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2D SESSION

H. R. 8272

To encourage the extraction and processing of rare earth elements and critical minerals in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 2022

Ms. SLOTKIN (for herself and Mr. WALTZ) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To encourage the extraction and processing of rare earth elements and critical minerals in 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 “Restoring Essential
5 Energy and Security Holdings Onshore for Rare Earths
6 Act of 2022” or the “REEShore Act of 2022”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Armed Services and
5 the Committee on Energy and Natural Re-
6 sources of the Senate; and

7 (B) the Committee on Armed Services and
8 the Committee on Energy and Commerce of the
9 House of Representatives.

10 (2) COVERED CRITICAL MINERAL.—The term
11 “covered critical mineral” means—

12 (A) antimony;

13 (B) beryllium;

14 (C) cobalt;

15 (D) graphite;

16 (E) lithium;

17 (F) manganese;

18 (G) nickel;

19 (H) tantalum;

20 (I) tungsten; or

21 (J) vanadium.

22 (3) RARE EARTH ELEMENT.—The term “rare
23 earth element” means—

24 (A) cerium;

25 (B) dysprosium;

- 1 (C) erbium;
- 2 (D) europium;
- 3 (E) gadolinium;
- 4 (F) holmium;
- 5 (G) lanthanum;
- 6 (H) lutetium;
- 7 (I) neodymium;
- 8 (J) praseodymium;
- 9 (K) promethium;
- 10 (L) samarium;
- 11 (M) scandium;
- 12 (N) terbium;
- 13 (O) thulium;
- 14 (P) ytterbium; or
- 15 (Q) yttrium.

16 (4) RARE EARTH OR COVERED CRITICAL MIN-
17 ERAL PRODUCT.—The term “rare earth or covered
18 critical mineral product” means a finished, semi-fin-
19 ished, or other intermediate good or component, in-
20 cluding a battery or permanent magnet, that con-
21 tains a rare earth element or covered critical min-
22 eral.

1 **SEC. 3. EXPANSION OF NATIONAL DEFENSE STOCKPILE RE-**
2 **QUIREMENTS AND CAPACITY RELATING TO**
3 **RARE EARTH ELEMENTS AND COVERED CRIT-**
4 **ICAL MINERALS.**

5 (a) FINDINGS.—Congress finds that increasing the
6 storage of substantial quantities of rare earth elements,
7 covered critical minerals, and rare earth or covered critical
8 mineral products in the National Defense Stockpile will—

9 (1) diminish the vulnerability of the United
10 States to the effects of severe disruptions to the sup-
11 ply chains for such elements, minerals, and prod-
12 ucts; and

13 (2) provide limited protection from the con-
14 sequences of an interruption in supplies of such ele-
15 ments, minerals, and products, particularly such ele-
16 ments, minerals, and products required to meet the
17 needs of the Armed Forces and the defense indus-
18 trial and technology sectors.

19 (b) STATEMENT OF POLICY.—It is the policy of the
20 United States to expand and maintain a strategic reserve
21 of rare earth elements, covered critical minerals, and rare
22 earth or covered critical mineral products.

23 (c) DECLARATION OF PURPOSES.—Section 2 of the
24 Strategic and Critical Materials Stock Piling Act (50
25 U.S.C. 98a) is amended by adding at the end the fol-
26 lowing:

1 “(d) The quantities of rare earth elements, covered
2 critical minerals, and rare earth or covered critical mineral
3 products stockpiled under this Act should be sufficient to
4 sustain the United States Armed Forces and the defense
5 industrial and technology sectors of the United States for
6 a period of not less than 3 years during a national emer-
7 gency situation that would necessitate total mobilization
8 of the economy of the United States for a sustained con-
9 ventional global war of indefinite duration.”.

10 (d) NATIONAL EMERGENCY PLANNING ASSUMP-
11 TIONS FOR RARE EARTH ELEMENTS AND COVERED CRIT-
12 ICAL MINERALS.—Section 14 of the Strategic and Critical
13 Materials Stock Piling Act (50 U.S.C. 98h–5) is amend-
14 ed—

15 (1) in subsection (b), in the second sentence, by
16 striking “The Secretary shall base” and inserting
17 “Except as provided in subsection (c), the Secretary
18 shall base”;

19 (2) by redesignating subsections (c), (d), and
20 (e) as subsections (d), (e), and (f), respectively; and

21 (3) by inserting after subsection (b) the fol-
22 lowing:

23 “(c) The Secretary shall base the Secretary’s rec-
24 ommendations under subsection (a)(1) with respect to
25 stockpile requirements for rare earth elements, covered

1 critical minerals, and rare earth or covered critical mineral
 2 products on a national emergency situation that would last
 3 for a period of not less than 3 years and necessitate total
 4 mobilization of the economy of the United States for a
 5 sustained conventional global war of indefinite duration.”.

