AN ACT

RELATING TO MINING; CREATING THE MINING ACT FORFEITURE FUND; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 69-36-19 NMSA 1978 (being Laws 1993, Chapter 315, Section 19) is amended to read:

"69-36-19. FUNDS CREATED.--

A. There is created within the state treasury the "mining act fund". All money received by the state from permit applicants, permit holders, the federal government, other state agencies or legislative appropriations shall be delivered to the state treasurer and deposited in the fund. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources. Money in the fund is appropriated to the energy, minerals and natural resources department to carry out the purposes of the New Mexico Mining Act. Any unexpended or unencumbered balance remaining in the mining act fund at the end of a fiscal year shall not revert to the general fund but shall remain and accrue to the benefit of the mining act fund.

B. There is created within the state treasury the "inactive or abandoned non-coal mine reclamation fund". All
money received from administrative or court-imposed penalties shall be delivered to the state treasurer and deposited in the fund. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources. Money in the fund is appropriated to the energy, minerals and natural resources department to conduct reclamation activities on abandoned or inactive non-coal mining areas. Any unexpended or unencumbered balance remaining in the inactive or abandoned non-coal mine reclamation fund at the end of a fiscal year shall not revert to the general fund but shall remain and accrue to the benefit of the inactive or abandoned non-coal mine reclamation fund.

C. There is created within the state treasury a nonreverting fund to be known as the "mining act forfeiture fund". All money received by the division from forfeitures of financial assurance as required by rules adopted pursuant to the New Mexico Mining Act shall be paid to the state treasurer for credit to the mining act forfeiture fund for the sole benefit of the specific reclamation project or closeout plan, or portion thereof, to which the forfeited financial assurance applies. Upon the forfeiture of some or all of the financial assurance attributable to a specific reclamation project or closeout plan, the director shall
determine whether such reclamation project or closeout plan will exceed a duration of five years from the date of the forfeiture. Each amount credited to the mining act forfeiture fund for a reclamation project or closeout plan that exceeds five years pursuant to the director's determination shall be held in a separate account of the mining act forfeiture fund for the sole benefit of that reclamation project or closeout plan and may be invested by the state investment council with the advice of an independent investment advisor hired by the energy, minerals and natural resources department. Income from the mining act forfeiture fund shall be credited to the fund; provided that the income attributable to each source of forfeited financial assurance may be used only for the benefit of the specific reclamation project or closure plan, or portions thereof, to which the forfeited financial assurance applies.

Disbursements from the mining act forfeiture fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources. Money in the mining act forfeiture fund is appropriated to the energy, minerals and natural resources department to complete, as provided by rules adopted pursuant to the New Mexico Mining Act, the approved reclamation projects or closeout plans, or portions thereof, on a permit area, affected area or...
increment to which the forfeited financial assurance applies
and for which the reclamation project or closeout plan is
necessary to mitigate an endangerment of life and property or
constitutes a hazard to the public health and safety. Any
funds remaining after a reclamation project or closeout plan
is completed shall be returned to the appropriate person as
provided by the rules adopted pursuant to the New Mexico
Mining Act. Nothing in this subsection shall require the
forfeiture and transfer of funds held in a trust established
for the benefit of the state of New Mexico and approved by
the director in accordance with rules adopted pursuant to the
New Mexico Mining Act."

SECTION 2. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2021.