

NATIONAL STRATEGIC AND CRITICAL MINERALS
PRODUCTION ACT

APRIL 11, 2018.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 520]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 520) 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

Congress finds that—

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

(2) the availability of minerals and mineral materials are essential for economic growth, national security, technological innovation, and the manufacturing and agricultural supply chain;

(3) minerals and mineral materials are critical components of every transportation, water, telecommunications, and energy infrastructure project necessary to modernize the crumbling infrastructure of the United States;

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

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

(A) 25 years ago, the United States was dependent on foreign sources for 45 nonfuel mineral materials, of which—

(i) 8 were imported by the United States to fulfill 100 percent of the requirements of the United States for those nonfuel mineral materials; and

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

(B) by 2015 the import dependence of the United States for nonfuel mineral materials increased from dependence on the import of 45 nonfuel mineral materials to dependence on the import of 47 nonfuel mineral materials, of which—

(i) 19 were imported by the United States to fulfill 100 percent of the requirements of the United States for those nonfuel mineral materials; and

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

(C) according to the Department of Energy, the United States imports greater than 50 percent of the 41 metals and minerals key to clean energy applications;

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

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

(F) in late 2016, the Government Accountability Office found that—

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

(ii) “the Federal critical materials approach faces other limitations, including data limitations and a focus on only a subset of critical materials, a limited focus on domestic production of critical materials, and limited engagement with industry”.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY.—The term “agency” means—

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

(B) an Alaska Native Corporation.

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

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

(4) MINERAL EXPLORATION OR MINE PERMIT.—The term “mineral exploration or mine permit” includes—

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

(B) a plan of operations issued by—

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

(ii) the Forest Service under subpart A of part 228 of title 36, Code of Federal Regulations (or successor regulations); and

(C) a permit issued under an authority described in section 3503.13 of title 43, Code of Federal regulations (or successor regulations).

(5) PROJECT.—The term “project” means a project for which the issuance of a permit is required to conduct activities for, relating to, or incidental to mineral exploration, mining, beneficiation, processing, or reclamation activities—

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

(B) in conjunction with any Federal mineral (other than coal and oil shale) that is leased under—

(i) the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.); or

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

SEC. 4. IMPROVING DEVELOPMENT OF STRATEGIC AND CRITICAL MINERALS.

(a) DEFINITION OF STRATEGIC AND CRITICAL MINERALS.—In this section, the term “strategic and critical minerals” means minerals that are necessary—

(1) for the national defense and national security requirements;

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

(A) pipelines;

(B) refining capacity;

(C) electrical power generation and transmission; and

(D) renewable energy production;

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

(4) to support domestic manufacturing, agriculture, housing, telecommunications, healthcare, and transportation infrastructure; or

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

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

SEC. 5. RESPONSIBILITIES OF THE LEAD AGENCY.

(a) IN GENERAL.—The lead agency shall appoint a project lead within the lead agency, who shall coordinate and consult with cooperating agencies and any other agencies involved in the permitting process, project proponents, and contractors to ensure that cooperating agencies and other agencies involved in the permitting process, project proponents, and contractors—

(1) minimize delays;

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

(3) set clear permitting goals; and

(4) track progress against those goals.

(b) DETERMINATION UNDER NEPA.—

(1) IN GENERAL.—To the extent that the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applies to the issuance of any mineral exploration or mine permit, the requirements of that Act shall be considered to have been procedurally and substantively satisfied if the lead agency determines that any State or Federal agency acting under State or Federal law has addressed or will address the following factors:

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

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

(C) Possible alternatives to issuance of the permit.

(D) The relationship between long- and short-term uses of the local environment and the maintenance and enhancement of long-term productivity.

(E) Any irreversible and irretrievable commitment of resources that would be involved in the proposed action.

(F) That public participation will occur during the decisionmaking process for authorizing actions under the permit.

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

(A) explain the rationale used in reaching the determination;

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

(C) show that the facts in the record could allow a reasonable person to reach the same determination as the lead agency did.

