

105TH CONGRESS  
1ST SESSION

# S. 327

To ensure that Federal taxpayers receive a fair return for the extraction of locatable minerals on public domain lands and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 1997

Mr. BUMPERS (for himself, Mr. AKAKA, Mr. LEAHY, Mr. FEINGOLD, and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To ensure that Federal taxpayers receive a fair return for the extraction of locatable minerals on public domain lands 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 “Hardrock Mining Roy-  
5 alty Act of 1997”.

6 **SEC. 2. ROYALTY.**

7 (a) RESERVATION OF ROYALTY.—Each person pro-  
8 ducing locatable minerals (including associated minerals)  
9 from any mining claim located under the general mining

1 laws, or mineral concentrates derived from locatable min-  
2 erals produced from any mining claim located under the  
3 general mining laws, as the case may be, shall pay a roy-  
4 alty of 5 percent of the net smelter return from the pro-  
5 duction of such locatable minerals or concentrates, as the  
6 case may be.

7 (b) ROYALTY PAYMENTS.—Each person responsible  
8 for making royalty payments under this section shall make  
9 such payments to the Secretary not later than 30 days  
10 after the end of the calendar month in which the mineral  
11 or mineral concentrates are produced and first placed in  
12 marketable condition, consistent with prevailing practices  
13 in the industry.

14 (c) REPORTING REQUIREMENTS.—All persons hold-  
15 ing mining claims located under the general mining laws  
16 shall provide to the Secretary such information as deter-  
17 mined necessary by the Secretary to ensure compliance  
18 with this section, including, but not limited to, quarterly  
19 reports, records, documents, and other data. Such reports  
20 may also include, but not be limited to, pertinent technical  
21 and financial data relating to the quantity, quality, and  
22 amount of all minerals extracted from the mining claim.

23 (d) AUDITS.—The Secretary is authorized to conduct  
24 such audits of all persons holding mining claims located  
25 under the general mining laws as he deems necessary for

1 the purposes of ensuring compliance with the require-  
 2 ments of this section.

3 (e) DISPOSITION OF RECEIPTS.—All receipts from  
 4 royalties collected pursuant to this section shall be depos-  
 5 ited into the Fund established under section 3.

6 (f) COMPLIANCE.—Any person holding mining claims  
 7 located under the general mining laws who knowingly or  
 8 willfully prepares, maintains, or submits false, inaccurate,  
 9 or misleading information required by this section, or fails  
 10 or refuses to submit such information, shall be subject to  
 11 a penalty imposed by the Secretary.

12 (g) EFFECTIVE DATE.—This section shall take effect  
 13 with respect to minerals produced from a mining claim  
 14 in calendar months beginning after enactment of this Act.

15 **SEC. 3. ABANDONED MINERALS MINE RECLAMATION FUND.**

16 (a) ESTABLISHMENT.—

17 (1) There is established on the books of the  
 18 Treasury of the United States a trust fund to be  
 19 known as the Abandoned Minerals Mine Reclama-  
 20 tion Fund (hereinafter referred to as the “Fund”).  
 21 The Fund shall be administered by the Secretary.

22 (2) The Secretary shall notify the Secretary of  
 23 the Treasury as to what portion of the Fund is not,  
 24 in his judgment, required to meet current withdraw-  
 25 als. The Secretary of the Treasury shall invest such

1       portion of the Fund in public debt securities with  
2       maturities suitable for the needs of such Fund and  
3       bearing interest at rates determined by the Sec-  
4       retary of the Treasury, taking into consideration  
5       current market yields on outstanding marketplace  
6       obligations of the United States of comparable ma-  
7       turities. The income on such investments shall be  
8       credited to, and from a part of, the Fund.

9       (b) AMOUNTS.—The following amounts shall be cred-  
10      ited to the Fund for the purposes of this Act:

11           (1) All moneys received from royalties under  
12      section 1 of this Act and the mining claim mainte-  
13      nance fee under section 4 of this Act.

14           (2) All donations by persons, corporations, as-  
15      sociations, and foundations for the purposes of this  
16      title.

