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SENATE BILL 209

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

INTRODUCED BY

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AN ACT

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

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

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

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

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

B. "department" means the energy, minerals and

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

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

6 (2) remediation of the site;

7 (3) monitoring of the site as necessary;

8 (4) an appropriate time frame for completion;

9 (5) that an owner or operator provides
10 financial assurance sufficient to cover costs of
11 decommissioning a renewable energy facility in a form and
12 amount acceptable to the division; and

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

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

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

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

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

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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

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

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.