical mineral supply chain; work to create well-paying, safe, American jobs to support supply chain growth in the United States; and identify environmentally responsible opportunities to improve domestic mining, processing, refinement, reuse, and recycling of critical minerals. Additionally, the task force would recommend strategies for strengthening international partnerships in furtherance of global critical minerals supply chain security. Two years after the bill’s enactment, the legislation requires the task force to report to Congress and make public its findings, guidelines, and recommendations.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Critical minerals play a major role in the production of transportation, renewable energy infrastructure, military defense systems, and other manufactured technologies crucial for U.S. national and homeland security.¹ The nation’s reliance on insecure and adversarial countries for these minerals and their supply chains, particularly the People’s Republic of China, creates significant national security risks.² China is currently the leading nation for production of more than half of the 50 critical minerals identified by the U.S. Geological Survey in 2022. The United States is 100% net import reliant on 12 critical minerals and 50% net import reliant on an additional 31 critical mineral commodities.³ Additionally, China controls the supply chain for these minerals and the products to which they contribute. For example, China refines most of the world’s lithium and cobalt, makes most of the world’s electric vehicle battery parts, produces most of the world’s lithium-ion batteries, and holds more than two thirds of global lithium-ion recycling capacity.⁴

This bill builds on previous federal strategies developed to address several challenges related to the current critical minerals supply chain. In 2017, former President Donald Trump issued Executive Order 13817 to establish a federal strategy to ensure secure and reliable supplies of critical minerals.⁵ Since 2017, Presidents Trump and Biden issued Executive Orders 13953 and 14017 respectively, to help address concerns with the U.S. critical mineral supply chain.⁶ Additionally, Congress has passed legislation—such as the Energy Act of 2020 and the Infrastructure Investment and Jobs Act—to develop clean energy infrastructure and increase crit-

¹ Government Accountability Office, *Critical Minerals: Building on Federal Efforts to Advance Recovery and Substitution Could Help Address Supply Risks* (GAO–GAO–22–104824) (June 2022).

² The White House, *Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-Based Growth: 100 Day Reviews under Executive Order 14017* (June 2021); Zongyuan Zoe Liu, *How to Secure Critical Minerals for Clean Energy Without Alienating China*, Council on Foreign Relations (blog) (May 25, 2023) (<https://www.cfr.org/blog/how-secure-critical-minerals-clean-energy-without-alienating-china>).

³ Department of the Interior, United States Geological Survey, *Mineral Commodity Summaries 2023* (Jan. 2023).

⁴ *Can the World Make an Electric Car Battery Without China?*, The New York Times (May 16, 2023) (<https://www.nytimes.com/interactive/2023/05/16/business/china-ev-battery.html>).

⁵ Exec. Order No. 13817, 82 Fed. Reg. 60835 (Dec. 26, 2017).

⁶ Exec. Order No. 13953, 85 Fed. Reg. 62544 (Oct. 5, 2020); Exec. Order No. 14017, 86 Fed. Reg. 11849 (Mar. 1, 2021).

ical mineral activities.⁷ In response to these efforts, agencies, such as the Department of Energy, have developed strategies to mitigate challenges associated with the nation’s critical mineral dependence.⁸ In 2022, the Department of Energy also announced a program providing \$39 million dollars in funding for new technologies to grow a secure critical mineral supply chain and strengthen national security.⁹ Despite this progress, domestic demand for critical minerals is expected to increase by up to 600% over the next several decades, and the supply chains for these minerals will likely continue to generate greater risks to our national security, economy, and environment.¹⁰ This multidimensional problem requires a cohesive strategy to facilitate coordination at every level of the U.S. government. Combatting China’s dominance in critical minerals will take an all-of-government approach that unites federal agencies across disciplines with state, local, tribal, and territorial partners and all relevant stakeholders.

The United States continues to face obstacles related to building its domestic supply chain. In 2022, the Government Accountability Office identified several key challenges related to recovering (i.e., recycling and use of nontraditional resources) and substituting (i.e., developing alternatives to) critical minerals. These barriers included incomplete federal data collection, limited domestic infrastructure, limited scientific research and environmental concerns, and gaps in the workforce.¹¹ These issues pose challenges to supply chain innovation and growth. For example, scientists and geologists face future workforce gaps, with more than half of the current domestic mining workforce expected to retire by 2029. Additionally, increases in critical mineral production could generate environmental risks—such as toxic waste and biodiversity impacts—along with concerns for tribal communities near critical minerals projects.¹² With the help of diverse stakeholder perspectives and engagement at every level of government, the task force would aim to provide tools to promote supply chain growth in a manner that protects the environment, incorporates community input, and promotes a strong domestic workforce.