(c) COORDINATION ON PERMITTING PROCESS.—

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

- (A) avoiding duplicative reviews;
 - (B) minimizing paperwork; and
 - (C) engaging other agencies and stakeholders early in the process.
- (2) CONSIDERATIONS.—In carrying out paragraph (1), the lead agency shall consider—
- (A) deferring to, and relying on, baseline data, analyses, and reviews performed by State agencies with jurisdiction over the proposed project; and
 - (B) to the maximum extent practicable, conducting any consultations or reviews concurrently rather than sequentially if the concurrent consultation or review would expedite the process.
- (3) MEMORANDUM OF AGENCY AGREEMENT.—If requested at any time by a State or local planning agency, the lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, State and local governments, and other appropriate entities to accomplish the coordination activities described in this subsection.
- (d) SCHEDULE FOR PERMITTING PROCESS.—
- (1) IN GENERAL.—For any project for which the lead agency cannot make the determination described subsection (b), at the request of a project proponent, the lead agency, cooperating agencies, and any other agencies involved with the mineral exploration or mine permitting process shall enter into an agreement with the project proponent that sets time limits for each part of the permitting process, including—
 - (A) the decision on whether to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
 - (B) a determination of the scope of any environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
 - (C) the scope of, and schedule for, the baseline studies required to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
 - (D) preparation of any draft environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
 - (E) preparation of a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
 - (F) any consultations required under applicable law;
 - (G) submission and review of any comments required under applicable law;
 - (H) publication of any public notices required under applicable law; and
 - (I) any final or interim decisions.
 - (2) TIME LIMIT FOR PERMITTING PROCESS.—Except if extended by mutual agreement of the project proponent and the lead agency, the time period for the total review process described in paragraph (1) shall not exceed 30 months.
- (e) LIMITATION ON ADDRESSING PUBLIC COMMENTS.—The lead agency shall not be required to address any agency or public comments that were not submitted—
- (1) during a public comment period or consultation period provided during the permitting process; or
 - (2) as otherwise required by law.
- (f) FINANCIAL ASSURANCE.—The lead agency shall determine the amount of financial assurance required for reclamation of a mineral exploration or mining site, on the condition that the financial assurance shall cover the estimated cost if the lead agency were to contract with a third party to reclaim the operations according to the reclamation plan, including construction and maintenance costs for any treatment facilities necessary to meet Federal, State, or tribal environmental standards.
- (g) PROJECTS WITHIN NATIONAL FORESTS.—With respect to projects on National Forest System land, the lead agency shall—
- (1) exempt from the requirements of part 294 of title 36, Code of Federal Regulations (or successor regulations)—
 - (A) all areas of identified mineral resources in land use designations, other than nondevelopment land use designations, in existence on the date of enactment of this Act; and
 - (B) all additional routes and areas that the lead agency determines necessary to facilitate the construction, operation, maintenance, and restoration of an area described in paragraph (1); and

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

(h) APPLICATION TO EXISTING PERMIT APPLICATIONS.—

(1) IN GENERAL.—This section applies to a mineral exploration or mine permit for which an application was submitted before the date of enactment of this Act if the applicant for the permit submits a written request to the lead agency for the permit.

(2) IMPLEMENTATION.—The lead agency shall begin implementing this section with respect to an application described in paragraph (1) not later than 30 days after the date on which the lead agency receives the written request for the permit.

SEC. 6. FEDERAL REGISTER PROCESS FOR MINERAL EXPLORATION AND MINING PROJECTS.

(a) DEPARTMENTAL REVIEW.—Absent any extraordinary circumstances, as determined by the Secretary of the Interior or the Secretary of Agriculture, as applicable, and except as otherwise required by law, the Secretary of the Interior or the Secretary of Agriculture, as applicable, shall ensure that each Federal Register notice associated with the issuance of a mineral exploration or mine permit and required by law shall be—

(1) subject to any required reviews within the Department of the Interior or the Department of Agriculture, as applicable; and

(2) published in final form in the Federal Register not later than 45 days after the date of initial preparation of the notice.

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

(c) TRANSMISSION.—All Federal Register notices described in subsection (a) regarding official document availability, announcements of meetings, or notices of intent to undertake an action shall originate in, and be transmitted to the Federal Register from, the office in which, as applicable—

(1) the documents or meetings are held; or

(2) the activity is initiated.

SEC. 7. SECRETARIAL ORDER NOT AFFECTED.

This Act shall not apply to any mineral described in Secretarial Order 3324, issued by the Secretary of the Interior on December 3, 2012, in any area to which the order applies.