17      (c) USE AND OBJECTIVES OF THE FUND.—The Sec-  
18      retary is, subject to appropriations, authorized to use  
19      moneys in the Fund for the reclamation and restoration  
20      of land and water resources adversely affected by past  
21      mineral (other than coal and fluid minerals) and mineral  
22      material mining, including but not limited to any of the  
23      following:

24           (1) Reclamation and restoration of abandoned  
25      surface mined areas.

1           (2) Reclamation and restoration of abandoned  
2           milling and processing areas.

3           (3) Sealing, filling, and grading abandoned deep  
4           mine entries.

5           (4) Planting of land adversely affected by past  
6           mining to prevent erosion and sedimentation.

7           (5) Prevention, abatement, treatment and con-  
8           trol of water pollution created by abandoned mine  
9           drainage.

10          (6) Control of surface subsidence due to aban-  
11          doned deep mines.

12          (7) Such expenses as may be necessary to ac-  
13          complish the purposes of this section.

14          (d) ELIGIBLE AREAS.—

15           (1) Land and waters eligible for reclamation ex-  
16           penditures under this section shall be those within  
17           the boundaries of States that have lands subject to  
18           the general mining laws—

19           (A) which were mined or processed for  
20           minerals and mineral materials or which were  
21           affected by such mining or processing, and  
22           abandoned or left in an inadequate reclamation  
23           status prior to the date of enactment of this  
24           Act;

1 (B) for which the Secretary makes a deter-  
2 mination that there is no continuing reclama-  
3 tion responsibility under State or Federal laws;  
4 and

5 (C) for which it can be established that  
6 such lands do not contain minerals which could  
7 economically be extracted through the reproc-  
8 essing or remining of such lands.

9 (2) Notwithstanding paragraph (1), sites and  
10 areas designated for remedial action pursuant to the  
11 Uranium Mill Tailings Radiation Control Act of  
12 1978 (42 U.S.C. 7901 and following) or which have  
13 been listed for remedial action pursuant to the Com-  
14 prehensive Environmental Response Compensation  
15 and Liability Act of 1980 (42 U.S.C. 9601 and fol-  
16 lowing) shall not be eligible for expenditures from  
17 the Fund under this section.

18 (e) FUND EXPENDITURES.—Moneys available from  
19 the fund may be expended directly by the Director, Bu-  
20 reau of Land Management. The Director may also make  
21 such money available through grants made to the Chief  
22 of the United States Forest Service, and the Director of  
23 the National Park Service.

1 (f) AUTHORIZATION OF APPROPRIATIONS.—Amounts  
2 credited to the Fund are authorized to be appropriated  
3 for the purpose of this title without fiscal year limitation.

4 **SEC. 4. LIMITATION ON PATENT ISSUANCE.**

5 No patents shall be issued by the United States for  
6 any mining or mill site claim located under the general  
7 mining laws unless the Secretary determines that, for the  
8 claim concerned a patent application was filed with the  
9 Secretary on or before September 30, 1994, and all re-  
10 quirements established under sections 2325 and 2326 of  
11 the Revised Statutes (30 U.S.C. 29 and 30) for vein or  
12 lode claims and sections 2329, 2330, 2331, and 2333 of  
13 the Revised Statutes (30 U.S.C. 35, 36 and 37) for placer  
14 claims, and section 2337 of the Revised Statutes (30  
15 U.S.C. 42) for mill site claims, as the case may be, were  
16 fully complied with by the applicant by that date.

17 **SEC. 5. MINING CLAIM MAINTENANCE REQUIREMENTS.**

18 (a) IN GENERAL.—

19 (1) Effective October 1, 1998, the holder of  
20 each mining claim located under the general mining  
21 laws prior to the date of enactment shall pay to the  
22 Secretary an annual claim maintenance fee of \$100  
23 per claim per calendar year.

24 (2) The holder of each mining claim located  
25 under the general mining laws subsequent to the

1        date of enactment shall pay to the Secretary an an-  
2        nual claim maintenance fee of \$125 per claim per  
3        calendar year.

