

1 AN ACT

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

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

17 SECTION 1. Section 74-4A-6 NMSA 1978 (being Laws 1979,  
18 Chapter 380, Section 5, as amended by Laws 2001, Chapter 12,  
19 Section 1 and by Laws 2001, Chapter 103, Section 1) is  
20 amended to read:

21 "74-4A-6. TASK FORCE.--There is created the  
22 "radioactive waste consultation task force". The task force  
23 shall consist of the secretaries of energy, minerals and  
24 natural resources; health; environment; public safety;  
25 transportation; homeland security and emergency management;

1 and Indian affairs or their designees and the commissioner of  
2 public lands or the commissioner's designee. The chair and  
3 vice chair of the committee, or their designees from the  
4 committee, shall be advisory members of the task force. The  
5 state fire marshal or the state fire marshal's designee shall  
6 serve as a nonvoting member of the task force."

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

9 "74-4A-7. DUTIES OF THE TASK FORCE.--

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

23 B. The task force may recommend legislation to  
24 implement the state's policies with respect to new federal  
25 disposal facilities.

1           C. The task force shall identify impacts of new  
2 federal and private disposal facilities within the state and  
3 shall disseminate that information.

4           D. The task force shall coordinate the  
5 investigations and studies undertaken by all state agencies  
6 and shall forward an executive summary of ongoing and  
7 recently completed investigations and studies, including  
8 information from federal or other studies, to the legislature  
9 and the governor as the studies are completed or information  
10 released.

11           E. The task force shall meet at least annually  
12 with the committee and keep the committee apprised of all  
13 actions taken by the task force.

14           F. The authority of the task force and its actions  
15 and those of state agencies with respect to federal or  
16 privately operated disposal or storage facilities are subject  
17 to the limitations contained in federal law and shall be  
18 consistent with federal law."

19           SECTION 3. Section 74-4A-11.1 NMSA 1978 (being Laws  
20 1981, Chapter 374, Section 6, as amended) is amended to read:

21           "74-4A-11.1. CONDITION.--

22           A. A person shall not store or dispose of  
23 radioactive materials, transuranic contaminated waste or  
24 low-level waste in a disposal facility until the state has  
25 consented to or concurred in the creation of the disposal

1 facility.

2 B. A person shall not store or dispose of spent  
3 fuel or high-level waste in a disposal facility until:

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

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

8 C. The state, a political subdivision of the state  
9 or an entity or authority created by a joint powers agreement  
10 shall not issue, approve or certify a permit, contract, lease  
11 or license necessary for the construction or operation of a  
12 disposal facility for spent fuel or high-level waste until  
13 the conditions of Paragraphs (1) and (2) of Subsection B of  
14 this section are met.

15 D. As used in this section, "disposal facility"  
16 means an engineered surface, subsurface or underground  
17 facility designed primarily for the temporary, interim or  
18 permanent isolation of radioactive materials, radioactive  
19 waste or spent fuel other than tailings or other waste from  
20 the extraction, beneficiation or processing of ores and  
21 minerals."

22 SECTION 4. EMERGENCY.--It is necessary for the public  
23 peace, health and safety that this act take effect  
24 immediately. \_\_\_\_\_  
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