

1 SENATE BILL 285

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Phil A. Griego

5
6
7
8
9
10 AN ACT

11 RELATING TO MINING; ENTERING THE INTERSTATE MINING COMPACT;
12 ALLOWING THE GOVERNOR TO SELECT AN ALTERNATE TO REPRESENT THE
13 GOVERNOR ON THE INTERSTATE MINING COMMISSION.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. [NEW MATERIAL] INTERSTATE MINING COMPACT.--The
17 Interstate Mining Compact contained in this section is enacted
18 into law and entered into with all other jurisdictions legally
19 joining therein in the form substantially as follows:

20 "INTERSTATE MINING COMPACT

21 ARTICLE I

22 FINDINGS AND PURPOSE

23 A. The party states find that:

24 (1) mining and the contributions thereof to
25 the economy and well-being of every state are of basic

.197867.3SA

underscored material = new
[bracketed material] = delete

1 significance;

2 (2) the effects of mining on the availability
3 of land, water, and other resources for other uses present
4 special problems which properly can be approached only with due
5 consideration for the rights and interests of those engaged in
6 mining, those using or proposing to use these resources for
7 other purposes, and the public;

8 (3) measures for the reduction of the adverse
9 effects of mining on land, water, and other resources may be
10 costly and the devising of means to deal with them are of both
11 public and private concern;

12 (4) such variables as soil structure and
13 composition, physiography, climatic conditions, and the needs
14 of the public make impracticable the application to all mining
15 areas of a single standard for the conservation, adaptation, or
16 restoration of mined land, or the development of mineral and
17 other natural resources, but justifiable requirements of law
18 and practice relating to the effects of mining on lands, water,
19 and other resources may be reduced in equity or effectiveness
20 unless they pertain similarly from state to state for all
21 mining operations similarly situated; and

22 (5) the states are in a position and have the
23 responsibility to assure that mining shall be conducted in
24 accordance with sound conservation principles, and with due
25 regard for local conditions.

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

B. The purposes of this compact are to:

(1) advance the protection and restoration of land, water, and other resources affected by mining;

(2) assist in the reduction or elimination or counteracting of pollution or deterioration of land, water, and air attributable to mining;

(3) encourage, with due recognition of relevant regional, physical, and other differences, programs in each of the party states which will achieve comparable results in protecting, conserving, and improving the usefulness of natural resources, to the end that the most desirable conduct of mining and related operations may be universally facilitated;

(4) assist the party states in their efforts to facilitate the use of land and other resources affected by mining, so that such use may be consistent with sound land use, public health, and public safety, and to this end to study and recommend, wherever desirable, techniques for improvement, restoration or protection of such land and other resources; and

(5) assist in achieving and maintaining an efficient and productive mining industry and in increasing economic and other benefits attributable to mining.

ARTICLE II

DEFINITIONS

As used in this compact, the term:

.197867.3SA

underscored material = new
~~[bracketed material] = delete~~

1 A. "mining" means the breaking of the surface soil
2 in order to facilitate or accomplish the extraction or removal
3 of minerals, ores, or other solid matter, any activity or
4 process constituting all or part of a process for the
5 extraction or removal of minerals, ores, and other solid matter
6 from its original location, and the preparation, washing,
7 cleaning, or other treatment of minerals, ores, or other solid
8 matter so as to make them suitable for commercial, industrial,
9 or construction use, but shall not include those aspects of
10 deep mining not having significant effect on the surface, and
11 shall not include excavation of grading when conducted solely
12 in aid of on-site farming or construction; and

13 B. "state" means a state of the United States, the
14 District of Columbia, the Commonwealth of Puerto Rico, or
15 Territory or Possession of the United States.