No country, including the United States, can onshore every piece of the supply chain for every critical mineral. International partnerships are key to meeting national critical mineral demands.¹³

⁷ Bipartisan Policy Center, *Expanding Domestic Critical Mineral Supply Chains* (Mar. 15, 2023) ([https://bipartisanpolicy.org/blog/expanding-us-critical-mineral-supply/#::text=The%20Energy%20Act%20of%202020,of%20the%20Interior%20\(DOI\)](https://bipartisanpolicy.org/blog/expanding-us-critical-mineral-supply/#::text=The%20Energy%20Act%20of%202020,of%20the%20Interior%20(DOI))).

⁸ Department of Energy, *Critical Minerals and Materials: U.S. Department of Energy’s Strategy to Support Domestic Critical Mineral and Material Supply Chains* (FY 2021–FY 2031) (Sept. 30, 2023).

⁹ Department of Energy, *DOE Announces \$39 Million for Technology to Grow the Domestic Critical Minerals Supply Chain and Strengthen National Security* (Oct. 27, 2022); See also, in 2021: Department of Energy, *DOE Awards \$30M to Secure Domestic Supply Chain of Critical Materials* (Sept. 2, 2021).

¹⁰ *Id.*; The Aspen Institute, Energy & Environment Program, *A Critical Minerals Policy for the United States: The Role of Congress in Scaling Domestic Supply and De-Risking Supply Chains* (June 2023) (<https://www.aspeninstitute.org/wp-content/uploads/2023/06/Critical-Minerals-Report.pdf>).

¹¹ Government Accountability Office, *supra* note 1.

¹² The Aspen Institute, Energy & Environment Program, *A Critical Minerals Policy for the United States: The Role of Congress in Scaling Domestic Supply and De-Risking Supply Chains* (June 2023) (<https://www.aspeninstitute.org/wp-content/uploads/2023/06/Critical-Minerals-Report.pdf>).

¹³ The White House, *Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering broad-Based Growth: 100 Day Reviews under Executive Order 14017* (June 2021);

The United States has entered into many strategic partnerships to secure clean, reliable supply chains. For example, the United States helped launch the Partnership for Global Infrastructure and Investment, signed the Mineral Security Partnership, and joined the Quadrilateral Security Dialogue (QUAD).¹⁴ The *Intergovernmental Critical Mineral Task Force Act* aims to improve U.S. partnerships by establishing strategies to strengthen supply chain security with international allies and partners. Ultimately, the task force would help achieve the goals of enhancing transparency in the nation's supply chains; strengthening the domestic workforce with safe and well-paying American jobs; ensuring regulations related to the supply chain are efficient and environmentally responsible, while considering input from tribal and local communities; and improving U.S. international partnerships regarding critical minerals.

III. LEGISLATIVE HISTORY

Senator Gary Peters (D–MI) introduced S. 1871, the Intergovernmental Critical Minerals Task Force Act, on June 8, 2023, with original cosponsors Senator Mitt Romney (R–UT) and Senator James Lankford (R–OK). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1871 at a business meeting on June 14, 2023. At the business meeting, Senators Peters, Romney, and Lankford offered a substitute amendment to the bill as well as a modification to the substitute amendment. Senator Rosen also offered an amendment to the bill as well as a modification to the amendment. The Peters-Romney-Lankford substitute amendment, as modified, made organizational changes to the bill; added several agencies to the task force's composition; clarified the task force's purposes and required topics to address in its duties and report recommendations; added examples of countries with whom the United States should strengthen its strategic partnerships; and made changes to the task force and GAO reporting requirements. The Rosen amendment added the Senate Committee on Commerce, Science, and Transportation to the list of committees responsible for reviewing the task force's work and clarified that the task force should consult with individuals from states that are involved in the critical mineral supply chain. The Committee adopted the modification to the Peters-Romney-Lankford substitute amendment by unanimous consent, and adopted the substitute amendment by unanimous consent as modified, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Paul, Lankford, Romney, Scott, and Hawley present. The Committee adopted the modification to the Rosen amendment by voice vote, and adopted the amendment by voice vote as modified, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Paul, Lankford, Romney, Scott, and Hawley present.

Department of the Interior, United States Geological Survey, *Mineral Commodity Summaries 2023* (Jan. 2023).

¹⁴Zongyuan Zoe Liu, *How to Secure Critical Minerals for Clean Energy Without Alienating China*, *Council on Foreign Relations* (blog) (May 25, 2023) (<https://www.cfr.org/blog/how-secure-critical-minerals-clean-energy-without-alienating-china>); Carnegie Endowment for International Peace, *Friendshoring Critical Minerals: What Could the U.S. and Its Partners Produce?* (May 3, 2023) (<https://carnegieendowment.org/2023/05/03/friendshoring-critical-minerals-what-could-u.s.-and-its-partners-produce-pub-89659>).