6 (e) LIMITED ACQUISITION AUTHORITY.—The Stra-
 7 tegic and Critical Materials Stock Piling Act (50 U.S.C.
 8 98 et seq.) is amended—

9 (1) in section 3(c)(2) (50 U.S.C. 98b(c)(2)), by
 10 striking “The President” and inserting “In the case
 11 of acquisitions of materials the cost of which exceeds
 12 the amount specified in section 5(a)(3), the Presi-
 13 dent”;

14 (2) in section 5(a) (50 U.S.C. 98d(a))—

15 (A) in paragraph (1), in the first sentence,
 16 by inserting “under the authority of paragraph
 17 (3) or” after “Except for acquisitions made”;
 18 and

19 (B) by adding at the end the following:

20 “(3) The Secretary of Defense may acquire materials
 21 determined to be strategic and critical under section 3(a),
 22 including rare earth elements, covered critical minerals,
 23 and rare earth or covered critical mineral products, with-
 24 out regard to the requirement of the first sentence of sub-

1 section (a) if the cost of the materials does not exceed
 2 \$10,000,000.”;

3 (3) in section 10(c) (50 U.S.C. 98h–1(c))—

4 (A) in paragraph (2), by striking “all ac-
 5 quisitions and disposals” inserting “acquisitions
 6 of materials the cost of which exceeds the
 7 amount specified in section 5(a)(3) and all dis-
 8 posals”; and

9 (B) in paragraph (3)(A), by striking “all
 10 acquisitions and disposals” and inserting “ac-
 11 quisitions described in paragraph (2) and all
 12 disposals”; and

13 (4) in section 11(b)(3) (50 U.S.C. 98h–
 14 2(b)(3))—

15 (A) by inserting “(A)” before “Any pro-
 16 posed expenditure”; and

17 (B) by adding at the end the following:

18 “(B) Subparagraph (A) does not apply with respect
 19 to acquisitions of materials the cost of which does not ex-
 20 ceed the amount specified in section 5(a)(3).”.

21 (f) DEFINITIONS.—Section 12 of the Strategic and
 22 Critical Materials Stock Piling Act (50 U.S.C. 98h–3) is
 23 amended by adding at the end the following:

24 “(4) The term ‘covered critical mineral’
 25 means—

- 1 “(A) antimony;
2 “(B) beryllium;
3 “(C) cobalt;
4 “(D) graphite;
5 “(E) lithium;
6 “(F) manganese;
7 “(G) nickel;
8 “(H) tantalum;
9 “(I) tungsten; or
10 “(J) vanadium.
- 11 “(5) The term ‘rare earth element’ means—
12 “(A) cerium;
13 “(B) dysprosium;
14 “(C) erbium;
15 “(D) europium;
16 “(E) gadolinium;
17 “(F) holmium;
18 “(G) lanthanum;
19 “(H) lutetium;
20 “(I) neodymium;
21 “(J) praseodymium;
22 “(K) promethium;
23 “(L) samarium;
24 “(M) scandium;
25 “(N) terbium;

1 “(O) thulium;

2 “(P) ytterbium; or

3 “(Q) yttrium.

4 “(6) The term ‘rare earth or covered critical
5 mineral product’ means a finished, semi-finished, or
6 other intermediate good or component, including a
7 battery or permanent magnet, that contains a rare
8 earth element or covered critical mineral.”.

9 (g) AUTHORIZATION OF APPROPRIATIONS.—

10 (1) IN GENERAL.—There are authorized to be
11 appropriated for the National Defense Stockpile
12 Transaction Fund under section 9 of the Strategic
13 and Critical Materials Stock Piling Act (50 U.S.C.
14 98h)—

15 (A) for fiscal year 2023, \$253,500,000;

16 (B) for fiscal year 2024, \$266,175,000;

17 (C) for fiscal year 2025, \$279,484,000;

18 (D) for fiscal year 2026, \$293,458,000;

19 and

20 (E) for fiscal year 2027, \$308,131,000.

21 (2) SUPPLEMENT NOT SUPPLANT.—The
22 amounts authorized to be appropriated by paragraph
23 (1) shall supplement and not supplant other
24 amounts authorized to be appropriated for the Na-
25 tional Defense Stockpile Transaction Fund.

