

1 SENATE BILL 54

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Jeff Steinborn

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10 AN ACT

11 RELATING TO RADIOACTIVE MATERIALS; AMENDING THE DUTIES AND  
12 COMPOSITION OF THE RADIOACTIVE WASTE CONSULTATION TASK FORCE;  
13 PRESCRIBING RESPONSIBILITIES REGARDING PRIVATE DISPOSAL  
14 FACILITIES; MAKING TECHNICAL CHANGES.

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

17 SECTION 1. Section 74-4A-4 NMSA 1978 (being Laws 1981,  
18 Chapter 374, Section 3, as amended) is amended to read:

19 "74-4A-4. DEFINITIONS.--As used in the Radioactive and  
20 Hazardous Materials Act:

21 A. "committee" means the joint interim legislative  
22 radioactive and hazardous materials committee;

23 B. "disposal" means the long-term isolation of  
24 radioactive material, including ~~[long-term]~~ temporary or  
25 permanent monitored storage, ~~[which]~~ that permits retrieval of

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1 the radioactive material stored and includes the temporary or  
2 permanent disposal of all hazardous wastes;

3 C. "environmental evaluation group" means the  
4 independent state review facility administratively attached to  
5 New Mexico institute of mining and technology and funded by the  
6 United States department of energy;

7 D. "hazardous waste" means any garbage, refuse,  
8 sludge from a waste treatment plant, water supply treatment  
9 plant or air pollution control facility or other discarded  
10 material, including solid, liquid, semisolid or ~~[containing]~~  
11 gaseous material resulting from industrial, commercial, mining  
12 or agricultural operations or from community activities  
13 ~~[which]~~ that because of its quantity, concentration or  
14 physical, chemical or infectious characteristics may cause or  
15 significantly contribute to an increase in mortality or an  
16 increase in serious irreversible or incapacitating reversible  
17 illness or pose a substantial ~~[present]~~ current or potential  
18 hazard to human health or the environment when improperly  
19 treated, stored, transported, disposed of or otherwise managed.  
20 The term "hazardous waste" does not include solid or dissolved  
21 material in domestic sewage or animal excrement in connection  
22 with farm, ranch or feedlot operations or solid or dissolved  
23 materials in irrigation return flows or industrial discharges  
24 that are point sources subject to permits under Section 402 of  
25 the federal Water Pollution Control Act, as amended, as the

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1 provisions exist on January 1, 1981, or source, special or  
2 byproduct material as defined in the Atomic Energy Act of 1954,  
3 as amended, as these definitions exist on January 1, 1981, or  
4 any of the following, until the environmental improvement board  
5 determines that they are subject to Subtitle C of the Resource  
6 Conservation and Recovery Act of 1976, as amended (42 U.S.C.  
7 6921 et seq.): drilling fluids, produced waters and other  
8 wastes associated with the exploration, development or  
9 production of crude oil or natural gas or geothermal energy,  
10 any fly ash waste, bottom ash waste, slag waste, flue gas  
11 emission control waste generated primarily from the combustion  
12 of coal or other fossil fuels and solid waste from the  
13 extraction, beneficiation or processing of ores and minerals,  
14 including phosphate rock and overburden from the mining of  
15 uranium ore or cement kiln dust waste;

16 E. "high-level waste" means the highly radioactive  
17 wastes resulting from the reprocessing of spent nuclear fuel  
18 and includes both the liquid waste [~~which~~] that is produced  
19 directly in reprocessing and any solid material into which such  
20 liquid waste is made;

21 F. "low-level waste" means material contaminated  
22 with radioactive elements emitting beta or gamma particles or  
23 with traces of transuranic elements in concentrations of less  
24 than one hundred nanocuries per gram;

25 G. "mixed waste" means any mixture of hazardous

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1 waste regulated under the Hazardous Waste Act and radioactive  
2 waste regulated under the federal Atomic Energy Act of 1954;

