

1 SENATE BILL 209

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO UTILITIES; REQUIRING FINANCIAL ASSURANCE FOR  
12 RENEWABLE ENERGY FACILITIES; PROVIDING AUTHORITY TO MANAGE  
13 FINANCIAL ASSURANCE FOR RENEWABLE ENERGY FACILITIES; CREATING  
14 THE RENEWABLE ENERGY DECOMMISSIONING FUND.

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

17 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
18 cited as the "Renewable Energy Financial Assurance Act".

19 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
20 Renewable Energy Financial Assurance Act:

21 A. "decommissioning" means actions taken to remove,  
22 dispose of or recycle equipment or infrastructure and remediate  
23 the site of a renewable energy facility, in accordance with  
24 rules promulgated by the division;

25 B. "department" means the energy, minerals and

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1 natural resources department;

2 C. "division" means the energy conservation and  
3 management division of the department;

4 D. "renewable energy facility" means a facility  
5 that generates energy using the following resources, with or  
6 without storage:

7 (1) solar;

8 (2) wind;

9 (3) geothermal;

10 (4) hydropower;

11 (5) biomass;

12 (6) fuel cells that do not use fossil fuels to  
13 create electricity; or

14 (7) landfill gas and anaerobically digested  
15 waste biogas; and

16 E. "site" means the land on which a renewable  
17 energy facility is or was located, including land occupied or  
18 disturbed by associated equipment, structures, access roads or  
19 facility-owned infrastructure.

20 SECTION 3. [NEW MATERIAL] AUTHORITY OVER FINANCIAL  
21 ASSURANCE FOR RENEWABLE ENERGY FACILITIES--REQUIREMENTS FOR  
22 DECOMMISSIONING.--

23 A. The division has jurisdiction and authority over  
24 all matters relating to financial assurance for the  
25 decommissioning of renewable energy facilities.

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B. The division shall promulgate rules to establish requirements for the decommissioning of renewable energy facilities that ensure:

(1) the removal, proper disposal or recycling of facility equipment and infrastructure;

(2) remediation of the site;

(3) monitoring of the site as necessary;

(4) an appropriate time frame for completion;

(5) that an owner or operator provides

financial assurance sufficient to cover costs of decommissioning a renewable energy facility in a form and amount acceptable to the division; and

(6) the implementation of additional measures the division deems appropriate.

SECTION 4. [NEW MATERIAL] FINANCIAL ASSURANCE REQUIREMENT  
FOR RENEWABLE ENERGY FACILITIES.--

A. The owner or operator of a renewable energy facility shall provide financial assurance to the division as a condition precedent to commercial operation of the facility.

B. The amount of financial assurance provided by the owner or operator of a renewable energy facility shall be sufficient to ensure the decommissioning of the facility, as determined by the division.

C. The form of financial assurance filed by an owner or operator of a renewable energy facility is subject to

1 approval by the division and shall comply with rules  
2 promulgated by the division. Acceptable forms of financial  
3 assurance include:

- 4 (1) surety bonds;
- 5 (2) irrevocable letters of credit;
- 6 (3) collateral bonds;
- 7 (4) cash accounts;
- 8 (5) facility-specific insurance policies; and
- 9 (6) third-party guarantees.

10 D. The division shall periodically review financial  
11 assurance requirements and adjust them to account for inflation  
12 and anticipated changes in decommissioning costs. An owner or  
13 operator of a renewable energy facility shall ensure that the  
14 financial assurance provided to the division meets any new or  
15 expanded requirements.

16 E. Financial assurance provided by an owner or  
17 operator to the division shall remain in force until released  
18 by the division. The owner or operator of a renewable energy  
19 facility may file an application with the division for the  
20 release of all or part of the owner's or operator's financial  
21 assurance. The application shall describe the decommissioning  
22 measures completed and shall contain an estimate of the costs  
23 of the decommissioning that have not been completed. Prior to  
24 the release of the owner's or operator's financial assurance,  
25 the division shall conduct an inspection and evaluation of the

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1 site and decommissioning work involved. The division shall  
2 release an owner's or operator's financial assurance when the  
3 division is satisfied that the conditions of the financial  
4 assurance have been fully performed.

5 **SECTION 5. [NEW MATERIAL] FORFEITURE OF FINANCIAL  
6 ASSURANCE.--**

7 A. If the owner or operator of a renewable energy  
8 facility fails to comply with financial assurance requirements,  
9 the division may order the decommissioning of the facility or  
10 forfeiture of the financial assurance, or both, in accordance  
11 with rules promulgated by the division. If the owner or  
12 operator of a renewable energy facility fails to comply with  
13 the order within the time frame set out in the order, the  
14 financial assurance shall be forfeited.

15 B. When financial assurance is forfeited, the  
16 division shall give notice to the attorney general, who shall  
17 collect the forfeiture without delay.

18 C. All forfeitures shall be remitted to the  
19 division for deposit in the renewable energy decommissioning  
20 fund.

21 **SECTION 6. [NEW MATERIAL] INSUFFICIENT FINANCIAL  
22 ASSURANCE.--** When financial assurance proves insufficient to  
23 cover the cost of decommissioning on land other than federal  
24 land and money must be expended to meet the additional  
25 expenses, the division is authorized to bring suit against the

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1 owner or operator in the district court of the county in which  
2 the renewable energy facility is located for indemnification of  
3 all costs incurred by the division in decommissioning that  
4 owner's or operator's renewable energy facility. All money  
5 collected pursuant to a judgment in a suit for indemnification  
6 brought pursuant to this section shall be deposited in the  
7 renewable energy decommissioning fund.

8 **SECTION 7. [NEW MATERIAL] RENEWABLE ENERGY**  
9 **DECOMMISSIONING FUND.--**

10 A. The "renewable energy decommissioning fund" is  
11 created as a nonreverting fund in the state treasury. The fund  
12 consists of appropriations, gifts, grants, donations, income  
13 from investment of the fund and other money credited to the  
14 fund. The division shall administer the fund, and money in the  
15 fund is subject to appropriation by the legislature to the  
16 division to carry out the provisions of the Renewable Energy  
17 Financial Assurance Act. Disbursements from the fund shall be  
18 made by warrant of the secretary of finance and administration  
19 pursuant to vouchers signed by the secretary of energy,  
20 minerals and natural resources.

21 B. Money in the fund may be used by the division to  
22 facilitate decommissioning of renewable energy facilities.