BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO MINING; ENTERING THE INTERSTATE MINING COMPACT; ALLOWING THE GOVERNOR TO SELECT AN ALTERNATE TO REPRESENT THE GOVERNOR ON THE INTERSTATE MINING COMMISSION.

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

SECTION 1. [NEW MATERIAL] INTERSTATE MINING COMPACT.--The Interstate Mining Compact contained in this section is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

"INTERSTATE MINING COMPACT

ARTICLE I

FINDINGS AND PURPOSE

A. The party states find that:

(1) mining and the contributions thereof to the economy and well-being of every state are of basic

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significance;

(2) the effects of mining on the availability of land, water, and other resources for other uses present special problems which properly can be approached only with due consideration for the rights and interests of those engaged in mining, those using or proposing to use these resources for other purposes, and the public;

(3) measures for the reduction of the adverse effects of mining on land, water, and other resources may be costly and the devising of means to deal with them are of both public and private concern;

(4) such variables as soil structure and composition, physiography, climatic conditions, and the needs of the public make impracticable the application to all mining areas of a single standard for the conservation, adaptation, or restoration of mined land, or the development of mineral and other natural resources, but justifiable requirements of law and practice relating to the effects of mining on lands, water, and other resources may be reduced in equity or effectiveness unless they pertain similarly from state to state for all mining operations similarly situated; and

(5) the states are in a position and have the responsibility to assure that mining shall be conducted in accordance with sound conservation principles, and with due regard for local conditions.

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B. The purposes of this compact are to:

(1) advance the protection and restoration of land, water, and other resources affected by mining;

(2) assist in the reduction or elimination or counteracting of pollution or deterioration of land, water, and air attributable to mining;

(3) encourage, with due recognition of relevant regional, physical, and other differences, programs in each of the party states which will achieve comparable results in protecting, conserving, and improving the usefulness of natural resources, to the end that the most desirable conduct of mining and related operations may be universally facilitated;

(4) assist the party states in their efforts to facilitate the use of land and other resources affected by mining, so that such use may be consistent with sound land use, public health, and public safety, and to this end to study and recommend, wherever desirable, techniques for improvement, restoration or protection of such land and other resources; and

(5) assist in achieving and maintaining an efficient and productive mining industry and in increasing economic and other benefits attributable to mining.

ARTICLE II

DEFINITIONS

As used in this compact, the term:

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A. "mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter, any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location, and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use, but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation of grading when conducted solely in aid of on-site farming or construction; and

B. "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or Territory or Possession of the United States.

ARTICLE III

STATE PROGRAMS

Each party state agrees that within a reasonable time it will formulate and establish an effective program for the conservation and use of mined land, by the establishment of standards, enactment of laws, or the continuing of the same in force, to accomplish:

A. the protection of the public and the protection of adjoining and other landowners from damage to their lands and the structures and other property thereon resulting from

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the conduct of mining operations or the abandonment or neglect of land and property formerly used in the conduct of such operations;

B. the conduct of mining and the handling of refuse and other mining wastes in ways that will reduce adverse effects on the economic, residential, recreational, or aesthetic value and utility of land and water;

C. the institution and maintenance of suitable programs of adaptation, restoration, and rehabilitation of mined lands; and

D. the prevention, abatement, and control of water, air, and soil pollution resulting from mining - present, past, and future.

ARTICLE IV

POWERS

In addition to any other powers conferred upon the Interstate Mining Commission, established by Article V of this compact, such commission shall have the power to:

A. study mining operations, processes, and techniques for the purpose of gaining knowledge concerning the effects of such operations, processes, and techniques on land, soil, water, air, plant and animal life, recreation, and patterns of community or regional development or change;

B. study the conservation, adaptation, improvement, and restoration of land and related resources affected by

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mining;

C. make recommendations concerning any aspect or aspects of law or practice and governmental administration dealing with matters within the purview of this compact;

D. gather and disseminate information relating to any of the matters within the purview of this compact;

E. cooperate with the federal government and any public or private entities having interests in any subject coming within the purview of this compact;

F. consult, upon the request of a party state and within available resources, with the officials of such state in respect to any problem within the purview of this compact;

G. study and make recommendations with respect to any practice, process, technique, or course of action that may improve the efficiency of mining or the economic yield from mining operations; and

H. study and make recommendations relating to the safeguarding of access to resources which are or may become the subject of mining operations to the end that the needs of the economy for the products of mining may not be adversely affected by unplanned or inappropriate use of land and other resources containing minerals or otherwise connected with actual or potential mining sites.