3 H. "radioactive materials" means any material or  
4 combination of materials ~~[which]~~ that spontaneously emits  
5 ionizing radiation. Materials in which the estimated specific  
6 activity is not greater than 0.002 microcuries per gram of  
7 material, and in which the radioactivity is essentially  
8 uniformly distributed, are not considered to be radioactive  
9 materials;

10 I. "radioactive waste" means high-level waste,  
11 transuranic contaminated waste and low-level waste;

12 J. "spent fuel" means nuclear fuel that has been  
13 irradiated in and recovered from a civilian nuclear power  
14 plant;

15 K. "task force" means the radioactive waste  
16 consultation task force; and

17 L. "transuranic contaminated waste" means material  
18 contaminated with radionuclides emitting alpha radiation having  
19 an atomic number greater than ninety-two, including neptunium,  
20 plutonium, americium and curium, in concentrations of greater  
21 than one hundred nanocuries per gram."

22 SECTION 2. Section 74-4A-6 NMSA 1978 (being Laws 1979,  
23 Chapter 380, Section 5, as amended by Laws 2001, Chapter 12,  
24 Section 1 and also by Laws 2001, Chapter 103, Section 1) is  
25 amended to read:

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1           "74-4A-6. TASK FORCE.--There is created the "radioactive  
2 waste consultation task force". The task force shall consist  
3 of the secretaries of energy, minerals and natural resources;  
4 health; environment; public safety; [~~and highway and~~  
5 transportation; and homeland security and emergency management  
6 or their designees. The [~~chairman~~] chair and vice [~~chairman~~]  
7 chair, or their designees from the committee, shall be advisory  
8 members of the task force. The state fire marshal or [~~his~~] the  
9 state fire marshal's designee shall serve as a nonvoting member  
10 of the task force."

11           SECTION 3. Section 74-4A-7 NMSA 1978 (being Laws 1979,  
12 Chapter 380, Section 6, as amended) is amended to read:

13           "74-4A-7. DUTIES OF THE TASK FORCE.--

14           A. The task force shall negotiate for the state  
15 with the federal government in all areas relating to siting,  
16 licensing and operation of new federal disposal facilities,  
17 including research, development and demonstration, for high-  
18 level radioactive [~~wastes~~] waste, transuranic radioactive  
19 [~~wastes~~] waste, [~~and~~] low-level radioactive waste and spent  
20 fuel. This subsection shall not be construed to limit the  
21 powers of any agency otherwise authorized to negotiate with the  
22 federal government, and if such negotiation should also come  
23 within the authority of the task force, the task force shall  
24 provide assistance to that agency but shall not limit the  
25 agency's exercise of authority. Any action taken pursuant to

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1 this subsection may be disapproved by joint resolution of the  
2 legislature.

3 ~~[B. The task force may recommend legislation to~~  
4 ~~implement the state's policies with respect to new federal~~  
5 ~~disposal facilities.~~

6 ~~G.]~~ B. The task force shall identify impacts of new  
7 federal and private disposal facilities within the state and  
8 shall disseminate that information to the legislature, the  
9 governor and the relevant executive departments.

10 C. The task force shall review federal license  
11 applications for privately operated disposal facilities in New  
12 Mexico and shall evaluate the public safety, environmental,  
13 health, infrastructure and transportation impacts and  
14 requirements of the proposed facilities. The task force shall  
15 transmit the findings of its evaluations to the legislature,  
16 the governor and the relevant executive departments.

17 D. The task force may recommend legislation to  
18 implement the state's policies with respect to disposal  
19 facilities.

20 ~~[D.]~~ E. The task force shall coordinate the  
21 investigations and studies related to disposal facilities  
22 undertaken by all state agencies and shall forward an executive  
23 summary of ongoing and recently completed investigations and  
24 studies, including information from federal or other studies,  
25 to the legislature and the governor as the studies are

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1 completed or information released.

2 [E.] F. The task force shall meet [~~regularly~~]  
3 annually with the committee and keep the committee apprised of  
4 all actions taken by the task force."

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