4        (b) PURCHASING POWER ADJUSTMENT.—The Sec-  
5        retary shall adjust the amount of the claim maintenance  
6        fee payable pursuant to subsection (a) for changes in the  
7        purchasing power of the dollar after the calendar year  
8        1993, employing the Consumer Price Index for all urban  
9        consumers published by the Department of Labor as the  
10       basis for adjustment, and rounding according to the ad-  
11       justment process of conditions of the Federal Civil Pen-  
12       alties Inflation Adjustment Act of 1990.

13       (c) TIME OF PAYMENT.—Each claim holder shall pay  
14       the claim maintenance fee payable under subsection (a)  
15       for any year on or before August 31 of each year, except  
16       that for the initial calendar year in which the location is  
17       made, the initial claim maintenance fee shall be paid at  
18       the time the location notice is recorded with the Bureau  
19       of Land Management.

20       (d) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—  
21       The section shall not apply to any oil shale claims for  
22       which a fee is required to be paid under section 2511(e)(2)  
23       of the Energy Policy Act of 1992 (30 U.S.C. 242(e)(2)).  
24



1       (e) CLAIM MAINTENANCE FEES PAYABLE UNDER  
 2 1993 ACT.—The claim maintenance fees payable under  
 3 this section for any period with respect to any claim shall  
 4 be reduced by the amount of the claim maintenance fees  
 5 paid under section 10101 of the Omnibus Budget Rec-  
 6 onciliation Act of 1993 with respect to that claim and with  
 7 respect to the same period.

8       (f) WAIVER.—

9           (1) The claim maintenance fee required under  
 10 this section may be waived for a claim holder who  
 11 certifies in writing to the Secretary that on the date  
 12 the payment was due, the claim holder and all relat-  
 13 ed parties held not more than 10 mining claims on  
 14 land open to location. Such certification shall be  
 15 made on or before the date on which payment is  
 16 due.

17           (2) For purposes of this subsection, with re-  
 18 spect to any claim holder, the term ‘related party’  
 19 means each of the following:

20           (A) The spouse and dependent children (as  
 21 defined in section 152 of the Internal Revenue  
 22 Code of 1986), of the claim holder.

23           (B) Any affiliate of the claim holder.

24       (g) CO-OWNERSHIP.—Upon the failure of any one or  
 25 more of several co-owners to contribute such co-owner or

1 owners' portion of the fee under this section, any co-owner  
 2 who has paid such fee may, after the payment due date,  
 3 give the delinquent co-owner or owners notice of such fail-  
 4 ure in writing (or by publication in the newspaper nearest  
 5 the claim for at least once a week for at least 90 days).  
 6 If at the expiration of 90 days after such notice in writing  
 7 or by publication, any delinquent co-owner fails or refused  
 8 to contribute his portion, his interest in the claim shall  
 9 become the property of the co-owners who have paid the  
 10 required fee.

11 **SEC. 6. DEFINITIONS.**

12 As used in this Act:

13 (1) The term "affiliate" means with respect to  
 14 any person, each of the following:

15 (A) Any partner of such person.

16 (B) Any person owning at least 10 percent  
 17 of the voting shares of such person.

18 (C) Any person who controls, is controlled  
 19 by, or is under common control with such per-  
 20 son.

21 (2) The term "locatable minerals" means min-  
 22 erals not subject to disposition under any of the fol-  
 23 lowing:

24 (A) the Mineral Leasing Act (30 U.S.C.  
 25 181 and following);

1 (B) the Geothermal Steam Act of 1970  
2 (30 U.S.C. 100 and following);

3 (C) the Act of July 31, 1947, commonly  
4 known as the Materials Act of 1947 (30 U.S.C.  
5 601 and following); or

6 (D) the Mineral Leasing for Acquired  
7 Lands Act (30 U.S.C. 351 and following).

8 (3) The term “net smelter return” has the  
9 same meaning provided in section 613 of the Inter-  
10 nal Revenue Code of 1986 (26 U.S.C. 613) for  
11 “gross income from mining”.

12 (4) The term “Secretary” means the Secretary  
13 of the Interior.

14 (5) The term “general mining laws” means  
15 those Acts which generally comprise chapter 2, 12A,  
16 and 16, and sections 161 and 162 of title 30, United  
17 States Code.

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