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2D SESSION

S. 5195

To strengthen the national security of the United States by decreasing the reliance of the Department of Defense on critical minerals from the People's Republic of China, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2022

Mr. ROMNEY (for himself and Mr. SULLIVAN) introduced the following bill;
which was read twice and referred to the Committee on Armed Services

A BILL

To strengthen the national security of the United States
by decreasing the reliance of the Department of Defense
on critical minerals from the People's Republic of China,
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 “Critical Mineral Inde-
5 pendence Act of 2022”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ALLIED COUNTRY.—The term “allied coun-
2 try” means—

3 (A) a country of the national technology
4 and industrial base, as defined in section 4801
5 of title 10, United States Code; or

6 (B) another country that is an ally of the
7 United States and is identified by the Secretary
8 of Defense for purposes of this Act.

9 (2) APPROPRIATE COMMITTEES OF CON-
10 GRESS.—The term “appropriate committees of Con-
11 gress” means—

12 (A) the Committee on Energy and Natural
13 Resources, the Committee on Armed Services,
14 the Committee on Foreign Relations, and the
15 Committee on Banking, Housing, and Urban
16 Affairs of the Senate; and

17 (B) the Committee on Natural Resources,
18 the Committee on Armed Services, the Com-
19 mittee on Foreign Affairs, and the Committee
20 on Financial Services of the House of Rep-
21 resentatives.

22 (3) CRITICAL MINERAL.—The term “critical
23 mineral” has the meaning given that term in section
24 7002(a) of the Energy Act of 2020 (30 U.S.C.
25 1606(a)).

1 **SEC. 3. STATEMENT OF POLICY.**

2 It is the policy of the United States—

3 (1) to expand mining and processing of critical
4 minerals, including rare earth elements, in the
5 United States and in allied countries to meet the
6 needs of the United States defense sector so that the
7 Department of Defense will achieve critical mineral
8 supply chain independence by 2027;

9 (2) that the Department of Defense will pro-
10 cure critical minerals processed by the United States
11 and allied countries to replenish and expand the Na-
12 tional Defense Stockpile to meet growing geopolitical
13 threats by 2027; and

14 (3) to develop critical mineral supply chains for
15 the Department of Defense that are not dependent
16 on mining or processing of critical minerals in coun-
17 tries that are geostrategic competitors or adversaries
18 of the United States.

19 **SEC. 4. REPORT ON UNITED STATES AND ALLIED PROC-**
20 **ESSING OF CRITICAL MINERALS REQUIRED**
21 **TO ACHIEVE DEFENSE SUPPLY CHAIN INDE-**
22 **PENDENCE.**

23 (a) IN GENERAL.—Not later than 90 days after the
24 date of the enactment of this Act, the Under Secretary
25 of Defense for Acquisition and Sustainment shall submit
26 to the appropriate committees of Congress a report on the

1 processing by the United States and allied countries of
2 critical minerals, including rare earth elements, required
3 to achieve supply chain independence for the United
4 States Armed Forces and allied countries by 2027.

5 (b) ELEMENTS.—The report required by subsection
6 (a) shall include the following:

7 (1) An estimate of the annual demand for proc-
8 essed critical minerals for the United States Armed
9 Forces and allied countries.

10 (2) An outline of the necessary processed crit-
11 ical minerals value chain required to support the
12 needs of the Department of Defense.

13 (3) An assessment of any gaps in the outline
14 described in paragraph (2), indicating where suffi-
15 cient United States processing capacity exists and
16 where such capacity does not exist.

17 (4) An identification of any Federal funds, in-
18 cluding any funds made available under title III of
19 the Defense Production Act of 1950 (50 U.S.C.
20 4531 et seq.), being deployed, as of the date of the
21 report, to support development of United States ca-
22 pacity to address those gaps.

23 (5) An estimate of the additional capital invest-
24 ment required to grow and operate sufficient United
25 States capacity to address those gaps.

1 (6) An estimate of the annual funding nec-
2 essary for the Department of Defense to procure
3 critical minerals processed in the United States suf-
4 ficient to meet the annual needs of the Department,
5 including consideration of increased investments
6 from private sector capital.

7 (7) An estimate of the cost difference between
8 the Department of Defense—

9 (A) sourcing critical minerals processed by
10 the United States;

11 (B) sourcing critical minerals processed by
12 allied countries; and

13 (C) sourcing critical minerals on the open
14 market.

15 (8) An assessment of what changes, if any, are
16 necessary to the acquisition policies of the Depart-
17 ment of Defense to ensure weapon suppliers use crit-
18 ical minerals processed by the United States or al-
19 lied countries.

20 (9) An assessment of what changes, if any, to
21 authorities under title III of the Defense Production
22 Act of 1950 are necessary to enter into a long-term
23 offtake agreement with respect to critical minerals
24 processed by the United States or allied countries.

