

1 **[DISCUSSION DRAFT]**

2 **U.S. Senate Committee on Energy & Natural**
3 **Resources (SCENR)**

4
5 115th CONGRESS
6 2nd SESSION

7 To amend the Organic Act of 1897, the 1976 Federal Land
8 Management & Policy Act (FLPMA), and for other purposes.

9 **IN THE SENATE**

10 _____ introduced the following

11 Bill;

12 which was referred to the Committee on _____

13 _____
14 **A BILL**

15 To amend the Organic Act of 1897, the 1976 Federal Land Management &
16 Policy Act (FLPMA), and for other purposes.

17
18 *Be it enacted by the Senate and House of Representatives of the United*
19 *States of America in Congress assembled,*

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21 **SECTION 1. SHORT TITLE.**

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23 This Act may be cited as the "Federal Public Land Road and Trail
24 Access for War Readiness Locatable Materials" of 2017."
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1 **SECTION 2. DEFINITIONS.**

2
3 In this section:

4
5 (1) PUBLIC LANDS and FEDERAL LANDS.-- Public lands and
6 federal lands for the purposes of this section shall mean all federally
7 administered lands and interests administered by Secretary of Interior
8 under the National Park Service and Bureau of Land Management,
9 and by the Department of Agriculture under the United States Forest
10 Service, located within the United States.

11
12 (2) MINERALS & MINING ADVISORY COUNCIL (MMAC). --
13 Recognize MMAC, as the principal U.S. based company for certifying
14 and coordinating traditional Mining Districts within the United States
15 for the purpose of Federal recognition. MMAC is responsible for
16 assisting the Mining Districts in all matters pertaining to the proper
17 administration; maintenance of the Mining District, and population of
18 the mineral and metal reserve database (Federal and private mineral
19 inventory) maintained in the U.S. Geographic Information System
20 (GIS).

21 (3) MINING DISTRICT.-- Mining Districts are local independently
22 organized governing authorities, recognized by the Department of the
23 Interior through a Memorandum of Understanding (MOU) with the
24 Bureau of Land Management (BLM), for the joint and exclusive
25 minerals and mining management on the public and federal lands of
26 the United States, recognized under 30 U.S.C. § 22; subject to other
27 federal and state laws the local Mining Districts determine, do not
28 unreasonably materially interfere with mining claimants right to

1 possess, explore, prospect, develop and extract, pursuant to 30 U.S.C.
2 § 612(b).

3
4 (4) MINING CLAIMANT.-- A U.S. citizen or U.S. Corporation
5 who/which owns the mineral rights pursuant to the U.S. Mining laws
6 on a tract of public or federal land, recognized under 30 U.S.C. §§ 22
7 – 54.

8
9 (5) STRATEGIC AND CRITICAL MINERALS AND METALS.—
10 minerals that are necessary

11 (a) For national defense and national security requirements;

12 (b) For the Nation’s energy infrastructure, including pipelines,
13 refining capacity, electrical power generation and
14 transmission, and renewable energy production;

15 (c) To support domestic manufacturing, agriculture, housing,
16 telecommunications, healthcare, and transportation
17 infrastructure; or

18 (d) For the Nation’s economic security and balance of trade;

19 (e) The term, ‘Strategic and Critical Minerals and Metals’,
20 most considered under the 1872 Mining Law, classified as,
21 ‘Locatables’, designates Sixty (60) metals including the
22 following;

- 23 1. aluminum
24 2. antimony
25 3. beryllium
26 4. bismuth
27 5. cadmium
28 6. chromium

- 1 7. cobalt
- 2 8. columbium
- 3 9. copper
- 4 10. germanium
- 5 11. gold
- 6 12. iodine
- 7 13. lead
- 8 14. manganese
- 9 15. mercury
- 10 16. molybdenum
- 11 17. nickel
- 12 18. platinum,-group metals
- 13 19. silver
- 14 20. tantalum
- 15 21. thorium
- 16 22. tin
- 17 23. titanium
- 18 24. tungsten
- 19 25. uranium
- 20 26. vanadium
- 21 27. zinc

22

23 (6) RARE EARTH MINERALS.-- The term 'rare earth minerals'

24 means any of the following chemical elements in any of their

25 physical forms or chemical combinations:

- 26 (A) Scandium.
- 27 (B) Yttrium.
- 28 (C) Lanthanum.

- (D) Cerium.
- (E) Praseodymium.
- (F) Neodymium.
- (G) Promethium.
- (H) Samarium.
- (I) Europium.
- (J) Gadolinium.
- (K) Terbium.
- (L) Dysprosium.
- (M) Holmium.
- (N) Erbium.
- (O) Thulium.
- (P) Ytterbium.
- (Q) Lutetium.

SECTION 3. - CONGRESSIONAL FINDINGS.