1 **SEC. 4. DISCLOSURES CONCERNING RARE EARTH ELE-**
2 **MENTS AND COVERED CRITICAL MINERALS**
3 **BY CONTRACTORS OF DEPARTMENT OF DE-**
4 **FENSE.**

5 (a) REQUIREMENT.—Beginning on the date that is
6 30 months after the date of the enactment of this Act,
7 the Secretary of Defense shall require that any contractor
8 that provides to the Department of Defense a system with
9 a permanent magnet that contains rare earth elements or
10 covered critical minerals disclose, along with delivery of
11 the system, the provenance of the magnet.

12 (b) ELEMENTS.—A disclosure under subsection (a)
13 shall include an identification of the country or countries
14 in which—

15 (1) any rare earth elements and covered critical
16 minerals used in the magnet were mined;

17 (2) such elements and minerals were refined
18 into oxides;

19 (3) such elements and minerals were made into
20 metals and alloys; and

21 (4) the magnet was sintered or bonded and
22 magnetized.

23 (c) IMPLEMENTATION OF SUPPLY CHAIN TRACKING
24 SYSTEM.—If a contractor cannot make the disclosure re-
25 quired by subsection (a) with respect to a system described
26 in that subsection, the Secretary shall require the con-

1 tractor to establish and implement a supply chain tracking
2 system in order to make the disclosure not later than 180
3 days after providing the system to the Department of De-
4 fense.

5 (d) WAIVERS.—

6 (1) IN GENERAL.—The Secretary may waive a
7 requirement under subsection (a) or (c) with respect
8 to a system described in subsection (a) for a period
9 of not more than 180 days if the Secretary certifies
10 to the appropriate congressional committees that—

11 (A) the continued procurement of the sys-
12 tem is necessary to meet the demands of a na-
13 tional emergency declared under section 201 of
14 the National Emergencies Act (50 U.S.C.
15 1621); or

16 (B) the contractor cannot currently make
17 the disclosure required by subsection (a) but is
18 making significant efforts to comply with the
19 requirements of that subsection.

20 (2) WAIVER RENEWALS.—The Secretary—

21 (A) may renew a waiver under paragraph
22 (1)(A) as many times as the Secretary con-
23 siders appropriate; and

24 (B) may not renew a waiver under para-
25 graph (1)(B) more than twice.

1 (e) BRIEFING REQUIRED.—Not later than 30 days
2 after the submission of each report required by section
3 6(c), the Secretary of Defense shall provide to the appro-
4 priate congressional committees a briefing that includes—

5 (1) a summary of the disclosures made under
6 this section;

7 (2) an assessment of the extent of reliance by
8 the United States on foreign countries, and espe-
9 cially countries that are not allies of the United
10 States, for rare earth elements and covered critical
11 minerals;

12 (3) a determination with respect to which sys-
13 tems described in subsection (a) are of the greatest
14 concern for interruptions of supply chains with re-
15 spect to rare earth elements and covered critical
16 minerals; and

17 (4) any suggestions for legislation or funding
18 that would mitigate security gaps in such supply
19 chains.

20 **SEC. 5. EXPANSION OF RESTRICTIONS ON PROCUREMENT**
21 **OF MILITARY AND DUAL-USE TECHNOLOGIES**
22 **BY CHINESE MILITARY COMPANIES.**

23 Section 1211 of the National Defense Authorization
24 Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat.
25 3461), as most recently amended by section 1296 of the

1 National Defense Authorization Act for Fiscal Year 2017
2 (Public Law 114–328; 130 Stat. 2562), is further amend-
3 ed—

4 (1) in the section heading, by striking “**COM-**
5 **MUNIST CHINESE MILITARY COMPANIES**” and
6 inserting “**CHINESE MILITARY COMPANIES**”;

7 (2) in subsection (a), by inserting after “mili-
8 tary company” the following: “, any Chinese military
9 company, or any Non-SDN Chinese military-indus-
10 trial complex company”;

11 (3) by amending subsection (b) to read as fol-
12 lows:

13 “(b) GOODS AND SERVICES COVERED.—

14 “(1) IN GENERAL.—For purposes of subsection
15 (a), and except as provided in paragraph (2), the
16 goods and services described in this subsection are
17 goods and services—

18 “(A) on the munitions list of the Inter-
19 national Traffic in Arms Regulations; or

20 “(B) on the Commerce Control List that—

21 “(i) are classified in the 600 series; or

22 “(ii) contain rare earth elements or
23 covered critical minerals.

