

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 487

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE URANIUM LEGACY
CLEANUP ACT; PROVIDING FOR THE ADMINISTRATION OF THAT ACT AND
CLEANUP ACTIONS TO BE TAKEN PURSUANT TO IT; CREATING REVENUE
SOURCES TO FUND URANIUM LEGACY CLEANUP ACTIVITIES; PROVIDING
FOR A DELAYED REPEAL; AMENDING AND ENACTING CERTAIN SECTIONS OF
THE NMSA 1978; MAKING APPROPRIATIONS.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 5 of this act may be cited as the "Uranium Legacy
Cleanup Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Uranium Legacy Cleanup Act:

A. "department" means the energy, minerals and
natural resources department;

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1 B. "financial assistance" means providing grants or
2 loans on terms and conditions approved by the secretary for
3 qualified projects;

4 C. "fund" means the uranium legacy cleanup fund;

5 D. "qualified project" means a uranium mine
6 reclamation project that is directed at cleaning up
7 contamination resulting from uranium mining in New Mexico for
8 sites whose reclamation is not covered by the New Mexico Mining
9 Act and is selected by the secretary for financial assistance;
10 and

11 E. "secretary" means the secretary of energy,
12 minerals and natural resources.

13 Section 3. [NEW MATERIAL] URANIUM LEGACY CLEANUP FUND--
14 CREATED--PURPOSE--APPROPRIATIONS.--

15 A. The "uranium legacy cleanup fund" is created as
16 a nonreverting fund in the state treasury and shall be
17 administered by the department. The fund shall consist of
18 money from distributions of the uranium legacy cleanup surtax
19 pursuant to Section 7-1-6.59 NMSA 1978; money that is repaid
20 from loans approved by the secretary; and money that is
21 appropriated or donated or that otherwise accrues to the fund.
22 Money in the fund shall be invested by the state investment
23 officer in the manner that land grant permanent funds are
24 invested pursuant to Chapter 6, Article 8 NMSA 1978. Income
25 from investment of the fund shall be credited to the fund.

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1 B. The department shall establish procedures and
2 adopt rules as required to administer the fund and to originate
3 grants or loans for qualified projects approved by the
4 secretary.

5 C. Money in the fund shall be appropriated by the
6 legislature to the department to carry out the purposes of the
7 Uranium Legacy Cleanup Act by providing financial assistance
8 for qualified projects. Money shall be disbursed from the fund
9 only on warrant of the secretary of finance and administration
10 upon vouchers signed by the secretary of energy, minerals and
11 natural resources or the secretary's authorized representative.
12 Any unexpended or unencumbered balance remaining at the end of
13 a fiscal year shall not revert to the general fund.

14 Section 4. [NEW MATERIAL] DUTIES OF THE SECRETARY.--

15 A. Expenditures from the fund for financial
16 assistance shall be approved by the secretary for qualified
17 projects.

18 B. The secretary shall adopt rules for applying for
19 financial assistance from the fund and for establishing
20 priorities for qualified projects. The priorities for
21 approving qualified projects shall be based upon:

22 (1) the protection of public health, safety
23 and welfare;

24 (2) the protection of the environment from
25 existing or potential contamination;

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1 (3) the ability to leverage funds available
2 from other sources to implement qualified projects;

3 (4) the degree to which a qualified project
4 can be completed with the requested funding;

5 (5) the size of the area to be included with
6 the qualified project;

7 (6) the number of persons affected or
8 potentially affected by contamination at the site of the
9 qualified project;

10 (7) the level of actual or potential radiation
11 exposure at the site of the qualified project;

12 (8) the potential for an increase of the area
13 contaminated or potential exposure to persons if the site of a
14 qualified project is not cleaned up;

15 (9) the lack of any potentially responsible
16 party obligated to conduct a cleanup pursuant to any federal,
17 state or tribal law;

18 (10) the potential uses for the site following
19 the completion of the qualified project; and

20 (11) the legal authority of the applicant to
21 conduct cleanup activities on the proposed site.

22 C. Financial assistance may be provided to
23 qualified projects in which the state of New Mexico, other
24 state governments, the federal government, tribal governments
25 and other public and private entities are participating.

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1 Section 5. [NEW MATERIAL] REPORT TO LEGISLATURE.--The
2 secretary shall report to the appropriate interim legislative
3 committee no later than October 1 of each year regarding the
4 total expenditures from the fund for the previous fiscal year,
5 the purposes for which expenditures were made, an analysis of
6 the progress of the projects funded and proposals for
7 legislative action in the subsequent legislative session.

8 Section 6. Section 7-1-6.20 NMSA 1978 (being Laws 1985,
9 Chapter 65, Section 6, as amended) is amended to read:

10 "7-1-6.20. IDENTIFICATION OF MONEY IN EXTRACTION TAXES
11 SUSPENSE FUND--DISTRIBUTION.--

12 A. Except as provided in Subsection B of this
13 section, after the necessary disbursements have been made from
14 the extraction taxes suspense fund, the money remaining in the
15 suspense fund as of the last day of the month shall be
16 identified by tax source and distributed or transferred in
17 accordance with the provisions of Sections 7-1-6.21 through
18 7-1-6.23, 7-1-6.59 and 7-1-6.60 NMSA 1978. After the necessary
19 distributions and transfers, any balance, except for
20 remittances unidentified as to source or disposition, shall be
21 transferred to the general fund.

