

U.S. Senator Tom Udall (D-N.M.)
FLOOR SPEECH
AMERICAN ENERGY INNOVATION ACT
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I commend the efforts of Senators Murkowski and Manchin for working across the aisle to bring an energy bill to the floor. This bill has positive initiatives: promoting energy efficiency, modernizing the electric grid, and research funding for clean energy.

But the full Senate deserves a chance to be heard on the important issues at stake with this bill.

Most importantly we must take real action on climate change and address a problematic provision in this bill to limit environmental reviews of massive, potentially toxic mining projects.

Everywhere we look – we’re experiencing the devastating effects of climate change – whether it’s hurricanes along the southeastern coasts, flooding in the Midwest, drought in the Southwest, or out of control wild fires in California.

And we are careening too close to climate change tipping points that scientists warn will doom the planet.

The bill before us does not set targets to reduce greenhouse gas emissions to the levels required to meet global targets, or transition us to a clean energy economy – which is where we need to head. And fast.

I think just a few things would dramatically improve this bill’s climate impact.

First, we need to add clean energy tax incentives. Clean energy tax incentives are one of the most effective tools we have in our toolbox to increase renewable power sources like wind and solar and the energy storage technology that enables them to work as baseload power.

Second, we should put commonsense limits on one of the worst greenhouse gases: methane.

The U.S. oil and gas boom means that we are emitting 13 million metric tons of methane every year. That’s 60 percent more than EPA estimates. And methane is 84 times more powerful than CO₂ as a greenhouse gas in the short term.

Industry says they want to control methane pollution. They were prepared to live with limits on public lands in a 2016 rule from the Bureau of Land Management. In 2017, the Senate rejected an attempt to repeal that rule on a bipartisan vote.

But the Trump Administration eliminated the rule due to lobbying by the worst polluters in the industry. We should restore that rule and I have filed an amendment to do so immediately.

We should also act to phase out HFC’s and include a strong energy efficiency program for buildings. Then this bill could make a small, but meaningful contribution to the climate change fight.

And, within the confines of this bill there is a problematic, anti-environmental section that deserves serious scrutiny.

I'm talking about the controversial American Mineral Security Act – a bill that saw significant opposition in the Senate Energy and Natural Resources Committee.

Including this bill in this package is problematic because it would “streamline” the federal permitting process for hardrock mining.

“Streamlining” the approval process means arbitrary deadlines and reducing public input on massive mining projects that could wreak further environmental destruction on public lands.

Mining is a messy business. Surface mining ravages the earth. Mine leaching processes produce what's called “acid mine drainage” – that spews a mix of acidic water and heavy metals into streams and contaminates groundwater. An astounding 40 percent of Western headwaters are contaminated by mine runoff.

There are two controversial mine proposals in New Mexico right now – the Terrero Mine in the Pecos and the Copper Flat Mine near Hillsboro. Both of these mines have significant concerns from local farmers, ranchers, Tribes, and residents who are worried about water pollution.

Under this provision, almost anything can be labelled a “critical mineral.” Mining permits will get pushed through — while limiting local community input.

I am strongly supporting an amendment from Senator Stabenow to strike this provision.

The proponents of this critical minerals bill have some valid points — of course we need certain metals for our economy, including a clean energy economy.

But we cannot forget that the mining industry has gotten one of the biggest free rides on the back of the taxpayer in American history – all while leaving the taxpayer holding the bag for their toxic legacy.

Hardrock mining on federal lands is governed by the General Mining Act of 1872. That's right. 1872. A 148-year-old law.

President Ulysses S. Grant signed it to help settle the West and spur economic development. Still in effect today, the act allows mining companies to mine gold, silver, copper, uranium, and other precious metals on federal lands without paying one dime in royalties. Not one dime.

That's in sharp contrast to coal and oil and gas companies – that pay billions in royalties every year for the right to extract resources – resources owned by the public. 12.5 percent is the current rate paid by coal, oil, and gas.

These same mining companies often pay royalties or similar payments when they operate overseas. But not here.

Since 1872, mining companies have taken \$300 billion dollars – that's billion with a “b” – from public lands.

The U.S. General Accountability Office estimated that – in 2010 alone – hardrock mining earned \$6.4 billion dollars from public lands. That would have yielded \$800 million dollars per year for the American taxpayer if mining were treated the same as coal, oil, and gas.

And the shocking fact is – foreign-owned companies are often the beneficiaries. For example – 83 percent of the companies that mine or explore for uranium in the U.S. are foreign-owned. 64 percent that produce gold are.

And the out-of-date Mining Act not only shortchanges taxpayers. It shortchanges the environment.

The same industry that seeks permitting relief from Congress today does nothing to pay for clean up at the tens of thousands of abandoned mines scarring our public lands.

The GAO estimates there are 33,000 abandoned mines across the West that are degrading the environment. One study found that 20,000 gallons per day of toxic water from 43 abandoned mine sites are polluting streams, ponds, and groundwater.

What's wrong with these numbers?

The American taxpayer is stuck with the bill, and local and regional communities are stuck with the devastating environmental and public health impacts.

Witness the Gold King Mine – that gushed three million gallons of this toxic yellow stew into the Animas and San Juan Rivers and across my home state of New Mexico, Colorado, Utah, and Arizona. It's been four years since the spill. And states, tribes, and local communities still have not been fully reimbursed. The right to mine on federal lands royalty-free maybe made sense 150 years ago.

A free-ride makes no sense now. It's a sweetheart deal for the mining companies that can't be justified by today's fiscal or environmental realities.

The old joke is that the mining company get the gold. And the American public gets the shaft. Literally.

My amendment to reform the 1872 Mining Law – that Senators Heinrich and Bennet are co-sponsoring– ends this freeride by doing two simple things:

- Sets a royalty rate between 5 and 8 percent on mining on federal lands, and
- Provides for cleanup of abandoned mines, paid for by royalties and an abandoned mine reclamation fee of 1 to 3 percent.

The House Committee on Natural Resources approved broad mining reform legislation last year. And it could be coming to the full House soon.

Mining reform is decades and decades overdue.

It is only fair to address this injustice before we give mining companies new perks, even if they can be justified. Enacting a royalty and reclamation fee is a healthy start on that process.

Thank you again Senators Murkowski and Manchin for your work. I hope we can return to regular order and improve the bill on these important points. If we cannot, I think the path for this bill becomes much harder.

Before I conclude, I want to voice my support for the remarks Senator Grassley gave earlier today on oil and gas royalties.

We've filed an amendment together based on our bill to update those royalties and other leasing items for the first time in 100 years.

It's a long overdue topic, and I hope to see increasing bipartisan support in the near future.

We have a historic oil boom in this country, much of which is using public lands.

And the public has a right to see a fair value for those resources.

We also have a large and growing budget deficit and a major climate change problem.

Bringing oil and gas royalties into the 21st century would be a bipartisan win on all of those fronts.