PURPOSE OF THE BILL

The purpose of H.R. 520 is 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.

BACKGROUND AND NEED FOR LEGISLATION

Domestic mining is essential to the economic well-being, national security, and continued technological advancement of the United States. Mining provides essential metals and minerals for industries across the country, including agriculture, telecommunications, construction, health care, manufacturing, transportation, and renewable energy. It also supplies raw materials necessary to rebuild America's infrastructure.

H.R. 520 supports robust mineral production in the United States by boosting efficiency in the permitting process for these resources, emphasizing coordination between federal and State agencies, minimizing delays and duplicative reviews, and creating more predictable timeframes.

H.R. 520 also aligns with policy objectives in President Trump's Executive Order 13817 (82 FR 60835) outlining a federal strategy to ensure a reliable supply of critical minerals. The federal government is instructed to “[streamline] leasing and permitting proc-

esses to expedite exploration, production, processing, reprocessing, recycling, and domestic refining of critical minerals.”¹

In 2017, industrial materials production, including sand, gravel, and crushed stone, had a total value of \$48.9 billion, while metal mines’ production was valued at \$26.3 billion.² Every building, bridge, highway, and infrastructure project relies on mined materials, such as the metallurgical coal and iron ore used in steel production.

Despite the existence of substantial reserves of critical resources in the United States, the issue of import reliance has become an increasing area of concern. In 1986, the United States was dependent on foreign sources for 30 non-fuel mineral materials; in 2017, the number of net import reliant commodities more than doubled to 64.³ Of these, 21 commodities were imported at a rate of 100%.⁴ China provides the greatest number of these materials to the United States, acting as a major supplier of 26 commodities in 2017.⁵ As such, the United States is dependent on China for many necessary components of technology used from laptops to cell phones, as well as military applications and healthcare. In the event of disruptions to the global supply chain, the United States needs a robust domestic mineral supply to meet strategic needs.

Before any mining project may occur in the United States, the interested parties must first proceed through the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 et seq.) process, undergo extensive permitting analysis at the federal and State level, demonstrate financial assurance, and engage with stakeholders. These tasks take years to complete.

Acquiring all necessary permits is a particularly time-consuming, confusing, and expensive process. Agencies at both the State and federal level share different regulatory and land management responsibilities for aspects of the mining permitting process, resulting in an unclear delineation of authority.

Today, the United States averages 7 to 10 years for final permitting approval, and permitting delays are considered the greatest risk to the economic viability of mining projects in the United States.⁶ In comparison, countries like Canada and Australia have demonstrated a capacity to follow specific permitting timelines while maintaining environmental protections. These countries’ permitting timeframes average around two years,⁷ and are ranked as the top two countries for mining investment.⁸

H.R. 520 improves and streamlines the permitting process. It authorizes a lead agency to coordinate between federal agencies, States, and project proponents to minimize delays, create and ad-

¹President Donald J. Trump, “*Presidential Executive Order on a Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals*,” The White House, December 20, 2017. <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-federal-strategy-ensure-secure-reliable-supplies-critical-minerals/>.

²United States Geological Survey, “*Mineral Commodities Summaries 2018*,” January 31, 2018. <https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>.

³*Id.*

⁴*Id.*

⁵*Id.*

⁶Behre Dolbear, “*2014 Ranking of Countries for Mining Investment*,” 2014. <http://www.dolbear.com/wp-content/uploads/2016/04/2014-Where-to-Invest.pdf>.

⁷SNL Metals & Mining, “*Permitting, Economic Value and Mining in the United States*,” June 2015. https://nma.org/wp-content/uploads/2016/09/SNL_Permitting_Delay_Report-Online.pdf.

⁸Behre Dolbear, “*2014 Ranking of Countries for Mining Investment*”.

here to permitting timelines, set clear permitting goals, and track progress against those goals.

H.R. 520 also includes a provision on NEPA determination, under which the authorized lead agency will consider NEPA satisfied with respect to the permit if a State or federal agency takes specified considerations into account, including the environmental impact of the action to be conducted under the permit. If the lead agency cannot make this determination, the agency will work with the project proponent and other relevant parties to create a permitting timeline, which cannot exceed 30 months. This expedites permitting reviews while maintaining robust environmental protections.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The “National Strategic and Critical Minerals Production Act.”

