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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/10/19

**SPONSOR** Brown / Lundstrom      **LAST UPDATED** \_\_\_\_\_      **HB** 293

**SHORT TITLE** Uranium Legacy Cleanup Act      **SB** \_\_\_\_\_

**ANALYST** Amacher

### APPROPRIATION (dollars in thousands)

| Appropriation |      | Recurring<br>or Nonrecurring | Fund<br>Affected |
|---------------|------|------------------------------|------------------|
| FY16          | FY17 |                              |                  |
| NFI           | NFI  | NFI                          | NFI              |

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

| Estimated Revenue |               |               | Recurring<br>or<br>Nonrecurring | Fund<br>Affected  |
|-------------------|---------------|---------------|---------------------------------|---|
| FY16              | FY17          | FY18          |                                 |   |
| NFI               | Indeterminate | Indeterminate | Recurring                       | Uranium<br>Legacy Cleanup<br>Fund (See Fiscal<br>Impacts) |

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

- LFC Files
- Attorney General's Office (AGO)
- Energy, Minerals, and Natural Resources Department (EMNRD)
- New Mexico Environment Department (NMED)
- New Mexico State Investment Council (NMSIC)

Responses Not Received From  
Taxation and Revenue Department

### SUMMARY

#### Synopsis of Bill

House Bill 293 creates the Uranium Legacy Cleanup Act (ULCA) for the purposes of providing financial assistance to certain uranium cleanup projects from either unreclaimed mines or processing sites and surrounding areas. The ULCA creates a new fund, the uranium legacy

cleanup fund, as appropriated by surtax. HB 293 amends tax law by outlining uranium legacy clean up surtax; a resources excise tax on uranium; and a rate and measure of surtax. The uranium legacy clean up surtax shall be fifty cents per pound of uranium, specifically uranium oxide (U<sub>3</sub>O<sub>8</sub>), regardless of the form in which the product is actually disposed.

HB 293 tasks the energy, minerals, and natural resources department (EMNRD) with the administration of the fund. And the state investment council (SIC) is tasked with the investment responsibilities in a similar manner to the land grant permanent fund (LGPF). HB 293 has an effective date of January 1, 2017.

## **FISCAL IMPLICATIONS**

Currently, there is no uranium mining occurring in New Mexico. The Navajo nation has banned uranium mining on tribal lands since 2005. According to NMED, current market value research indicates uranium producers in the United States are operating on a profit margin of \$0.15 to \$0.27 profit per pound. It is not clear how a \$0.50 tax would impact the possible re-opening of legacy mines that need abatement to resume operation, or the opening of a new uranium mine. EMNRD notes in the past uranium boom, over 330 million pounds of uranium were produced in New Mexico with a peak of 17 million pounds in one year. Uranium prices have ranged from \$10 to \$138 a pound over the past several years with a current spot price of about \$34.75 a pound.

Data on tax collections on uranium in New Mexico are either not in place or have not been collected in the last few decades as this information has proven to be elusive and unattainable to assess a reasonable fiscal impact on the proposed surtax.

HB 293 specifically exempts the purification, UF<sub>6</sub> conversion, enrichment, diversion, reprocessing or disposal of uranium from the surtax provision.

## **SIGNIFICANT ISSUES**

Even though uranium mining is not currently in active production in New Mexico, there are many sites unreclaimed and in need of clean up from the boom days of production from the 1950's to the 1970's. Extensive uranium mining and processing operations occurred decades before the state and federal regulations that protect human health and the environment were enacted. This uranium mining and milling activity resulted in significant impacts to human health and the environment, including water pollution.

EMNRD has developed an inventory of closed uranium mines in the state totaling 260 mines where uranium production occurred. Of these mines, more than half have not been reclaimed. The unreclaimed mines are mainly smaller, older mines. Larger mines are gradually being reclaimed under the supervision and guidance of state and federal programs. Most of the mines are in the area of the "Grants Mineral Belt" north of I-40, between Gallup and Laguna Pueblo.

EMNRD notes that such clean up, and securing the funding to do so, is necessary regardless if production resumes. Determining how much revenue the surtax will generate is influenced not only by cleanup efforts but also by new production and the current market price for uranium. According to EMNRD, there are several mining companies seeking permits for uranium mines in New Mexico and one existing mine has applied to reopen. While there is interest in uranium

mining in New Mexico, it is extremely difficult to estimate how many mines and mills would be built, when and how much uranium would be produced by these mines, and what the price of uranium will be.

Section 3 (A) lists “money collected as fees for interim radioactive material storage” as a source of income for the fund; however, the phrase “interim radioactive material storage” is not defined and the intent of the inclusion of this phrase is not clear. This may cause confusion regarding fees for storage of radioactive materials unrelated to uranium mining.