16 ARTICLE III

17 STATE PROGRAMS

18 Each party state agrees that within a reasonable time it will
19 formulate and establish an effective program for the
20 conservation and use of mined land, by the establishment of
21 standards, enactment of laws, or the continuing of the same in
22 force, to accomplish:

23 A. the protection of the public and the protection
24 of adjoining and other landowners from damage to their lands
25 and the structures and other property thereon resulting from

.197867.3SA

underscoring material = new
~~[bracketed material] = delete~~

1 the conduct of mining operations or the abandonment or neglect
2 of land and property formerly used in the conduct of such
3 operations;

4 B. the conduct of mining and the handling of refuse
5 and other mining wastes in ways that will reduce adverse
6 effects on the economic, residential, recreational, or
7 aesthetic value and utility of land and water;

8 C. the institution and maintenance of suitable
9 programs of adaptation, restoration, and rehabilitation of
10 mined lands; and

11 D. the prevention, abatement, and control of water,
12 air, and soil pollution resulting from mining - present, past,
13 and future.

14 ARTICLE IV

15 POWERS

16 In addition to any other powers conferred upon the Interstate
17 Mining Commission, established by Article V of this compact,
18 such commission shall have the power to:

19 A. study mining operations, processes, and
20 techniques for the purpose of gaining knowledge concerning the
21 effects of such operations, processes, and techniques on land,
22 soil, water, air, plant and animal life, recreation, and
23 patterns of community or regional development or change;

24 B. study the conservation, adaptation, improvement,
25 and restoration of land and related resources affected by

.197867.3SA

underscoring material = new
~~[bracketed material] = delete~~

1 mining;

2 C. make recommendations concerning any aspect or
3 aspects of law or practice and governmental administration
4 dealing with matters within the purview of this compact;

5 D. gather and disseminate information relating to
6 any of the matters within the purview of this compact;

7 E. cooperate with the federal government and any
8 public or private entities having interests in any subject
9 coming within the purview of this compact;

10 F. consult, upon the request of a party state and
11 within available resources, with the officials of such state in
12 respect to any problem within the purview of this compact;

13 G. study and make recommendations with respect to
14 any practice, process, technique, or course of action that may
15 improve the efficiency of mining or the economic yield from
16 mining operations; and

17 H. study and make recommendations relating to the
18 safeguarding of access to resources which are or may become the
19 subject of mining operations to the end that the needs of the
20 economy for the products of mining may not be adversely
21 affected by unplanned or inappropriate use of land and other
22 resources containing minerals or otherwise connected with
23 actual or potential mining sites.

24 ARTICLE V

25 THE COMMISSION

.197867.3SA

underscoring material = new
~~[bracketed material]~~ = delete

1 A. There is hereby created an agency of the party
2 states to be known as the "Interstate Mining Commission",
3 hereinafter called "the commission". The commission shall be
4 composed of one commissioner from each party state who shall be
5 the governor thereof. In any instance where a governor is
6 unable to attend a meeting of the commission or perform any
7 other function in connection with the business of the
8 commission, the governor shall designate an alternate who shall
9 represent the governor and act in the governor's place and
10 stand. The designation of an alternate shall be communicated
11 by the governor to the commission in such manner as its bylaws
12 may provide.

13 B. The commissioners shall be entitled to one vote
14 each on the commission. No action of the commission making a
15 recommendation pursuant to Paragraphs C, G or H of Article IV
16 or requesting, accepting, or disposing of funds, services, or
17 other property pursuant to this paragraph, Paragraph G or H of
18 this Article, or Article VII shall be valid unless taken at a
19 meeting at which a majority of the total number of votes on the
20 commission is cast in favor thereof. All other action shall be
21 by a majority of those present and voting; provided that action
22 of the commission shall be only at a meeting at which a
23 majority of the commissioners, or their alternates, is present.
24 The commission may establish and maintain such facilities as
25 may be necessary for the transaction of its business. The

.197867.3SA

underscoring material = new
~~[bracketed material] = delete~~

1 commission may acquire, hold, and convey real and personal
2 property and any interest therein.