Section 2. Findings

Section 3. Definitions

Section 4. Improving development of strategic and critical minerals

This section defines “strategic and critical minerals” as minerals that are necessary: (1) for national defense and national security requirements; (2) for domestic energy infrastructure; (3) for community resiliency, coastal restoration, and the ecological sustainability for the coastal United States; (4) to support domestic manufacturing, agriculture, housing, telecommunications, healthcare, and transportation infrastructure; or (5) for the nation’s economic security and trade balance.

A domestic mine that provides strategic and critical minerals shall be treated as an “infrastructure project” as described in Executive Order 13807.

Section 5. Responsibilities of the lead agency

The lead agency shall appoint a project lead to coordinate and consult with cooperating agencies and other agencies involved in the permitting process, project proponents, and contractors to: (1) minimize delays; (2) set and adhere to permitting timelines and schedules; (3) set clear permitting goals; and (4) track progress against those goals.

If the lead agency determines that any State or federal agency has addressed or will address the environmental impact of the action to be conducted under the permit, as well as other specified considerations, then NEPA is considered satisfied with respect to mineral exploration or mine permits.

This section requires a written record of decision from the lead agency regarding its determination under NEPA within 90 days after receipt of a permit application.

This section requires the lead agency to enhance government coordination on permitting and review by avoiding duplicative reviews, minimizing paperwork, and engaging other agencies and stakeholders early in the process.

The lead agency shall consider data and analysis from the State of jurisdiction and, as much as is practical, consultations and reviews shall be conducted concurrently rather than sequentially.

This section allows the lead agency, upon request from a State or local planning agency, to establish memoranda of agreement with the project sponsor and other appropriate entities to accomplish coordination activities.

If the lead agency cannot make the NEPA determination, a project proponent can request that the project lead enter into an agreement that sets time limits for each part of the permitting process; this review process cannot exceed 30 months, unless an extension is mutually agreed upon.

The lead agency only has to address agency or public comments that are submitted during the public comment period.

The lead agency shall determine financial assurance requirements for reclamation of a mineral exploration or mining site.

This section exempts certain projects on National Forest Service land from part 294 of title 36, Code of Federal Regulations, or successor regulations.

Applies this section to any existing mineral exploration or mine permit if the applicant submits a written request to the lead agency; this section will apply to existing permit applications no later than 30 days after the lead agency receives the request.

Section 6. Federal Register process for mineral exploration and mining projects

This section reforms the process currently practiced by the Department of the Interior and the Department of Agriculture, for placing and reviewing Federal Register notices for mineral exploration and mine permits.

Section 7. Secretarial Order not affected

Areas covered by Secretarial Order 3324, issued by the Secretary of the Interior on December 3, 2012, are not affected by this Act.

COMMITTEE ACTION

H.R. 520 was introduced on January 13, 2017, by Congressman Mark E. Amodei (R–NV). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On February 15, 2018, the Subcommittee held a hearing on the legislation. On March 7, 2018, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Paul A. Gosar (R–AZ) offered an amendment designated #1; it was adopted by voice vote. Congressman Garret Graves (R–LA) offered an amendment designated #1; it was adopted by voice vote. Congressman Alan S. Lowenthal (D–CA) offered an amendment designated 043; it was not adopted by a roll call of 16 yeas and 20 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 03.07.18

Recorded Vote #:1

Meeting on / Amendment on: **FC Markup Representative Lowenthal amendment [043] to HR 520**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. Cook, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mr. Soto, FL</i>	X		
Mr. Young, AK, Chairman Emeritus		X		Mr. Westerman, AR			
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. McEachin, VA</i>	X		
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA		X	
<i>Ms. Bordallo, Guam</i>	X			<i>Mr. Brown, MD</i>	X		
Mr. Lamborn, CO		X		Mr. Hice, GA			
<i>Mr. Costa, CA</i>	X			<i>Mr. Clay, MO</i>	X		
Mr. Wittman, VA		X		Mrs. Radewagen, AS		X	
<i>Mr. Sablan, CNMI</i>	X			<i>Mr. Gomez, CA</i>	X		
Mr. McClintock, CA		X		Mr. Webster, FL		X	
<i>Ms. Tsongas, MA</i>	X			Mr. Bergman, MI		X	
Mr. Pearce, NM				Ms. Cheney, WY		X	
<i>Mr. Huffman, CA</i>	X			Mr. Johnson, LA		X	
Mr. Thompson, PA		X		Ms. González-Colón, PR			
<i>Mr. Lowenthal, CA</i>	X			Mr. Gianforte, MT		X	
Mr. Gosar, AZ		X		Mr. Curtis, UT		X	
<i>Mr. Beyer, VA</i>	X						
Mr. Labrador, ID		X					
<i>Mrs. Torres, CA</i>							
Mr. Tipton, CO		X					
<i>Mr. Gallego, AZ</i>	X						
Mr. LaMalfa, CA		X					
<i>Ms. Hanabusa, HI</i>	X						
Mr. Denham, CA		X					
<i>Ms. Barragán, CA</i>				TOTAL:	16	20	