The Congress finds the following:

- 1) A reliable source of rare earth minerals and strategic critical minerals and metals is a national security objective, pursuant to 10 U.S.C. § 2501(a)(9).
- 2) The United States has become up to 92% dependent upon foreign sources of rare earth minerals and strategic and critical minerals and metals, a market, which is dominated by Chinese and third world producers that the United States has in world dominating quantities.

- 1 3) In spite of possessing potentially vast domestic supplies of rare
2 earth(s), minerals and strategic critical minerals and metals, extraction
3 of such metals and minerals is prohibitively obstructed and destroyed
4 by the over regulation of access roads, pathways, and trails leading to
5 mining sites.
- 6 4) The ability to access and extract rare earth minerals and strategic
7 critical minerals and metals from these mining sites would directly
8 secure materials for the supply chain feeding the defense industrial
9 base and advance a national security interest set forth in 10 U.S.C. §
10 2501.
- 11 5) Before and In a time of war, the Department of Defense should
12 ensure that access to domestic resources is guaranteed to avoid
13 interruption for the defense industrial base.
14

15
16 **SECTION 4. SENSE OF CONGRESS.**
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18 It is the sense of Congress that Access Roads, Roads, Pathways, and Trails,
19 over public or federal lands and designated by maps of the United States
20 Geological Survey (USGS), should not be obstructed or destroyed without
21 the written consent of the local Mining District, and access should be
22 assured for the purposes of appraising these rare earth minerals and
23 strategic critical mineral and metal resources.
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1 **SECTION 5. GUARANTEED ACCESS TO RECOGNIZED MINING SITES.**

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3 The Organic Act of 1897 (16 U.S.C. § 478) is amended –

4 1) By inserting to paragraph (1), “provided, however, that the
5 Secretary of Agriculture may not prohibit or materially restrict for
6 the purposes of motorized access to mining claimants holdings over
7 historical, visibly-existing or previously-existing roads and path
8 ways, or the reasonable mechanized restoration or maintenance of
9 such roads and path ways; nor shall the Secretary require permits for
10 such ingress or egress for which the mining claimant holds.” After
11 “such rules and regulations as may be prescribed by the Secretary of
12 Agriculture”.

13
14 2) By adding to the end of the section, “except when a local
15 Mining District determines otherwise in writing, recognized
16 under 30 U.S.C. § 22; whereby the Secretary does unreasonably
17 materially interfere with mining claimants right to possess,
18 explore, prospect, develop and extract, pursuant to 30 U.S.C. §
19 612(b)”

20 3) “Any action to close a road or pathway whose primary purpose
21 is for ingress or egress to an area over which a mining claimant
22 holds, shall be performed with the written concurrence of the
23 local Mining District, recognized under 30 U.S.C. § 22; any
24 such action for which no written concurrence is obtained from
25 the local mining district shall be invalid.”

26 4) “Any action to close other infrastructure such as mine
27 buildings, bridges, trams, portals and other improvements
28 incidental to mining claimants activity, shall be performed with

1 the written concurrence of the local Mining District, recognized
2 under 30 U.S.C. §22; any such action for which no written
3 concurrence is obtained from the local mining district shall be
4 invalid.”

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6 **SECTION 6.** The Federal Land Management & Policy Act of 1976 (43 U.S.C.
7 § 1732(b)) is amended by adding at the end of the section:

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9 1) “except when a local Mining District determine otherwise in
10 writing, recognized under 30 U.S.C. § 22; whereby the
11 Secretary or the public is found to unreasonably materially
12 interfere with mining claimants right to possess, explore,
13 prospect, develop and extract, pursuant to 30 U.S.C. § 612(b).”
- 14 2) “In instances of mining claimants, the Secretary shall not
15 require any permits for ingress or egress for which the mining
16 claimant holds.”
- 17 3) “No criminal or civil liability shall attach to individual(s) acting
18 within the confines of his/her lawfully implied easement for the
19 purpose of mining claimant’s ingress or egress, nor mechanized
20 maintenance of the road or pathway whose primary purpose is
21 ingress or egress.”
- 22 4) “Any action to close a road or pathway whose primary purpose
23 is for ingre ss or egress to an area over which an mining
24 claimant holds, shall be performed with the written concurence
25 of the local Mining District, recognized under “No criminal or
26 civil liability shall attach to individual(s) acting within the
27 confines of his/her lawfully implied easement for the purpose of
28 mining claimant’s ingress or egress, nor mechanized

1 maintenance of the road or pathway whose 30 U.S.C. § 22; any
2 such action for which no written concurrence is obtained from
3 the local mining district shall be invalid.”

4 5) “Any action to close other infrastructure such as mine
5 buildings, bridges, trams, portals and other improvements
6 incidental to mining claimants activity, shall be performed with
7 the written concurrence of the local Mining District, recognized
8 under 30 U.S.C. §22; any such action for which no written
9 concurrence is obtained from the local mining district shall be
10 invalid.”
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