3 C. The commission shall have a seal.

4 D. The commission shall elect annually, from among
5 its members, a chair, a vice-chair, and a treasurer. The
6 commission shall appoint an executive director and fix the
7 executive director's duties and compensation. Such executive
8 director shall serve at the pleasure of the commission. The
9 executive director, the treasurer, and such other personnel as
10 the commission shall designate shall be bonded. The amount or
11 amounts of such bond or bonds shall be determined by the
12 commission.

13 E. Irrespective of the civil service, personnel, or
14 other merit system laws of any of the party states, the
15 executive director, with the approval of the commission, shall
16 appoint, remove, or discharge such personnel as may be
17 necessary for the performance of the commission's functions,
18 and shall fix the duties and compensation of such personnel.

19 F. The commission may establish and maintain
20 independently or in conjunction with a party state, a suitable
21 retirement system for its employees. Employees of the
22 commission shall be eligible for social security coverage in
23 respect of old age and survivor's insurance provided that the
24 commission takes such steps as may be necessary pursuant to the
25 laws of the United States, to participate in such program of

.197867.3SA

underscoring material = new
~~[bracketed material] = delete~~

1 insurance as a governmental agency or unit. The commission may
2 establish and maintain or participate in such additional
3 programs of employee benefits as it may deem appropriate.

4 G. The commission may borrow, accept, or contract
5 for the services of personnel from any state, the United
6 States, or any other governmental agency, or from any person,
7 firm, association, or corporation.

8 H. The commission may accept for any of its
9 purposes and functions under this compact any and all
10 donations, and grants of money, equipment, supplies, materials,
11 and services, conditional or otherwise, from any state, the
12 United States, or any other governmental agency, or from any
13 person, firm, association, or corporation, and may receive,
14 utilize, and dispose of the same. Any donation or grant
15 accepted by the commission pursuant to this paragraph or
16 services borrowed pursuant to Paragraph G of this Article shall
17 be reported in the annual report of the commission. Such
18 report shall include the nature, amount, and conditions, if
19 any, of the donation, grant, or services borrowed and the
20 identity of the donor or lender.

21 I. The commission shall adopt bylaws for the
22 conduct of its business and shall have the power to amend and
23 rescind these bylaws. The commission shall publish its bylaws
24 in convenient form and shall file a copy thereof and a copy of
25 any amendment thereto, with the appropriate agency or officer

.197867.3SA

underscoring material = new
[bracketed material] = delete

1 in each of the party states.

2 J. The commission annually shall make to the
3 governor, legislature, and advisory body required by Paragraph
4 A of Article V of each party state a report covering the
5 activities of the commission for the preceding year, and
6 embodying such recommendations as may have been made by the
7 commission. The commission may make such additional reports as
8 it may deem desirable.

9 ARTICLE VI

10 ADVISORY, TECHNICAL, AND REGIONAL COMMITTEES

11 The commission shall establish such advisory, technical, and
12 regional committees as it may deem necessary, membership on
13 which shall include private persons and public officials, and
14 shall cooperate with the use and services of any such
15 committees and the organizations which the members represent in
16 furthering any of its activities. Such committees may be
17 formed to consider problems of special interest to any party
18 states, problems dealing with particular commodities of types
19 of mining operations, problems related to reclamation,
20 development, or use of mined land, or any other matters of
21 concern to the commission.

22 ARTICLE VII

23 FINANCE

24 A. The commission shall submit to the governor or
25 designated officer or officers of each party state a budget of

.197867.3SA

underscoring material = new
~~[bracketed material] = delete~~

1 its estimated expenditures for such period as may be required
2 by the laws of that party state for presentation to the
3 legislature thereof.

4 B. Each of the commission's budgets of estimated
5 expenditures shall contain specific recommendations of the
6 amount or amounts to be appropriated by each of the party
7 states. The total amount of appropriations requested under any
8 such budget shall be apportioned among the party states as
9 follows: one-half in equal shares, and the remainder in
10 proportion to the value of minerals, ores, and other solid
11 matter mined. In determining such values, the commission shall
12 employ such available public source or sources of information
13 as, in its judgment, present the most equitable and accurate
14 comparisons among the party states. Each of the commission's
15 budgets of estimated expenditures and requests for
16 appropriations shall indicate the source or sources used in
17 obtaining information concerning value of minerals, ores, and
18 other solid matter mined.

