

1 SENATE BILL 95

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Jeff Steinborn

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9  
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; DECLARING AN EMERGENCY.

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

16 E. "high-level waste" means the highly radioactive  
17 materials produced as a byproduct of the reactions that occur  
18 inside nuclear reactors, including spent nuclear fuel, or  
19 highly radioactive wastes resulting from the reprocessing of  
20 spent nuclear fuel and includes both the liquid waste ~~[which]~~  
21 that is produced directly in reprocessing and any solid  
22 material into which such liquid waste is made;

23 F. "low-level waste" means material contaminated  
24 with radioactive elements emitting beta or gamma particles or  
25 with traces of transuranic elements in concentrations of less

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1 than one hundred nanocuries per gram;

2 G. "mixed waste" means any mixture of hazardous  
3 waste regulated under the Hazardous Waste Act and radioactive  
4 waste regulated under the federal Atomic Energy Act of 1954;

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

12 I. "radioactive waste" means high-level waste,  
13 transuranic contaminated waste and low-level waste;

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

17 K. "task force" means the radioactive waste  
18 consultation task force; and

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

24 SECTION 2. Section 74-4A-6 NMSA 1978 (being Laws 1979,  
25 Chapter 380, Section 5, as amended by Laws 2001, Chapter 12,

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1 Section 1 and also by Laws 2001, Chapter 103, Section 1) is  
2 amended to read:

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

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

15 "74-4A-7. DUTIES OF THE TASK FORCE.--

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

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1 provide assistance to that agency but shall not limit the  
2 agency's exercise of authority. Any action taken pursuant to  
3 this subsection may be disapproved by joint resolution of the  
4 legislature.

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

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

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

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

22 ~~[D.]~~ E. The task force shall coordinate the  
23 investigations and studies related to disposal facilities  
24 undertaken by all state agencies and shall forward an executive  
25 summary of ongoing and recently completed investigations and

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1 studies, including information from federal or other studies,  
2 to the legislature and the governor as the studies are  
3 completed or information released.

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

7 **SECTION 4. EMERGENCY.**--It is necessary for the public  
8 peace, health and safety that this act take effect immediately.

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