

AMENDMENT NO._____

Calendar No._____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.**S. 3496**

To establish and implement a multi-year Legal Gold and Mining Partnership Strategy to reduce the negative environmental and social impacts of illicit gold mining in the Western Hemisphere, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

**AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. RISCH**

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) **SHORT TITLE.**—This Act may be cited as the

5 “United States Legal Gold and Mining Partnership Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for

7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Definitions.

Sec. 4. Legal Gold and Mining Partnership Strategy.

Sec. 5. Classified briefing on illicit gold mining in Venezuela.

Sec. 6. Investigation of the illicit gold trade in Venezuela.

Sec. 7. Leveraging international support.

Sec. 8. Public-private partnership to build responsible gold value chains.

See. 9. Rule of construction regarding not authorizing the use of military force.

Sec. 10. Consideration of certain transactions involving precious metals for purposes of identifying primary money laundering concerns.

1 SEC. 2. FINDINGS.

2 Congress makes the following findings:

3 (1) The illicit mining, trafficking, and commercialization of gold in the Western Hemisphere—

5 (A) negatively affects the region's economic and social dynamics;

7 (B) strengthens transnational criminal organizations and other international illicit actors; 9 and

10 (C) has a deleterious impact on the environment, indigenous peoples, and food security.

12 (2) A lack of economic opportunities and the weak rule of law promote illicit activities, such as illicit gold mining, which increases the vulnerability of 14 individuals in mining areas, including indigenous 15 communities, which have been subjected to trafficking 16 in persons, other human rights abuses, and 18 population displacement in relation to mining activity, 19 particularly in the artisanal and small-scale mining 20 sector.

21 (3) Illicit gold mining in Latin America often 22 involves and benefits transnational criminal organizations, 23 drug trafficking organizations, terrorist 24 groups, and other illegal armed groups that extort

1 miners and enter into illicit partnerships with them
2 in order to gain revenue from the illicit activity.

3 (4) Illicit gold supply chains are international in
4 nature and frequently involve—

5 (A) the smuggling of gold and supplies,
6 such as mercury;

7 (B) trade-based money laundering; and

8 (C) other cross-border flows of illicit as-
9 sets.

10 (5) In Latin America, mineral traders and ex-
11 porters, local processors, and shell companies linked
12 to transnational criminal networks and illegally
13 armed groups all play a key role in the trafficking,
14 laundering, and commercialization of illicit gold from
15 the region.

16 (6) According to a report on illegally mined
17 gold in Latin America by the Global Initiative
18 Against Transnational Organized Crime—

19 (A) more than 70 percent of the gold
20 mined in several Latin American countries,
21 such as Colombia, Ecuador, and Peru, is mined
22 through illicit means; and

23 (B) about 80 percent of the gold mined in
24 Venezuela is mined through illicit means and a
25 large percentage of such gold is sold—

1 (i) to Mibiturven, a joint venture op-
2 erated by authorities in Venezuela and
3 composed of Minerven, a gold processor
4 that has been designated by the Office of
5 Foreign Assets Control of the Department
6 of the Treasury, pursuant to Executive
7 Order 13850 (relating to blocking property
8 of additional persons contributing to the
9 situation in Venezuela), and Marilyns
10 Proje Yatirim, S.A., which is a Turkish
11 company; or

12 (ii) through other trafficking and
13 commercialization networks from which au-
14 thorities in Venezuela benefit financially.

21 (8) Transnational criminal organizations based
22 in Venezuela, such as El Tren de Aragua, have ex-
23 panded their role in the illicit mining, trafficking,
24 and commercialization of gold to increase their
25 criminal profits.

11 (10) U.S. Customs and Border Protection has
12 recognized that illegal logging is the world's most
13 profitable natural resource crime and that profits
14 from illegal logging finance illegal mining.

15 SEC. 3. DEFINITIONS.

16 In this Act:

20 (A) the Committee on Foreign Relations of
21 the Senate;

22 (B) the Committee on the Judiciary of the
23 Senate;

24 (C) the Committee on Banking, Housing,
25 and Urban Affairs of the Senate;

1 (D) the Select Committee on Intelligence
2 of the Senate;

3 (E) the Committee on Foreign Affairs of
4 the House of Representatives;

5 (F) the Committee on the Judiciary of the
6 House of Representatives;

7 (G) the Committee on Financial Services
8 of the House of Representatives; and

9 (H) the Permanent Select Committee on
10 Intelligence of the House of Representatives.

