

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 749

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

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; REQUIRING A PORTION
OF GENERAL FUND CAPITAL OUTLAY TO FUND URANIUM LEGACY CLEANUP
ACTIVITIES; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Uranium Legacy Cleanup Act".

Section 2. DEFINITIONS.--As used in the Uranium Legacy
Cleanup Act:

A. "committee" means the uranium legacy cleanup
committee;

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

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

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

5 E. "qualified project" means a project selected by
6 the committee for financial assistance; and

7 F. "secretary" means the secretary of energy,
8 minerals and natural resources.

9 Section 3. URANIUM LEGACY CLEANUP COMMITTEE CREATED.--

10 A. The "uranium legacy cleanup committee" is
11 created and is administratively attached to the department.
12 Staff for the committee shall be provided by the mining and
13 minerals division of the department. It is not necessary that
14 members be appointed to the committee nor that the committee be
15 activated until such time as the fund receives money pursuant
16 to Subsection A of Section 4 of the Uranium Legacy Cleanup Act.

17 B. The committee consists of nine voting members
18 and five nonvoting members.

19 C. The voting ex-officio members are:

20 (1) the secretary of energy, minerals and
21 natural resources or the secretary's designee from the
22 department;

23 (2) the secretary of environment, or the
24 secretary's designee from the department of environment; and

25 (3) the secretary of health, or the

1 secretary's designee from the department of health.

2 D. The following six voting members, who shall have
 3 knowledge of or experience with the extent of contamination
 4 resulting from past uranium mining and milling activities in
 5 northwest New Mexico or with human health problems resulting
 6 from exposure to such contamination, shall be appointed by the
 7 governor:

8 (1) one person who is a member of the Pueblo
 9 of Acoma or the Pueblo of Laguna;

10 (2) one person who is a member of the Navajo
 11 Nation and who resides in New Mexico;

12 (3) one person who is a resident of New Mexico
 13 and who has education and experience in the field of primary
 14 health care or public health;

15 (4) one person who is a resident of New Mexico
 16 and who has education and experience in the field of uranium
 17 mining and milling activities;

18 (5) one person who is a resident of New Mexico
 19 from the bureau of geology and mineral resources with expertise
 20 in the evaluation and remediation of sites contaminated as a
 21 result of uranium mining and milling activities; and

22 (6) one person who is a resident of New Mexico
 23 from the federal department of energy waste isolation pilot
 24 project with expertise in the evaluation and remediation of
 25 sites contaminated as a result of uranium mining and milling

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1 activities.

2 E. The five nonvoting members are:

3 (1) one representative from the federal
4 environmental protection agency, region 6, appointed by the
5 regional director;

6 (2) one representative from the federal
7 environmental protection agency, region 9, appointed by the
8 regional director;

9 (3) one representative from the Albuquerque
10 area Indian health service, appointed by the area director;

11 (4) one representative from the Navajo area
12 Indian health service, appointed by the area director; and

13 (5) one representative from the Navajo Nation
14 environmental protection agency or division of natural
15 resources, appointed by the president of the Navajo Nation.

16 F. The committee shall meet at the call of the
17 chair, or whenever five voting members submit a request in
18 writing to the chair, but not less than twice each calendar
19 year. A majority of voting members constitutes a quorum for
20 the transaction of business. The affirmative vote of at least
21 a majority of a quorum shall be necessary for an action to be
22 taken by the committee.

23 G. Each appointed member of the committee shall
24 serve a two-year term. Vacancies shall be filled by
25 appointment by the original appointing authority for the

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1 remainder of the unexpired term.

2 H. Members of the committee appointed by the
3 governor may receive per diem and mileage as provided for
4 nonsalaried public officers in the Per Diem and Mileage Act and
5 shall receive no other compensation, perquisite or allowance.

