

HOUSE BILL 122

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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AN ACT

RELATING TO RADIOACTIVE WASTE; AMENDING THE RADIOACTIVE AND
HAZARDOUS MATERIALS ACT; PROHIBITING THE STORAGE AND DISPOSAL
OF RADIOACTIVE MATERIALS, TRANSURANIC CONTAMINATED WASTE OR
LOW-LEVEL WASTE IN A DISPOSAL FACILITY UNTIL THE STATE HAS
CONSENTED TO THE CREATION OF THE DISPOSAL FACILITY; PROHIBITING
THE ISSUANCE OR CERTIFICATION OF A PERMIT FOR THE CONSTRUCTION
OR OPERATION OF A DISPOSAL FACILITY FOR SPENT FUEL OR HIGH-
LEVEL WASTE UNLESS THE STATE HAS CONSENTED TO THE CREATION OF
THE DISPOSAL FACILITY AND A PERMANENT REPOSITORY IS IN
OPERATION; AMENDING THE DEFINITION OF "DISPOSAL FACILITY";
AMENDING THE DUTIES AND COMPOSITION OF THE RADIOACTIVE WASTE
CONSULTATION TASK FORCE; DECLARING AN EMERGENCY.

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

SECTION 1. Section 74-4A-6 NMSA 1978 (being Laws 1979,

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1 Chapter 380, Section 5, as amended by Laws 2001, Chapter 12,
2 Section 1 and by Laws 2001, Chapter 103, Section 1) is amended
3 to read:

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

16 SECTION 2. Section 74-4A-7 NMSA 1978 (being Laws 1979,
17 Chapter 380, Section 6, as amended) is amended to read:

18 "74-4A-7. DUTIES OF THE TASK FORCE.--

19 A. The task force shall negotiate for the state
20 with the federal government in all areas relating to siting,
21 licensing and operation of new federal disposal facilities,
22 including research, development and demonstration, for high-
23 level radioactive wastes, transuranic radioactive wastes and
24 low-level radioactive waste. This subsection shall not be
25 construed to limit the powers of any agency otherwise

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1 authorized to negotiate with the federal government, and if
2 such negotiation should also come within the authority of the
3 task force, the task force shall provide assistance to that
4 agency but shall not limit the agency's exercise of authority.
5 Any action taken pursuant to this subsection may be disapproved
6 by joint resolution of the legislature.

7 B. The task force may recommend legislation to
8 implement the state's policies with respect to new federal
9 disposal facilities.

10 C. The task force shall identify impacts of new
11 federal and private disposal facilities within the state and
12 shall disseminate that information.

13 D. The task force shall coordinate the
14 investigations and studies undertaken by all state agencies and
15 shall forward an executive summary of ongoing and recently
16 completed investigations and studies, including information
17 from federal or other studies, to the legislature and the
18 governor as the studies are completed or information released.

19 E. The task force shall meet [~~regularly~~] at least
20 annually with the committee and keep the committee apprised of
21 all actions taken by the task force."

22 SECTION 3. Section 74-4A-11.1 NMSA 1978 (being Laws 1981,
23 Chapter 374, Section 6, as amended) is amended to read:

24 "74-4A-11.1. CONDITION.--

25 A. [~~No~~] A person shall not store or dispose of

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1 radioactive materials, [~~radioactive waste or spent fuel~~]
2 transuranic contaminated waste or low-level waste in a disposal
3 facility until the state has consented to or concurred in the
4 creation of the disposal facility [~~except as specifically~~
5 ~~preempted by federal law~~].

6 B. To ensure the protection of the state's economy
7 and natural resources, including water quality, and to advance
8 environmental justice values, a person shall not store or
9 dispose of spent fuel or high-level waste in a disposal
10 facility until:

11 (1) the state has consented to or concurred in
12 the creation of the disposal facility; and

13 (2) a repository, as defined in 42 U.S.C.
14 Section 10101(18), is in operation.

15 C. The state, a political subdivision of the state
16 or an entity or authority created by a joint powers agreement
17 shall not issue, approve or certify a permit, contract, lease
18 or license necessary for the construction or operation of a
19 disposal facility for spent fuel or high-level waste until the
20 conditions of Paragraphs (1) and (2) of Subsection B of this
21 section are met.

22 D. As used in this section, "disposal facility"
23 means an engineered facility designed primarily for the
24 isolation of radioactive materials, radioactive waste or spent
25 fuel other than tailings or other waste from the extraction,

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1 beneficiation or processing of ores and minerals."

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

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