11 (2) ARTISANAL AND SMALL-SCALE MINING;
12 ASM.—The terms “artisanal and small-scale mining”
13 and “ASM” refer to a form of mining common in
14 the developing world that—

15 (A) typically employs rudimentary, simple,
16 and low-cost extractive technologies and manual
17 labor-intensive techniques;

18 (B) is frequently subject to limited regula-
19 tion; and

20 (C) often features harsh and dangerous
21 working conditions.

1 mining and trafficking of gold, including indigenous
2 groups, that are committed to the implementation of
3 the Legal Gold and Mining Partnership Strategy.

4 (4) **LEGAL GOLD AND MINING PARTNERSHIP**
5 **STRATEGY; STRATEGY.**—The terms “Legal Gold and
6 Mining Partnership Strategy” and “Strategy” mean
7 the strategy developed pursuant to section 4.

8 (5) **RELEVANT FEDERAL DEPARTMENTS AND**
9 **AGENCIES.**—The term “relevant Federal depart-
10 ments and agencies” means the Department of State
11 and all other Federal departments and agencies des-
12 ignated by the President as having significant do-
13 mestic or foreign affairs equities in countering illicit
14 mining.

15 (6) **SECRETARY.**—The term “Secretary” means
16 the Secretary of State.

17 **SEC. 4. LEGAL GOLD AND MINING PARTNERSHIP STRAT-
18 EGY.**

19 (a) **STRATEGY REQUIRED.**—The Secretary, in coordi-
20 nation with the heads of relevant Federal departments and
21 agencies, shall develop a comprehensive, multi-year strat-
22 egy, which shall be known as the Legal Gold and Mining
23 Partnership Strategy, to combat illicit gold mining in the
24 Western Hemisphere.

1 (b) ELEMENTS.—The Strategy shall include policies,
2 programs, and initiatives—

3 (1) to interrupt the linkages between gold min-
4 ing, including ASM, and illicit actors that profit
5 from illicit mining in the Western Hemisphere;

6 (2) to deter ASM in environmentally protected
7 areas, such as national parks and conservation
8 zones, to prevent mining-related contamination of
9 critical natural resources, such as water resources,
10 soil, tropical forests, and other flora and fauna, and
11 aerosol contamination linked to detrimental health
12 impacts;

13 (3) to counter the financing and enrichment of
14 actors involved in the illicit mining, trafficking, and
15 commercialization of gold, and the abetting of their
16 activities by—

17 (A) promoting the exercise of due diligence
18 and the use of responsible sourcing methods in
19 the purchase and trade of ASM;

20 (B) preventing and prohibiting foreign per-
21 sons who control commodity trading chains
22 linked to illicit actors from enjoying the benefits
23 of access to the territory, markets or financial
24 system of the United States, and halting any
25 such ongoing activity by such foreign persons;

1 (C) combating related impunity afforded to
2 illicit actors by addressing corruption in govern-
3 ment institutions and interrupting linkages be-
4 tween corrupt officials and illicit actors that ex-
5 ploit ASM miners;

6 (D) supporting the capacity of financial in-
7 telligence units, customs agencies, and other
8 government institutions focused on anti-money
9 laundering initiatives and combating the financ-
10 ing of criminal activities and terrorism to exer-
11 cise oversight consistent with the threats posed
12 by illicit gold mining; and

13 (E) working with the governments and appropriate institutions of countries that host gold refineries or processing centers to deter the importation of illicit gold and implement greater due diligence practices;

18 (4) to build the capacity of foreign civilian law
19 enforcement institutions in the Western Hemisphere
20 to effectively counter—

21 (A) linkages between illicit gold mining, il-
22 licit actors, money laundering, and other finan-
23 cial crimes, including trade-based money laun-
24 dering;

(B) linkages between illicit gold mining, illicit actors, trafficking in persons, and forced or coerced labor, including sex work and child labor;