1 “(2) EXCEPTIONS.—Goods and services de-
2 scribed in this subsection do not include goods or
3 services procured—

4 “(A) in connection with a visit by a vessel
5 or an aircraft of the United States Armed
6 Forces to the People’s Republic of China;

7 “(B) for testing purposes; or

8 “(C) for purposes of gathering intel-
9 ligence.”; and

10 (4) in subsection (e)—

11 (A) by striking paragraph (3);

12 (B) by redesignating paragraphs (1) and
13 (2) as paragraphs (3) and (6), respectively;

14 (C) by inserting before paragraph (3), as
15 redesignated by subparagraph (B), the fol-
16 lowing:

17 “(1) The term ‘Chinese military company’ has
18 the meaning given that term by section 1260H(d)(1)
19 of the William M. (Mac) Thornberry National De-
20 fense Authorization Act for Fiscal Year 2021 (Pub-
21 lic Law 116–283; 10 U.S.C. 113 note).

22 “(2) The term ‘Commerce Control List’ means
23 the list maintained by the Bureau of Industry and
24 Security and set forth in Supplement No. 1 to part
25 774 of the Export Administration Regulations.”;

1 (D) by inserting after paragraph (3), as so
2 redesignated, the following:

3 “(4) The term ‘covered critical mineral’
4 means—

5 “(A) antimony;

6 “(B) beryllium;

7 “(C) cobalt;

8 “(D) graphite;

9 “(E) lithium;

10 “(F) manganese;

11 “(G) nickel;

12 “(H) tantalum;

13 “(I) tungsten; or

14 “(J) vanadium.

15 “(5) The term ‘Export Administration Regula-
16 tions’ has the meaning given that term in section
17 1742 of the Export Control Reform Act of 2018 (50
18 U.S.C. 4801).”; and

19 (E) by adding at the end the following:

20 “(7) The term ‘Non-SDN Chinese military-in-
21 dustrial complex company’ means any entity on the
22 Non-SDN Chinese Military-Industrial Complex Com-
23 panies List—

24 “(A) established pursuant to Executive
25 Order 13959 (50 U.S.C. 1701 note; relating to

1 addressing the threat from securities invest-
2 ments that finance Communist Chinese military
3 companies), as amended before, on, or after the
4 date of the enactment of the Restoring Essen-
5 tial Energy and Security Holdings Onshore for
6 Rare Earths Act of 2022; and

7 “(B) maintained by the Office of Foreign
8 Assets Control of the Department of the Treas-
9 ury.

10 “(8) The term ‘rare earth element’ means—

11 “(A) cerium;

12 “(B) dysprosium;

13 “(C) erbium;

14 “(D) europium;

15 “(E) gadolinium;

16 “(F) holmium;

17 “(G) lanthanum;

18 “(H) lutetium;

19 “(I) neodymium;

20 “(J) praseodymium;

21 “(K) promethium;

22 “(L) samarium;

23 “(M) scandium;

24 “(N) terbium;

25 “(O) thulium;

1 “(P) ytterbium; or
2 “(Q) yttrium.”.

3 **SEC. 6. REVIEW OF COMPLIANCE WITH CONTRACTING RE-**
4 **QUIREMENTS.**

5 (a) IN GENERAL.—Not later than one year after the
6 date of the enactment of this Act, and periodically there-
7 after until the termination date specified in subsection (e),
8 the Comptroller General of the United States shall assess
9 the extent of the efforts of the Department of Defense
10 to comply with the requirements of—

11 (1) section 4;

12 (2) section 1211 of the National Defense Au-
13 thorization Act for Fiscal Year 2006, as amended by
14 section 5 of this Act; and

15 (3) section 4872 of title 10, United States
16 Code.

17 (b) BRIEFING REQUIRED.—The Comptroller General
18 shall periodically, until the termination date specified in
19 subsection (e), provide to the appropriate congressional
20 committees a briefing on the results of the assessments
21 conducted under subsection (a) that includes an assess-
22 ment of—

23 (1) the inclusion by the Department of Defense
24 of necessary contracting clauses in relevant contracts

1 to meet the requirements described in paragraphs
2 (1), (2), and (3) of subsection (a); and

3 (2) the efforts of the Department of Defense to
4 assess the compliance of contractors with such
5 clauses.