Congressman Raúl M. Grijalva (D–AZ) offered an amendment in the nature of a substitute designated 002; it was not adopted by a roll call of 17 yeas and 20 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 03.07.18

Recorded Vote #:2

Meeting on / Amendment on: **FC Markup Representative Grijalva amendment in the nature of a substitute [002] to HR 520**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. Cook, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mr. Soto, FL</i>	X		
Mr. Young, AK, Chairman Emeritus		X		Mr. Westerman, AR			
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. McEachin, VA</i>	X		
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA		X	
<i>Ms. Bordallo, Guam</i>	X			<i>Mr. Brown, MD</i>	X		
Mr. Lamborn, CO		X		Mr. Hice, GA			
<i>Mr. Costa, CA</i>	X			<i>Mr. Clay, MO</i>	X		
Mr. Wittman, VA		X		Mrs. Radewagen, AS		X	
<i>Mr. Sablan, CNMI</i>	X			<i>Mr. Gomez, CA</i>	X		
Mr. McClintock, CA		X		Mr. Webster, FL		X	
<i>Ms. Tsongas, MA</i>	X			Mr. Bergman, MI		X	
Mr. Pearce, NM				Ms. Cheney, WY		X	
<i>Mr. Huffman, CA</i>	X			Mr. Johnson, LA		X	
Mr. Thompson, PA		X		Ms. González-Colón, PR			
<i>Mr. Lowenthal, CA</i>	X			Mr. Gianforte, MT		X	
Mr. Gosar, AZ		X		Mr. Curtis, UT		X	
<i>Mr. Beyer, VA</i>	X						
Mr. Labrador, ID		X					
<i>Mrs. Torres, CA</i>	X						
Mr. Tipton, CO		X					
<i>Mr. Gallego, AZ</i>	X						
Mr. LaMalfa, CA		X					
<i>Ms. Hanabusa, HI</i>	X						
Mr. Denham, CA		X					
<i>Ms. Barragán, CA</i>				TOTAL:	17	20	

No further amendments were offered and the bill, as amended, was ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 21 yeas and 16 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 02.07.18

Recorded Vote #:3

Meeting on / Amendment on: **FC Markup on favorably reporting H.R. 520**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. Cook, CA	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. Soto, FL</i>		X	
Mr. Young, AK, Chairman Emeritus	X			Mr. Westerman, AR			
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. McEachin, VA</i>		X	
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA	X		
<i>Ms. Bordallo, Guam</i>		X		<i>Mr. Brown, MD</i>		X	
Mr. Lamborn, CO	X			Mr. Hice, GA			
<i>Mr. Costa, CA</i>	X			<i>Mr. Clay, MO</i>		X	
Mr. Wittman, VA	X			Mrs. Radewagen, AS	X		
<i>Mr. Sablan, CNMI</i>		X		<i>Mr. Gomez, CA</i>		X	
Mr. McClintock, CA	X			Mr. Webster, FL	X		
<i>Ms. Tsongas, MA</i>		X		Mr. Bergman, MI	X		
Mr. Pearce, NM				Ms. Cheney, WY	X		
<i>Mr. Huffman, CA</i>		X		Mr. Johnson, LA	X		
Mr. Thompson, PA	X			Ms. González-Colón, PR			
<i>Mr. Lowenthal, CA</i>		X		Mr. Gianforte, MT	X		
Mr. Gosar, AZ	X			Mr. Curtis, UT	X		
<i>Mr. Beyer, VA</i>		X					
Mr. Labrador, ID	X						
<i>Mrs. Torres, CA</i>		X					
Mr. Tipton, CO	X						
<i>Mr. Gallego, AZ</i>		X					
Mr. LaMalfa, CA	X						
<i>Ms. Hanabusa, HI</i>		X					
Mr. Denham, CA	X						
<i>Ms. Barragán, CA</i>				TOTAL:	21	16	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 28, 2018.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 520, the National Strategic and Critical Minerals Production Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 520—National Strategic and Critical Minerals Production Act