5 (C) linkages between illicit gold mining, il-
6 licit actors, and the illegal timber trade;

7 (D) the cross-border trafficking of illicit
8 gold, and the mercury, cyanide, explosives, and
9 other hazardous materials used in illicit gold
10 mining, particularly those originating in China
11 or trafficked by transnational criminal organi-
12 zations; and

13 (E) surveillance and investigation of illicit
14 and related activities that are related to or are
15 indicators of illicit gold mining activities;

16 (5) to ensure the successful implementation of
17 the existing Memoranda of Understanding signed
18 with the Governments of Peru and of Colombia in
19 2017 and 2018, respectively, to expand bilateral co-
20 operation to combat illicit gold mining;

21 (6) to work with governments in the Western
22 Hemisphere, bolster the effectiveness of anti-money
23 laundering efforts to combat the financing of illicit
24 actors in Latin America and the Caribbean and

1 counter the laundering of proceeds related to illicit
2 gold mining by—

3 (A) fostering international and regional co-
4 operation and facilitating intelligence sharing,
5 as appropriate, to identify and disrupt financial
6 flows related to the illicit gold mining, traf-
7 ficking, and commercialization of gold and
8 other minerals and illicit metals; and

9 (B) supporting the formulation of strate-
10 gies to ensure the compliance of reporting insti-
11 tutions involved in the mining sector and to
12 promote transparency in mining-sector trans-
13 actions;

14 (7) to support foreign government efforts—

15 (A) to facilitate licensing and formalization
16 processes for ASM miners;

17 (B) to develop mechanisms to support reg-
18 ulated cultural artisanal mining and artisanal
19 mining as a job growth area; and

20 (C) to implement existing environmental
21 standards;

22 (8) to engage the mining industry and relevant
23 trade or industry associations to encourage the
24 building of technical expertise in best practices and
25 access to new technologies;

10 (10) to engage with civil society to reduce the
11 negative environmental impacts of ASM, particu-
12 larly—

13 (A) the use of mercury in preliminary re-
14 fining;

15 (B) the destruction of tropical forests;

16 (C) the construction of illegal and unregu-
17 lated dams and the resulting valley floods:

18 (D) the pollution of water resources and
19 soil; and

20 (E) the release of dust, which can contain
21 toxic chemicals and heavy metals that can cause
22 severe health problems;

23 (11) to aid and encourage ASM miners—

24 (A) to formalize their business activities,
25 including through skills training, technical and

1 business assistance, and access to financing,
2 loans, and credit;

3 (B) to utilize mercury-free gold refining
4 technologies and mining methods that minimize
5 deforestation, air pollution, and water and soil
6 contamination;

7 (C) to reduce the costs associated with for-
8 malization and compliance with mining regula-
9 tions; and

10 (D) to fully break away from the influence
11 of illicit actors who leverage the control of terri-
12 tory and use violence to extort miners and push
13 them into illicit arrangements;

14 (12) to interrupt the illicit gold trade in Nic-
15 aragua, including through the use of targeted United
16 States measures against the government led by
17 President Daniel Ortega and Vice-President Rosario
18 Murillo and their collaborators pursuant to Execu-
19 tive Order 14088 (relating to taking additional steps
20 to address the national emergency with respect to
21 the situation in Nicaragua), which was issued on Oc-
22 tober 24, 2022;

23 (13) to assist local journalists with investiga-
24 tions of illicit mining, trafficking, and commer-

1 cialization of gold and its supplies in the Western
2 Hemisphere;

3 (14) to promote responsible sourcing and due
4 diligence at all levels of gold supply chains, including
5 through the use of existing widely-adopted, industry-
6 standard responsible sourcing and due diligence
7 standards;

8 (15) to engage the private sector to develop in-
9 dustry-led global processing initiatives that aim to
10 redirect illicit gold flows away from bad actors; and

11 (16) to prevent the intentional misinvoicing of
12 the origins of gold shipments at transshipment
13 points.