The bill, as amended by the Peters-Romney-Lankford substitute amendment as modified and Rosen amendment as modified, was ordered to be reported favorably by roll call vote of 10 yeas to 1 nay, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Romney, Scott, and Hawley voting in the affirmative, and with Senator Paul voting in the negative. Senators Carper, Blumenthal, Johnson, and Marshall voted yea by proxy, for the record only.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Inter-governmental Critical Minerals Task Force Act.”

Section 2. Definitions

This section defines the terms “appropriate committees of Congress,” “covered country,” “critical mineral,” “Director,” and “task force.”

Section 3. Findings

This section explains the importance, national security risks, and vulnerabilities associated with the global and domestic critical mineral supply chains. Specifically, this section outlines the scope of the United States’ reliance on the People’s Republic of China for critical minerals and critical mineral supply chains.

Section 4. Intergovernmental critical minerals task force

Subsection (a) describes the purposes of the task force. The task force shall (1) assess the critical mineral reliance of the United States on the People’s Republic of China and other covered countries, and the associated homeland and national security risks at each level of government; (2) recommend ways to onshore and improve the domestic supply chain of critical minerals; and (3) reduce U.S. reliance on covered countries for critical minerals and supply chains.

Subsection (b) requires the Director of the Office of Management and Budget (OMB) to create the task force, within 90 days of this bill’s enactment.

Subsection (c) outlines the composition of the task force. The OMB Director may serve as chair of the task force or designate a chair. The Director must appoint at least 17 representatives with critical mineral supply chain expertise from specified agencies. The task force must consult with state, local, tribal, and territorial governments, along with specific public and private sector stakeholders, such as academic researchers, mining industry stakeholders, and labor representatives. Consultees must include individuals from states whose communities are involved in the critical mineral supply chain. After enactment, the task force will meet at least once every 90 days until it publishes the report described in subsection (d)(2).

Subsection (d)(1) describes the duties of the task force. The task force is required to facilitate coordination and cooperation at each level of government to enhance data sharing and transparency in critical mineral supply chains. The task force must make rec-

ommendations, considering the economic costs of those recommendations and focusing on supply chains posing the greatest national security risks. These recommendations must address the following topics: research and development into emerging supply chain technologies; reducing U.S. reliance on foreign adversaries for critical minerals and expanding domestic critical mineral industries and supply chains; modifying regulations to accelerate environmentally responsible critical mineral production; strengthening the workforce surrounding critical minerals with well-paying, safe, U.S. jobs; mitigating homeland and national security risks when the United States relies on foreign adversaries for critical minerals; and strengthening international partnerships with U.S. partners and allies to enhance critical minerals supply chain security.

Subsection (d)(2) requires the task force to report to Congress and make public its findings, guidelines, and recommendations no later than two years after the bill's enactment. The report must be in unclassified form, but may contain a classified annex. The Director must redact information from the public report that poses a risk to homeland and national security.

Subsection (e) requires the task force to terminate 90 days after the date on which the task force completes its duties under subsection (d)(2).

Subsection (f) requires the Comptroller General to submit a report to Congress after 18 months examining the regulatory landscape related to the domestic supply chain for critical minerals.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1871, Intergovernmental Critical Minerals Task Force Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on June 14, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
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	2	2
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	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 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 1871 would establish a task force to coordinate federal, state, and private-sector efforts to increase domestic production of critical minerals, such as aluminum, titanium, and rare earth elements. The task force would identify new methods of mining, processing, and recycling critical minerals to reduce U.S. reliance on foreign adversaries. Under the bill, the task force would submit a report to the Congress on its findings within two years of enactment and terminate within 90 days thereafter. The bill also would require the Government Accountability Office to report on the effects of federal and state regulations on the domestic supply of critical minerals.

The task force would consist of representatives from federal agencies and would consult with nonfederal entities. Using information about the cost of similar efforts, CBO estimates that implementing S. 1871 would cost \$2 million over the 2023–2028 period for staff salaries, travel, and other administrative expenses to operate the task force. In addition, CBO estimates that satisfying the reporting requirements of S. 1871 would cost less than \$500,000. Such spending would be subject to the availability of appropriated funds.

The costs of the legislation, detailed in Table 1, fall within budget function 800 (general government).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 1871

	By fiscal year, millions of dollars—						
	2023	2024	2025	2026	2027	2028	2023–2028
Estimated Authorization	0	1	1	0	0	0	2
Estimated Outlays	0	1	1	0	0	0	2

The CBO staff contact for this estimate is Aldo Proserpi. The estimate was reviewed by Christina Hawley Anthony, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL, DIRECTOR,
Congressional Budget Office.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation would make no change in existing law, within the meaning of clauses (a) and (b) of subparagraph 12 of rule XXVI of the Standing Rules of the Senate, because this legislation would not repeal or amend any provision of current law.