22 B. Payments on assessments issued by the department
23 pursuant to the Oil and Gas Conservation Tax Act, the Oil and
24 Gas Emergency School Tax Act, the Oil and Gas Ad Valorem
25 Production Tax Act and the Oil and Gas Severance Tax Act shall

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1 be held in the extraction taxes suspense fund until the
2 secretary determines that there is no substantial risk of
3 protest or other litigation, whereupon after the necessary
4 disbursements have been made from the extraction taxes suspense
5 fund, the money remaining in the suspense fund as of the last
6 day of the month attributed to these payments shall be
7 identified by tax source and distributed or transferred in
8 accordance with the provisions of Sections 7-1-6.21 through
9 7-1-6.23 NMSA 1978. After the necessary distributions and
10 transfers, any balance, except for remittance unidentified as
11 to source or disposition, shall be transferred to the general
12 fund."

13 Section 7. A new section of the Tax Administration Act,
14 Section 7-1-6.59 NMSA 1978, is enacted to read:

15 "7-1-6.59. [NEW MATERIAL] DISTRIBUTION TO URANIUM LEGACY
16 CLEANUP FUND--URANIUM LEGACY CLEANUP SURTAX.--A distribution
17 pursuant to Section 7-1-6.20 NMSA 1978 of the net receipts
18 attributable to the uranium legacy cleanup surtax shall be made
19 to the uranium legacy cleanup fund."

20 Section 8. A new section of the Tax Administration Act,
21 Section 7-1-6.60 NMSA 1978, is enacted to read:

22 "7-1-6.60. [NEW MATERIAL] DISTRIBUTION TO URANIUM LEGACY
23 CLEANUP FUND--RESOURCES EXCISE TAX.--A distribution pursuant to
24 Section 7-1-6.20 NMSA 1978 of fifty percent of the net receipts
25 attributable to taxes on uranium pursuant to the Resources

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1 Excise Tax Act shall be made to the uranium legacy cleanup
2 fund."

3 Section 9. A new section of the Resources Excise Tax Act
4 is enacted to read:

5 "[NEW MATERIAL] RATE AND MEASURE OF SURTAX--DENOMINATION
6 AS "URANIUM LEGACY CLEANUP SURTAX".--

7 A. For the privilege of severing or the related
8 processing of uranium, there is imposed a "uranium legacy
9 cleanup surtax" on any severer or related processor of uranium
10 in New Mexico. A processor of uranium shall not be subject to
11 the uranium legacy cleanup surtax with respect to severed
12 uranium if the surtax on that severed uranium is paid by a
13 severer. The uranium legacy cleanup surtax shall be imposed at
14 an amount equal to fifty cents (\$.50) per pound of the content
15 of U308 contained in uranium severed and saved or processed and
16 saved after such severing, regardless of the form in which the
17 product is actually disposed of.

18 B. For the privilege of severing or the related
19 processing in New Mexico of uranium that is severed in New
20 Mexico and is owned by another person and not otherwise taxed
21 by Subsection A of this section, there is imposed on the
22 service charge of any person severing or processing after the
23 severing of uranium owned by another person a uranium legacy
24 cleanup surtax at the same rate that would be imposed on an
25 owner of uranium for performing the same function.

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1 C. Notwithstanding the provisions of Subsections A
2 and B of this section, the uranium legacy cleanup surtax shall
3 not be imposed upon the purification, beneficiation, UF6
4 conversion, enrichment, deconversion, reprocessing or disposal
5 of uranium."

6 Section 10. DELAYED REPEAL--TRANSFER OF FUND BALANCE.--

7 A. On the next succeeding January 1 or July 1
8 following the date that a certification is made pursuant to
9 Subsection B of this section:

10 (1) the Uranium Legacy Cleanup Act, as enacted
11 by Sections 1 through 5 of this 2008 act, is repealed;

12 (2) Sections 7-1-6.59 and 7-1-6.60 NMSA 1978,
13 as enacted by Sections 7 and 8 of this 2008 act, are repealed;

14 (3) Section 9 of this 2008 act is repealed;

15 and

16 (4) any remaining balance of the uranium
17 legacy cleanup fund shall be transferred to the general fund.

18 B. Upon the determination by the secretary of
19 energy, minerals and natural resources that the purposes of the
20 Uranium Legacy Cleanup Act have been satisfied, the secretary
21 shall certify that fact to the secretary of finance and
22 administration, the New Mexico compilation commission and the
23 legislative council service.

24 Section 11. SEVERABILITY.--If any part or application of
25 the Uranium Legacy Cleanup Act is held invalid, the remainder

1 or its application to other situations or persons shall not be
2 affected.

3 Section 12. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is January 1, 2009.

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