14 (c) ASSESSMENT OF CHALLENGES.—The Strategy
15 shall include an assessment of the challenges posed by,
16 and policy recommendations to address—

17 (1) linkages between ASM sector production
18 and trade, particularly relating to gold, to the activi-
19 ties of illicit actors, including linkages that help to
20 finance or enrich such illicit actors or abet their ac-
21 tivities;

22 (2) linkages between illicit or grey market
23 trade, and markets in gold and other metals or min-
24 erals and legal trade and commerce in such commod-
25 ities, notably with respect to activities that abet the

1 entry of such commodities into legal commerce, in-
2 cluding—

3 (A) illicit cross-border trafficking, includ-
4 ing with respect to goods, persons and illegal
5 narcotics;

6 (B) money-laundering;

7 (C) the financing of illicit actors or their
8 activities; and

9 (D) the extralegal entry into the United
10 States of—

11 (i) metals or minerals, whether of
12 legal foreign origin or not; and

13 (ii) the proceeds of such metals or
14 minerals;

15 (3) linkages between the illicit mining, traf-
16 ficking, and commercialization of gold, diamonds,
17 and precious metals and stones, and the financial
18 and political activities of authorities in Venezuela;

19 (4) factors that—

20 (A) produce linkages between ASM miners
21 and illicit actors, prompting some ASM miners
22 to utilize mining practices that are environ-
23 mentally damaging and unsustainable, notably
24 mining or related ore processing practices
25 that—

1 (i) involve the use of elemental mer-
2 cury; or

3 (ii) result in labor, health, environmental,
4 and safety code infractions and
5 workplace hazards; and

6 (B) lead some ASM miners to operate in
7 the extralegal or poorly regulated informal sec-
8 tor, and often prevent such miners from im-
9 proving the socioeconomic status of themselves
10 and their families and communities, or hinder
11 their ability to formalize their operations, en-
12 hance their technical and business capacities,
13 and access finance of fair market prices for
14 their output;

15 (5) mining-related trafficking in persons and
16 forced or coerced labor, including sex work and child
17 labor; and

18 (6) the use of elemental mercury and cyanide in
19 ASM operations, including the technical aims and
20 scope of such usage and its impact on human health
21 and the environment, including flora, fauna, water
22 resources, soil, and air quality.

23 (d) FOREIGN ASSISTANCE.—The Strategy shall de-
24 scribe—

5 (e) BEST PRACTICES.—The Strategy shall, to the ex-
6 tent practicable, avoid duplication of effort in the develop-
7 ment of due diligence and responsible sourcing standards,
8 including through the use of existing widely-adopted in-
9 dustry standards.

10 (f) SUBMISSION.—Not later than 180 days after the
11 date of the enactment of this Act, the President shall sub-
12 mit the Strategy to the appropriate congressional commit-
13 tees.

14 (g) SEMIANNUAL BRIEFINGS.—Not later than 180
15 days after submission of the Strategy, and semiannually
16 thereafter for the following 3 years, the Secretary, or the
17 Secretary's designee, shall provide a briefing to the appro-
18 priate congressional committees regarding—

19 (1) the implementation of the strategy, includ-
20 ing efforts to leverage international support and de-
21 velop a public-private partnership to build respon-
22 sible gold value chains with other governments;

23 (2) revisions to the Strategy that are needed to
24 better align the Strategy to new or emerging chal-
25 lenges in combating illicit gold mining; and

1 (3) recommendations from the Strategy that
2 can be applied to combat illicit gold mining on a
3 global scale.

4 SEC. 5. CLASSIFIED BRIEFING ON ILLICIT GOLD MINING IN
5 VENEZUELA.

6 Not later than 90 days after the date of the enact-
7 ment of this Act, the Secretary, or the Secretary's des-
8 ignee, in coordination with the Director of National Intel-
9 ligence, or the Director's designee, shall provide a classi-
10 fied briefing to the appropriate congressional committees,
11 the Select Committee on Intelligence of the Senate, and
12 the Permanent Select Committee on Intelligence of the
13 House of Representatives that describes—

1 **SEC. 6. INVESTIGATION OF THE ILLICIT GOLD TRADE IN**
2 **VENEZUELA.**

3 The Secretary, in coordination with the Secretary of
4 the Treasury, the Attorney General, and allied and part-
5 ner governments in the Western Hemisphere, shall—