6 I. The committee shall:

7 (1) establish procedures, practices and
8 policies governing the committee's activities;

9 (2) recommend proposed rules governing terms,
10 conditions and priorities for providing financial assistance
11 for the cleanup of sites contaminated by uranium mining and
12 milling activities that occurred prior to July 1, 2009,
13 including developing application and evaluation procedures and
14 forms and qualifications for applicants and for projects;

15 (3) review and approve or deny applications
16 for financial assistance for proposed qualified projects; and

17 (4) review uranium legacy cleanup actions of
18 the department and of other persons receiving funds from the
19 fund and submit comments to the secretary.

20 Section 4. URANIUM LEGACY CLEANUP FUND--CREATED--
21 PURPOSE--APPROPRIATIONS.--

22 A. The "uranium legacy cleanup fund" is created as
23 a nonreverting fund in the state treasury and shall be
24 administered by the department. The fund shall consist of
25 funds appropriated pursuant to Section 7 of the Uranium Legacy

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1 Cleanup Act; money that is repaid from loans approved by the
2 secretary; and money that is appropriated or donated or that
3 otherwise accrues to the fund. Money in the fund shall be
4 invested by the state investment officer in the manner that
5 land grant permanent funds are invested pursuant to Chapter 6,
6 Article 8 NMSA 1978. Income from investment of the fund shall
7 be credited to the fund.

8 B. The department shall establish procedures and
9 adopt rules as required to administer the fund and to originate
10 grants or loans for qualified projects approved by the
11 secretary.

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

21 Section 5. DUTIES OF THE SECRETARY.--

22 A. Expenditures from the fund for financial
23 assistance shall be approved by the secretary for qualified
24 projects approved by the committee directed at the elimination
25 or reduction of actual or potential exposure of persons to

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1 contamination that may have resulted from uranium mining or
2 milling activities that occurred prior to July 1, 2009.

3 B. The secretary, after considering recommendations
4 from the committee, shall adopt rules for applying for
5 financial assistance from the fund and for establishing
6 priorities for qualified projects. The priorities for
7 approving qualified projects shall be based upon:

8 (1) the protection of public health, safety
9 and welfare;

10 (2) the protection of the environment from
11 existing or potential contamination;

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

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

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

18 (6) the number of persons affected or
19 potentially affected by contamination at the site of the
20 qualified project;

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

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

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1 (9) the lack of any potentially responsible
2 party obligated to conduct a cleanup pursuant to any federal,
3 state or tribal law;

4 (10) the potential uses for the site following
5 the completion of the qualified project; and

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

8 C. Financial assistance may be provided to
9 qualified projects within the state of New Mexico, in
10 collaboration with other state governments, the federal
11 government, tribal governments and other public entities.

12 D. Financial assistance may be provided to
13 qualified projects only if a project is located on real
14 property owned entirely or in large part by the federal
15 government, the state or an Indian nation, tribe or pueblo.

16 Section 6. REPORT TO LEGISLATURE.--The secretary shall
17 report to the appropriate interim legislative committee no
18 later than October 1 of each year regarding the total
19 expenditures from the fund for the previous fiscal year, the
20 purposes for which expenditures were made, an analysis of the
21 progress of the projects funded and proposals for legislative
22 action in the subsequent legislative session.

23 Section 7. GENERAL FUND CAPITAL OUTLAY--RESERVATION FOR
24 URANIUM LEGACY CLEANUP PROJECTS.--No law that contains
25 appropriations from the general fund for capital outlay

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1 projects shall be enacted by the legislature unless it contains
2 an appropriation from the general fund to the uranium legacy
3 cleanup fund in an amount equal to at least ten percent of the
4 total general fund appropriations in that law for capital
5 outlay projects.

6 Section 8. DELAYED REPEAL.--Section 7 of this act is
7 repealed effective January 1, 2020.

8 Section 9. SEVERABILITY.--If any part or application of
9 the Uranium Legacy Cleanup Act is held invalid, the remainder
10 or its application to other situations or persons shall not be
11 affected.

12 Section 10. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2009.