6 (c) REPORT REQUIRED.—The Comptroller General
7 shall, not less frequently than every 2 years until the ter-
8 mination date specified in subsection (e), submit to the
9 appropriate congressional committees a report on the re-
10 sults of the assessments conducted under subsection (a)
11 that includes an assessment of—

12 (1) the inclusion by the Department of Defense
13 of necessary contracting clauses in relevant contracts
14 to meet the requirements described in paragraphs
15 (1), (2), and (3) of subsection (a); and

16 (2) the efforts of the Department of Defense to
17 assess the compliance of contractors with such
18 clauses.

19 (d) REFERRAL.—If, in conducting an assessment
20 under subsection (a), the Comptroller General determines
21 that a contractor has failed to comply with any of the re-
22 quirements described in paragraphs (1), (2), and (3) of
23 subsection (a), the Comptroller General shall refer the
24 matter to the Department of Justice, relevant Inspectors

1 General, or other enforcement agencies, as appropriate,
 2 for further examination and possible enforcement actions.

3 (e) TERMINATION.—The requirements of this section
 4 shall terminate on the date that is 10 years after the date
 5 of the enactment of this Act.

6 **SEC. 7. SUPPORT FOR DOMESTIC RARE EARTH ELEMENT**
 7 **AND COVERED CRITICAL MINERAL PRO-**
 8 **DUCERS AND PROCESSORS.**

9 (a) AUTHORIZATION OF APPROPRIATIONS.—

10 (1) IN GENERAL.—There are authorized to be
 11 appropriated to the Defense Production Act Fund
 12 under section 304 of the Defense Production Act of
 13 1950 (50 U.S.C. 4534) for each of fiscal years 2023
 14 through 2027, \$750,000,000 for activities of the De-
 15 partment of Defense pursuant to section 108 and
 16 title III of the Defense Production Act of 1950 (50
 17 U.S.C. 4518 and 4531 et seq.).

18 (2) RARE EARTH ELEMENTS AND COVERED
 19 CRITICAL MINERALS.—Of the amount authorized to
 20 be appropriated by paragraph (1) for a fiscal year,
 21 not less than \$250,000,000 shall be available to
 22 meet the requirements of the Department of Defense
 23 for rare earth elements and covered critical minerals.

24 (b) INCREASE IN LIMITATION ON COST OF DEFENSE
 25 PRODUCTION ACT PROJECTS FOR RARE EARTH ELE-

1 MENTS AND COVERED CRITICAL MINERALS.—Section
2 303(a)(6) of the Defense Production Act is amended—

3 (1) in subparagraph (B)—

4 (A) by striking “If the taking” and insert-
5 ing the following:

6 “(i) IN GENERAL.—If the taking”;

7 (B) by inserting “(except as provided in
8 clause (ii))” after “\$50,000,000”; and

9 (C) by adding at the end the following:

10 “(ii) EXCEPTION FOR RARE EARTH
11 ELEMENTS AND COVERED CRITICAL MIN-
12 ERALS.—If the taking of any action under
13 this subsection to correct a domestic indus-
14 trial base shortfall in rare earth elements,
15 covered critical minerals, or rare earth or
16 covered critical mineral products (as those
17 terms are defined in section 2 of the
18 REEShore Act of 2022) would cause the
19 aggregate outstanding amount of all such
20 actions for such shortfall to exceed
21 \$100,000,000, the action or actions may
22 be taken only after the 30-day period fol-
23 lowing the date on which the Committee on
24 Banking, Housing, and Urban Affairs of
25 the Senate and the Committee on Finan-

1 cial Services of the House of Representa-
2 tives have been notified in writing of the
3 proposed action.”; and

4 (2) in subparagraph (C)—

5 (A) by striking “If the taking” and insert-
6 ing the following:

7 “(i) IN GENERAL.—If the taking”;

8 (B) by inserting “(except as provided in
9 clause (ii))” after “\$50,000,000”; and

10 (C) by adding at the end the following:

11 “(ii) EXCEPTION FOR RARE EARTH
12 ELEMENTS AND COVERED CRITICAL MIN-
13 ERALS.—If the taking of any action or ac-
14 tions under this section to correct an in-
15 dustrial resource shortfall in rare earth ele-
16 ments, covered critical minerals, or rare
17 earth or covered critical mineral products
18 (as those terms are defined in section 2 of
19 the REEShore Act of 2022) would cause
20 the aggregate outstanding amount of all
21 such actions for such industrial resource
22 shortfall to exceed \$100,000,000, no such
23 action or actions may be taken, unless

1 such action or actions are authorized to ex-
2 ceed such amount by an Act of Congress.”.

○