19 C. The commission shall not pledge the credit of
20 any party state. The commission may meet any of its
21 obligations in whole or in part with funds available to it
22 under Paragraph H of Article V of this compact provided that
23 the commission takes specific action setting aside such funds
24 prior to incurring any obligation to be met in whole or in part
25 in such manner. Except where the commission makes use of funds

.197867.3SA

underscored material = new
[bracketed material] = delete

1 available to it under Paragraph H of Article V thereof, the
2 commission shall not incur any obligation prior to the
3 allotment of funds by the party states adequate to meet the
4 same.

5 D. The commission shall keep accurate accounts of
6 all receipts and disbursements. The receipts and disbursements
7 of the commission shall be subject to the audit and accounting
8 procedures established under its bylaws. All receipts and
9 disbursements of funds handled by the commission shall be
10 audited yearly by a qualified public accountant and the report
11 of the audit shall be included in and become a part of the
12 annual report of the commission.

13 E. The accounts of the commission shall be open at
14 any reasonable time for inspection by duly constituted officers
15 of the party states and by any persons authorized by the
16 commission.

17 F. Nothing contained herein shall be construed to
18 prevent commission compliance with laws relating to audit or
19 inspection of accounts by or on behalf of any government
20 contributing to the support of the commission.

21 ARTICLE VIII

22 ENTRY INTO FORCE AND WITHDRAWAL

23 A. This compact shall enter into force when enacted
24 into law by any four or more states. Thereafter, this compact
25 shall become effective as to any other state upon its enactment

.197867.3SA

underscored material = new
[bracketed material] = delete

1 thereof.

2 B. Any party state may withdraw from this compact
3 by enacting a statute repealing the same, but no such
4 withdrawal shall take effect until one year after the governor
5 of the withdrawing state has given notice in writing of the
6 withdrawal to the governors of all other party states. No
7 withdrawal shall affect any liability already incurred by or
8 chargeable to a party state prior to the time of such
9 withdrawal.

10 ARTICLE IX

11 EFFECT ON OTHER LAWS

12 Nothing in this compact shall be construed to limit, repeal, or
13 supersede any other law of any party state.

14 ARTICLE X

15 CONSTRUCTION AND SEVERABILITY

16 This compact shall be liberally construed so as to effectuate
17 the purposes thereof. The provisions of this compact shall be
18 severable and if any phrase, clause, sentence, or provision of
19 this compact is declared to be contrary to the constitution of
20 any state or of the United States, or the applicability thereof
21 to any government, agency, person, or circumstance is held
22 invalid, the validity of the remainder of this compact and the
23 applicability thereof to any government, agency, person, or
24 circumstance shall not be affected thereby. If this compact
25 shall be held contrary to the constitution of any state

.197867.3SA

underscored material = new
[bracketed material] = delete

1 participating herein, the compact shall remain in full force
2 and effect as to the remaining party states and in full force
3 and effect as to the state affected as to all severable
4 matters."

5 SECTION 2. [NEW MATERIAL] INTERSTATE MINING COMPACT--
6 SELECTION OF ALTERNATE TO COMMISSION.--The governor may
7 designate the secretary of energy, minerals and natural
8 resources or the director of the mining and minerals division
9 of the energy, minerals and natural resources department as the
10 governor's alternate to the interstate mining commission.

11 SECTION 3. [NEW MATERIAL] FILING OF COMMISSION BYLAWS.--

12 A. In accordance with Paragraph I of Article 5 of
13 the Interstate Mining Compact, the interstate mining commission
14 shall file copies of its bylaws and any amendments to the
15 bylaws with the state records center.

16 B. The secretary of energy, minerals and natural
17 resources shall file with the state records center all
18 documents relating to the Interstate Mining Compact required by
19 Section 14-3-20 NMSA 1978.