### **PERFORMANCE IMPLICATIONS**

Performance of the tasked agencies and the proposed new fund are uncertain at this time. More information is required to determine if the proposed surtax outlined in this bill would provide sufficient funding and over what length of time would be required to support sufficient funding.

The state investment council (SIC) notes that in proposing this new fund be managed similar to other permanent funds, such as the land grant permanent fund and the water trust fund, there are inherent challenges that may undermine the long term success and use of the ULCA. For example, funding from a permanent fund cannot be appropriated from without changing the New Mexico Constitution. Investments in such permanent funds take advantage of illiquidity premiums, namely, exposure to investment lock up periods (10 or more years) associated with longer-term investment, in exchange for greater profits and/or portfolio diversification. The SIC suggests a language change that would allow the investment officer to deploy ULCA dollars into a diversified yet liquid portfolio unique to the fund’s short term needs and long-term risk/return expectations.

### **ADMINISTRATIVE IMPLICATIONS**

In the event HB 293 is enacted, initial funding may be required to support the administration of the new fund until uranium mining resumes. EMNRD may require additional FTEs for the tasks such as, including but not limited to, review of proposals for cleanup projects, technical review, grant approvals/contracts, provide financing agreements, oversight and field inspections. Additionally, EMNRD would be required to promulgate and adopt rules and procedures to administer the new fund; as well as, generating policies to guide new staff in establishing priorities for approving qualified projects.

The SIC notes there would be a limited impact to the NMSIC for costs associated with developing an initial asset allocation structure for the ULCA fund based on its long-term goals, liquidity requirements, and assessment of appropriate levels of investment risk given projected inflows and expected annual need of the fund. Specific costs for such services would be indeterminate, but minimal, as they would essentially be covered under the existing umbrella of fiduciary duty already provided by the SIC.

### **TECHNICAL ISSUES**

Page 6, line 10 lists the uranium contemplated as “U308”, the regulatory agencies interpret this to be a misuse of the fairly common industry term (U3O8) for U<sub>3</sub>O<sub>8</sub>; whereby the zero outlined in the bill should be corrected to the letter “O” to correctly represent the uranium discussed.

On page 6, line 10, strike “0” from “U308” and insert in lieu thereof “O”.

On page 2, lines 19-20, strike “the manner that land grant permanent funds are invested” and insert in lieu thereof “any type of investment permitted for the land grant permanent fund”.

### **OTHER SUBSTANTIVE ISSUES**

Currently EMNRD and NMED are working with the U.S. Environmental Protection Agency and the Department of Interior utilizing federal funds and funds from bankruptcy settlements to pursue reclamation at certain uranium mines. These funds are insufficient in addressing the amount of clean up necessary in New Mexico as a result of the uranium mining.

NMED reports the lack of funding mechanisms, to clean up former uranium mining and milling sites, limits the ability of the state to identify and clean up hazards to public health from windblown radio nuclides, surface water runoff, and leaching of contaminants into state water resources.

NMED also notes that state water quality regulations are designed to prevent future water pollution at any new uranium mining and processing that fall under the state’s jurisdiction. Since the 1978 enactment of the Water Quality Act, operators have been required to obtain groundwater discharge permits to prevent ground water contamination. Requirements for financial assistance for the operators are also in place to ensure mine sites are adequately closed following the cessation of operations and to abate any soil, groundwater, or surface water contamination that may occur. Furthermore, after an extensive assessment on the effects of uranium in the groundwater on human health, NMED raised the public health standard in 2004 by reducing the amount of uranium acceptable in the groundwater from 5.0 milligrams per liter to 0.03 milligrams per liter.

Since the late 1970s, a number of large sites with water pollution and human health impacts have been cleaned up or are currently being remediated. There are abandoned uranium mines, also known as uranium legacy mines, without responsible parties in the Northwestern portion of New Mexico that could pose a variety of considerable health concerns. Such concerns include threats to public health from exposure to windblown uranium soils onto neighboring residential properties; and threats to groundwater quality from the leaching of contaminated soils into the groundwater sources for drinking water. Funding the cleanup efforts of those sites would help eliminate impacts to public health, enhance overall environmental conditions and protect water quality while preventing future threats to public health.

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

The state would be inhibited, due to insufficient funding, from effective and efficient clean up of abandoned uranium mines that have the potential to create significant public health hazards. State agencies will continue to seek funding and resources from the federal government and other sources. Until such recurring financial support is secured the abandoned, contaminated uranium mine sites and downstream impacts from mill sites will likely continue to remain in place as they are today.