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| <b>LFC Requester:</b> | <b>Davidson</b> |
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**  
**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)  
*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** Feb 10, 2025 *Check all that apply:*  
**Bill Number:** SB316 Original X  Correction   
 Amendment  Substitute

**Sponsor:** Muñoz **Agency Name and Code Number:** New Mexico Environment Department 667  
**Short Title:** Uranium Waste Disposal **Person Writing:** Jonas Armstrong  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

| Appropriation |      | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY25          | FY26 |                           |               |
|               |      |                           |               |
|               |      |                           |               |

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

| Estimated Revenue |      |      | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY25              | FY26 | FY27 |                           |               |
|                   |      |      |                           |               |
|                   |      |      |                           |               |

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

|              | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|-------------------|---------------------------|---------------|
| <b>Total</b> | 0    | 0    | 0    | 0                 |                           |               |

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

SB 316 mandates that no state agency shall issue a permit for disposing uranium tailings or uranium waste other than at a federally managed underground facility designed to contain hazardous waste.

#### **FISCAL IMPLICATIONS**

None

#### **SIGNIFICANT ISSUES**

The proposed bill would add considerable costs (millions of dollars) to all uranium mine and mill waste cleanup. Numerous current ongoing actions would stop and uranium mine and mill waste would be left unconsolidated and continue to expose New Mexico citizens and the environment to dangerous contaminants.

The bill does not define what types of uranium wastes are being considered. It is important to define what type of waste is involved, whether it is waste rock (overburden), low-grade ore, mine related, mill (tailings) related, transuranic, enriched, medical, industrial, or other, given that different federal and/or state agencies are involved depending on the type of waste. Additionally, some uranium related wastes such as waste rock and low-grade ore are not considered hazardous materials and would not be appropriate for a hazardous waste landfill.

There is no definition of what is meant by an underground repository. Underground repositories (such as Yucca Mountain or WIPP) are distinct in that they are deep underground and involve workings that may (or may not) pose risk to groundwater, whereas subsurface or below grade repositories (such as landfills) are near-surface repositories with evapotranspirative (ET) covers (such as at some mill tailings or mine waste repositories in NM) and may present in their final form as small hills in the landscape.

#### **PERFORMANCE IMPLICATIONS**

New Mexico has long established that environmental and health protection can be established and maintained with the storage of mine wastes at the surface, in highly engineered repositories with protective design criteria. These repositories can be incised a few feet into the ground with soil and rock covers that allow for native vegetation to be established and have been shown to be effective in New Mexico's unique climate. Surface repositories would be highly engineered (designed) facilities with the highest degree of engineering controls for the long-term protection of human health and the environment. Any facility of this sort would, at minimum, require long-term monitoring, maintenance and financial assurance for hundred(s) of years. Monitoring of such a surface facility can be accomplished, and performance can be measured. Depending on the bill's definition of "underground," monitoring of potential impacts to groundwater quality becomes substantially more difficult.

#### **ADMINISTRATIVE IMPLICATIONS**

There are no federally managed underground repositories in New Mexico for uranium mine wastes, and the proposed bill could halt all uranium mine reclamation efforts indefinitely. There are currently no pathways that NMED is aware of at this time for the federal government to site

and establish a federally managed uranium mine waste repository or repositories.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Federal agencies have different jurisdictional boundaries on what wastes they can or cannot manage. The Department of Energy, which stewards long-term maintenance of mill tailings under the Uranium Mill Tailings Radiation Control Act, cannot accept uranium mine waste, it only regulates beneficiated radioactive materials. The Environmental Protection Agency cannot accept uranium mine waste, it is a regulatory agency under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authority. Uranium, uranium tailings and byproducts are not regulated under the Resource Conservation and Recovery Act (RCRA). None of these agencies would be considered an owner or operator and they do not have the authority to cross jurisdictional boundaries.

There are currently two bills, SB260 and HB333 that seek to fund NMED to clean up abandoned uranium mines as well as other neglected contaminated sites in New Mexico. NMED's ability to begin these clean ups would be effectively curtailed.

### **TECHNICAL ISSUES**

This proposal would add considerable costs to all uranium mine and mill waste cleanup and reclamation projects in New Mexico. The costs for a remedy could be at a minimum an additional 30%, and potentially even double the costs, pending an engineering cost estimate and consideration of all site-specific attributes. Mine wastes are excluded from state and federal hazardous waste regulations, and there is not a federal facility present that is authorized to accept mine site waste.

### **OTHER SUBSTANTIVE ISSUES**

Currently there are over 100 million cubic yards of mine and mill waste within New Mexico that are being regulated and characterized by the State, EPA Region 6, EPA Region 9, the Nuclear Regulatory Commission (NRC), and the Department of Energy (DOE) Legacy Management and Defense-Related Uranium Mines Program. Uranium mill tailings are regulated by the NRC during operations and by DOE for long term care following operations. Other metal mill tailings are managed under NMED discharge permits and abatement plans with no federal oversight. Near-surface reclamation sites of uranium and many other mines waste materials are currently in place throughout the state and are performing as designed; these disposal locations may need to be redone at considerable expense if this bill passes. At some locations, oversight and performance monitoring of wastes that remain in place, or are consolidated into larger waste units, are under both state and federal jurisdiction and management. Continuation of the overlapping jurisdiction is critical for the future protection of human health and the environment.

### **ALTERNATIVES**

None identified.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

If the bill is not enacted, the substantial work that has been performed by multiple agencies, with overlapping jurisdiction, will continue in a positive manner for the protection of all citizens of the state from potential hazardous substances and provide a clean environment for future generations. Substantial public engagement will continue due to the multiple regulatory

agencies' requirements, and very conservative (protective) engineering controls can be put in place for all reclamation of uranium mine and mill tailing. The bill is not needed to provide a mechanism for the protection of human health and the environment. This is already in place.

If enacted, potential severe negative consequences will be substantial cost increases and time delays. Federal management of underground repositories will be difficult to commission and locate, and this could lead to a diminished role under state regulations and authority.

#### **AMENDMENTS**

None identified.