

1 HOUSE BILL 157

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Nathan P. Small

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10 AN ACT

11 RELATING TO MINING; CREATING THE MINING ACT FORFEITURE FUND;
12 MAKING AN APPROPRIATION.

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

15 SECTION 1. Section 69-36-19 NMSA 1978 (being Laws 1993,
16 Chapter 315, Section 19) is amended to read:

17 "69-36-19. FUNDS CREATED.--

18 A. There is created within the state treasury the
19 "mining act fund". All money received by the state from permit
20 applicants, permit holders, the federal government, other state
21 agencies or legislative appropriations shall be delivered to
22 the state treasurer and deposited in the fund. Disbursements
23 from the fund shall be made upon warrants drawn by the
24 secretary of finance and administration pursuant to vouchers
25 signed by the secretary of energy, minerals and natural

.218431.4SA

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1 resources. Money in the fund is appropriated to the energy,
2 minerals and natural resources department to carry out the
3 purposes of the New Mexico Mining Act. Any unexpended or
4 unencumbered balance remaining in the mining act fund at the
5 end of a fiscal year shall not revert to the general fund but
6 shall remain and accrue to the benefit of the mining act fund.

7 B. There is created within the state treasury the
8 "inactive or abandoned non-coal mine reclamation fund". All
9 money received from administrative or court-imposed penalties
10 shall be delivered to the state treasurer and deposited in the
11 fund. Disbursements from the fund shall be made upon warrants
12 drawn by the secretary of finance and administration pursuant
13 to vouchers signed by the secretary of energy, minerals and
14 natural resources. Money in the fund is appropriated to the
15 energy, minerals and natural resources department to conduct
16 reclamation activities on abandoned or inactive non-coal mining
17 areas. Any unexpended or unencumbered balance remaining in the
18 inactive or abandoned non-coal mine reclamation fund at the end
19 of a fiscal year shall not revert to the general fund but shall
20 remain and accrue to the benefit of the inactive or abandoned
21 non-coal mine reclamation fund.

22 C. There is created within the state treasury a
23 nonreverting fund to be known as the "mining act forfeiture
24 fund". All money received by the division from forfeitures of
25 financial assurance as required by rules adopted pursuant to

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1 the New Mexico Mining Act shall be paid to the state treasurer
2 for credit to the mining act forfeiture fund for the sole
3 benefit of the specific reclamation project or closeout plan,
4 or portion thereof, to which the forfeited financial assurance
5 applies. Upon the forfeiture of some or all of the financial
6 assurance attributable to a specific reclamation project or
7 closeout plan, the director shall determine whether such
8 reclamation project or closeout plan will exceed a duration of
9 five years from the date of the forfeiture. Each amount
10 credited to the mining act forfeiture fund for a reclamation
11 project or closeout plan that exceeds five years pursuant to
12 the director's determination shall be held in a separate
13 account of the mining act forfeiture fund for the sole benefit
14 of that reclamation project or closeout plan and may be
15 invested by the state investment council with the advice of an
16 independent investment advisor hired by the energy, minerals
17 and natural resources department. Income from the mining act
18 forfeiture fund shall be credited to the fund; provided that
19 the income attributable to each source of forfeited financial
20 assurance may be used only for the benefit of the specific
21 reclamation project or closure plan, or portions thereof, to
22 which the forfeited financial assurance applies. Disbursements
23 from the mining act forfeiture fund shall be made upon warrants
24 drawn by the secretary of finance and administration pursuant
25 to vouchers signed by the secretary of energy, minerals and

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1 natural resources. Money in the mining act forfeiture fund is
2 appropriated to the energy, minerals and natural resources
3 department to complete, as provided by rules adopted pursuant
4 to the New Mexico Mining Act, the approved reclamation projects
5 or closeout plans, or portions thereof, on a permit area,
6 affected area or increment to which the forfeited financial
7 assurance applies and for which the reclamation project or
8 closeout plan is necessary to mitigate an endangerment of life
9 and property or constitutes a hazard to the public health and
10 safety. Any funds remaining after a reclamation project or
11 closeout plan is completed shall be returned to the appropriate
12 person as provided by the rules adopted pursuant to the New
13 Mexico Mining Act. Nothing in this subsection shall require
14 the forfeiture and transfer of funds held in a trust
15 established for the benefit of the state of New Mexico and
16 approved by the director in accordance with rules adopted
17 pursuant to the New Mexico Mining Act."

18 SECTION 2. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2021.

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