6 (1) lead a coordinated international effort to
7 carry out financial investigations to identify and
8 track assets taken from the people and institutions
9 in Venezuela that are linked to money laundering
10 and illicit activities, including mining-related activi-
11 ties, by sharing financial investigations intelligence,
12 as appropriate and as permitted by law; and

13 (2) provide technical assistance to help eligible
14 governments in Latin America establish legislative
15 and regulatory frameworks capable of imposing and
16 effectively implementing targeted sanctions on—

17 (A) authorities in Venezuela who are di-
18 rectly engaged in the illicit mining, trafficking,
19 and commercialization of gold; and

20 (B) foreign persons engaged in the laun-
21 dering of illicit gold assets linked to designated
22 terrorist and drug trafficking organizations.

23 **SEC. 7. LEVERAGING INTERNATIONAL SUPPORT.**

24 In implementing the Strategy pursuant to section 4,
25 the President should direct United States representatives
26 accredited to relevant multilateral institutions and devel-

1 opment banks and United States ambassadors in the
2 Western Hemisphere to use the influence of the United
3 States to foster international cooperation to achieve the
4 objectives of this Act, including—

5 (1) marshaling resources and political support;
6 and

7 (2) encouraging the development of policies and
8 consultation with key stakeholders to accomplish
9 such objectives and provisions.

10 **SEC. 8. PUBLIC-PRIVATE PARTNERSHIP TO BUILD RESPON-
11 SIBLE GOLD VALUE CHAINS.**

12 (a) IN GENERAL.—The Secretary shall coordinate
13 with the Governments of Colombia, of Ecuador, of Peru,
14 and of other democratically-elected governments in the re-
15 gion determined by the Secretary to establish a public-pri-
16 vate partnership to support programming in participating
17 countries that will—

18 (1) support the ASM gold mining sector's for-
19 malization and compliance with the existing environ-
20 mental and labor standards in participating coun-
21 tries;

22 (2) increase awareness of access to financing
23 for ASM gold miners who are taking significant
24 steps to formalize their operations and comply with

1 the existing labor and environmental standards in
2 participating countries;

3 (3) enhance the traceability and support the es-
4 tablishment of a certification process for ASM gold;

5 (4) support a public relations campaign to pro-
6 mote responsibly-sourced gold;

7 (5) include representatives of local civil society
8 to work towards soliciting the free and informed
9 consent of those living on lands with mining poten-
10 tial;

11 (6) facilitate contact between vendors of respon-
12 sibly-sourced gold and United States companies; and

13 (7) promote policies and practices in partici-
14 pating countries that are conducive to the formaliza-
15 tion of ASM gold mining and promoting adherence
16 of ASM to internationally-recognized best practices
17 and standards.

18 **SEC. 9. RULE OF CONSTRUCTION REGARDING NOT AU-**
19 **THORIZING THE USE OF MILITARY FORCE.**

20 Nothing in this Act may be construed as authorizing
21 the use of military force or the introduction of United
22 States forces into hostilities.

1 **SEC. 10. CONSIDERATION OF CERTAIN TRANSACTIONS IN-**
2 **VOLVING PRECIOUS METALS FOR PURPOSES**
3 **OF IDENTIFYING PRIMARY MONEY LAUN-**
4 **DERING CONCERNs.**

5 Section 5318A(c)(2) of title 31, United States Code,
6 is amended—

7 (1) in subparagraph (A)—
8 (A) by redesignating clauses (iii) through
9 (vii) as clauses (iv) through (viii), respectively;
10 and

11 (B) by inserting after clause (ii) the fol-
12 lowing:

13 “(iii) the extent to which the jurisdic-
14 tion or financial institutions operating in
15 that jurisdiction facilitate transactions in-
16 volving the mining, sale, or trade of pre-
17 cious metals subject to any sanctions im-
18 posed by the United States;”; and

19 (2) in subparagraph (B)—
20 (A) by redesignating clauses (ii) and (iii)
21 as clauses (iii) and (iv), respectively; and

22 (B) by inserting after clause (i) the fol-
23 lowing:

24 “(ii) the extent to which such finan-
25 cial institutions are used to facilitate trans-
26 actions involving the mining, sale, or trade

1 of precious metals and are subject to any
2 sanctions imposed by the United States;”.