ARTICLE V

THE COMMISSION

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A. There is hereby created an agency of the party states to be known as the "Interstate Mining Commission", hereinafter called "the commission". The commission shall be composed of one commissioner from each party state who shall be the governor thereof. In any instance where a governor is unable to attend a meeting of the commission or perform any other function in connection with the business of the commission, the governor shall designate an alternate who shall represent the governor and act in the governor's place and stead. The designation of an alternate shall be communicated by the governor to the commission in such manner as its bylaws may provide.

B. The commissioners shall be entitled to one vote each on the commission. No action of the commission making a recommendation pursuant to Paragraphs C, G or H of Article IV or requesting, accepting, or disposing of funds, services, or other property pursuant to this paragraph, Paragraph G or H of this Article, or Article VII shall be valid unless taken at a meeting at which a majority of the total number of votes on the commission is cast in favor thereof. All other action shall be by a majority of those present and voting; provided that action of the commission shall be only at a meeting at which a majority of the commissioners, or their alternates, is present. The commission may establish and maintain such facilities as may be necessary for the transaction of its business. The

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commission may acquire, hold, and convey real and personal property and any interest therein.

C. The commission shall have a seal.

D. The commission shall elect annually, from among its members, a chair, a vice-chair, and a treasurer. The commission shall appoint an executive director and fix the executive director's duties and compensation. Such executive director shall serve at the pleasure of the commission. The executive director, the treasurer, and such other personnel as the commission shall designate shall be bonded. The amount or amounts of such bond or bonds shall be determined by the commission.

E. Irrespective of the civil service, personnel, or other merit system laws of any of the party states, the executive director, with the approval of the commission, shall appoint, remove, or discharge such personnel as may be necessary for the performance of the commission's functions, and shall fix the duties and compensation of such personnel.

F. The commission may establish and maintain independently or in conjunction with a party state, a suitable retirement system for its employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of

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insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as it may deem appropriate.

G. The commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation.

H. The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation, and may receive, utilize, and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to Paragraph G of this Article shall be reported in the annual report of the commission. Such report shall include the nature, amount, and conditions, if any, of the donation, grant, or services borrowed and the identity of the donor or lender.

I. The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer

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in each of the party states.

J. The commission annually shall make to the governor, legislature, and advisory body required by Paragraph A of Article V of each party state a report covering the activities of the commission for the preceding year, and embodying such recommendations as may have been made by the commission. The commission may make such additional reports as it may deem desirable.

ARTICLE VI

ADVISORY, TECHNICAL, AND REGIONAL COMMITTEES

The commission shall establish such advisory, technical, and regional committees as it may deem necessary, membership on which shall include private persons and public officials, and shall cooperate with the use and services of any such committees and the organizations which the members represent in furthering any of its activities. Such committees may be formed to consider problems of special interest to any party states, problems dealing with particular commodities of types of mining operations, problems related to reclamation, development, or use of mined land, or any other matters of concern to the commission.

ARTICLE VII

FINANCE

A. The commission shall submit to the governor or designated officer or officers of each party state a budget of

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its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

B. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-half in equal shares, and the remainder in proportion to the value of minerals, ores, and other solid matter mined. In determining such values, the commission shall employ such available public source or sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of minerals, ores, and other solid matter mined.

C. The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under Paragraph H of Article V of this compact provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds

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available to it under Paragraph H of Article V thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become a part of the annual report of the commission.

E. The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

F. Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VIII

ENTRY INTO FORCE AND WITHDRAWAL

A. This compact shall enter into force when enacted into law by any four or more states. Thereafter, this compact shall become effective as to any other state upon its enactment

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thereof.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE IX

EFFECT ON OTHER LAWS

Nothing in this compact shall be construed to limit, repeal, or supersede any other law of any party state.

ARTICLE X

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state

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participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters."

SECTION 2. [NEW MATERIAL] INTERSTATE MINING COMPACT--SELECTION OF ALTERNATE TO COMMISSION.--The governor may designate the secretary of energy, minerals and natural resources or the director of the mining and minerals division of the energy, minerals and natural resources department as the governor's alternate to the interstate mining commission.

SECTION 3. [NEW MATERIAL] FILING OF COMMISSION BYLAWS.--

A. In accordance with Paragraph I of Article 5 of the Interstate Mining Compact, the interstate mining commission shall file copies of its bylaws and any amendments to the bylaws with the state records center.

B. The secretary of energy, minerals and natural resources shall file with the state records center all documents relating to the Interstate Mining Compact required by Section 14-3-20 NMSA 1978.

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