1 (10) An assessment of the duration of potential
2 contracts necessary to prevent the collapse of United
3 States processing of critical minerals in the event of
4 price fluctuations resulting from increases in the ex-
5 port quota of the People's Republic of China.

6 (11) Recommendations for international co-
7 operation with allied countries to jointly reduce de-
8 pendence on critical minerals processed in or by the
9 People's Republic of China.

10 **SEC. 5. STRATEGY TO TRANSITION THE SUPPLY CHAIN FOR**
11 **THE NATIONAL DEFENSE STOCKPILE TO**
12 **UNITED STATES AND ALLIED-PROCESSED**
13 **CRITICAL MINERALS BY 2027.**

14 (a) IN GENERAL.—Not later than 90 days after the
15 report required by section 4 is submitted, the Director of
16 the Defense Logistics Agency, in coordination with the
17 Under Secretary of Defense for Acquisition and
18 Sustainment, shall develop, and submit to the appropriate
19 committees of Congress, a strategy to transition the sup-
20 ply chain for critical minerals, including rare earths ele-
21 ments, in the National Defense Stockpile away from reli-
22 ance on geostrategic competitors and adversaries of the
23 United States by 2027, through acquisition of critical min-
24 erals processed by—

1 (1) the United States, with a preference given
2 to critical minerals processed in the United States;
3 or

4 (2) allied countries (excluding critical minerals
5 processed in a country that is a geostrategic compet-
6 itor or adversary of the United States), with pref-
7 erence given to critical minerals processed in such
8 countries.

9 (b) FORECASTED NEED OF CRITICAL MINERALS.—
10 The strategy required by subsection (a) shall be designed
11 to meet the forecasted need for critical minerals of the
12 Department of Defense through calendar year 2027 for—

13 (1) planned procurements;

14 (2) anticipated adoption of emerging tech-
15 nology; and

16 (3) potential increases in the National Defense
17 Stockpile that would be needed if the Department
18 implements the guidance included in the Climate Ad-
19 aptation Action Plan of the Department of Defense,
20 dated September 2021.

21 (c) ELEMENTS.—The strategy required by subsection
22 (a) shall include the following:

23 (1) A list of critical minerals in the National
24 Defense Stockpile.

1 (2) A priority ranking for transitioning the crit-
2 ical minerals on the list required by paragraph (1),
3 developed using, for each such mineral—

4 (A) the percentage of the mineral proc-
5 essed by foreign sources (excluding allied coun-
6 tries);

7 (B) the percentage of operational proc-
8 essing facilities for the mineral located in the
9 United States and in allied countries, compared
10 to foreign sources of the mineral (excluding al-
11 lied countries);

12 (C) the quantity of the mineral required to
13 fulfill the purposes set forth in section 2 of the
14 Strategic and Critical Materials Stock Piling
15 Act (50 U.S.C. 98a); and

16 (D) any other metric, as determined by the
17 Director and the Under Secretary, that may be
18 an indicator of reliance on foreign sources (ex-
19 cluding allied countries) for the mineral.

20 (3) A process to replenish 50 percent of each
21 mineral on the list required by paragraph (1) with
22 the mineral processed by United States or allied
23 country processors during the 1-year period after
24 implementation of the strategy.

1 (4) A process to replenish 95 percent of each
2 mineral on the list required by paragraph (1) with
3 the mineral processed by United States or allied
4 country processors during the 3-year period after
5 implementation of the strategy.

6 (5) Recommendations to Congress with respect
7 to any authorities needed to implement the strategy.

8 (6) Any other matters related to implementing
9 the strategy as the Director and the Under Sec-
10 retary consider appropriate.

11 (d) IMPLEMENTATION.—The Director and the Under
12 Secretary shall—

13 (1) coordinate the implementation of the proc-
14 esses required by paragraphs (3) and (4) of sub-
15 section (c) with the Department of Defense and ac-
16 tivities carried out by the Department under title III
17 of the Defense Production Act of 1950 (50 U.S.C.
18 4531 et seq.); and

19 (2) to the greatest extent practicable, imple-
20 ment the strategy required by subsection (a) with re-
21 spect to acquisition of critical minerals for the Na-
22 tional Defense Stockpile with funds authorized to be
23 appropriated under section 7.

24 (e) BRIEFINGS REQUIRED.—Not later than 180 days
25 after the submission of the strategy required by subsection

1 (a), and every 180 days thereafter, the Director and the
2 Under Secretary shall brief the appropriate committees of
3 Congress on implementation of the strategy.

4 **SEC. 6. FORM OF REPORT AND STRATEGY.**

5 The report required by section 4 and the strategy re-
6 quired by section 5 shall be submitted in classified form
7 but shall include an unclassified summary.

8 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

9 There is authorized to be appropriated to the Na-
10 tional Defense Stockpile Transaction Fund \$1,003,500 for
11 the acquisition of strategic and critical minerals under sec-
12 tion 6(a) of the Strategic and Critical Minerals Stock Pil-
13 ing Act (50 U.S.C. 98e(a)).

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