H.R. 520 would require the Bureau of Land Management (BLM) and the Forest Service to take actions aimed at simplifying the permitting process for extracting certain minerals from federal lands. The bill would direct the affected agencies to coordinate with other agencies to reduce permitting delays and expedite the publishing of notices in the *Federal Register* related to mineral exploration and mining projects.

Based on information from the affected agencies, CBO estimates that those provisions would have no significant budgetary effect because the agencies are already performing most of the activities. Thus, CBO estimates that implementing that provision would cost less than \$300,000 a year, or roughly the equivalent of two full-time employees. Such spending would be subject to the availability of appropriated funds. Those employees would help the affected agencies enhance interagency cooperation and meet the expedited timelines established in the bill.

CBO estimates that enacting H.R. 520 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 520 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 520 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is 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.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

DISSENTING VIEWS

H.R. 520 is virtually identical to bills with the same title that have been reported out of the Natural Resources Committee in each of the three previous Congresses, so details on our opposition to the bill's weakened environmental review process for new mines and the overly broad definition of "critical and strategic minerals" has already been well documented in prior dissenting views.¹ The fact that this is the fourth committee report for the same bill highlights the key problem with the Majority's strategy on this issue: they continue to pass extreme, partisan legislation that they are able to get through the House on party-line votes but unable to advance in the Senate.

If the Majority was serious about legislating on critical and strategic minerals, they would work to develop a bipartisan compromise that addressed the legitimate need to diversify our sources of truly critical and strategic minerals. During markup, Committee Democrats offered two amendments using Republican language on critical minerals in an effort to break the partisan logjam and report something that would have a more realistic chance of being signed into law. Neither one received a single Republican vote.

The first amendment, from Mr. Lowenthal, would have replaced the definition of "critical and strategic minerals" in H.R. 520 with the definition from Executive Order 13817, "A Federal Strategy To Ensure Secure and Reliable Supplies of Critical Minerals," signed by President Trump on December 20, 2017.² While we do not completely agree with the definition in Executive Order 13817, and believe the draft list of critical minerals published by the Department of the Interior is inappropriately broad,³ the fact that the list excludes any minerals at all makes it orders of magnitude more selective than H.R. 520. The Majority argued at markup that Mr. Lowenthal's amendment would defeat the purpose of the bill by eliminating the flexibility necessary to account for changing needs and technologies. The fact that the Administration's draft list of critical minerals was published less than two months after the Executive Order shows that the Majority's concern about flexibility is completely unfounded. There is no need to define every single mineral as critical in advance if it will only take a couple of months to designate a mineral as critical using a more reasonable definition.

The second amendment, offered by Ranking Member Grijalva, was a substitute for the entire bill using language from S. 2012 in the 114th Congress, Senator Murkowski's (R-AK) bipartisan Energy Policy Modernization Act of 2016, which passed the Senate

¹ H. Rept. 112-583 accompanying H.R. 4402; H. Rept. 113-138 accompanying H.R. 761; H. Rept. 114-253 accompanying H.R. 1937

² 82 FR 60835 (December 26, 2017)

³ 83 FR 7065 (February 16, 2018)

with 85 votes. Once again, the Majority turned their back on productively advancing legislation that could realistically be signed into law and make a positive contribution to critical minerals issues in the United States. Instead, they voted to advance their highly partisan legislation that reads like a mining industry wish list and has zero chance of becoming law.

Both amendments demonstrated our willingness to work with the Majority on compromise critical minerals legislation, but the Majority made it very clear that they intend to adhere to their futile all-or-nothing approach that only succeeds in accomplishing nothing.

RAÚL M. GRIJALVA,
*Ranking Member, Committee
on Natural Resources.*

GRACE NAPOLITANO.

JARED HUFFMAN.

DARREN SOTO.

