

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 342

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE URANIUM LEGACY
CLEANUP ACT; PROVIDING FOR THE ADMINISTRATION OF THAT ACT AND
CLEANUP ACTIONS TO BE TAKEN PURSUANT TO IT; CREATING REVENUE
SOURCES TO FUND URANIUM LEGACY CLEANUP ACTIVITIES; AMENDING AND
ENACTING CERTAIN SECTIONS OF THE NMSA 1978; MAKING
APPROPRIATIONS.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 5 of this act may be cited as the "Uranium Legacy
Cleanup Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Uranium Legacy Cleanup Act:

A. "department" means the energy, minerals and
natural resources department;

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underscored material = new
[bracketed material] = delete

1 B. "financial assistance" means providing grants or
2 loans on terms and conditions approved by the secretary for
3 qualified projects;

4 C. "fund" means the uranium legacy cleanup fund;

5 D. "qualified project" means a project selected by
6 the secretary for financial assistance; and

7 E. "secretary" means the secretary of energy,
8 minerals and natural resources.

9 Section 3. [NEW MATERIAL] URANIUM LEGACY CLEANUP FUND--
10 CREATED--PURPOSE--APPROPRIATIONS.--

11 A. The "uranium legacy cleanup fund" is created as
12 a nonreverting fund in the state treasury and shall be
13 administered by the department. The fund shall consist of
14 money from distributions of the uranium legacy cleanup surtax
15 pursuant to Section 7-1-6.59 NMSA 1978; money that is repaid
16 from loans approved by the secretary; and money that is
17 appropriated or donated or that otherwise accrues to the fund.
18 Money in the fund shall be invested by the state investment
19 officer in the manner that land grant permanent funds are
20 invested pursuant to Chapter 6, Article 8 NMSA 1978. Income
21 from investment of the fund shall be credited to the fund.

22 B. The department shall establish procedures and
23 adopt rules as required to administer the fund and to originate
24 grants or loans for qualified projects approved by the
25 secretary.

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1 C. Money in the fund shall be appropriated by the
2 legislature to the department to carry out the purposes of the
3 Uranium Legacy Cleanup Act by providing financial assistance
4 for qualified projects. Money shall be disbursed from the fund
5 only on warrant of the secretary of finance and administration
6 upon vouchers signed by the secretary of energy, minerals and
7 natural resources or the secretary's authorized representative.
8 Any unexpended or unencumbered balance remaining at the end of
9 a fiscal year shall not revert to the general fund.

10 Section 4. [NEW MATERIAL] DUTIES OF THE SECRETARY.--

11 A. Expenditures from the fund for financial
12 assistance shall be approved by the secretary for qualified
13 projects directed at the elimination or reduction of actual or
14 potential exposure of persons to contamination that may have
15 resulted from uranium mining or milling activities that
16 occurred prior to July 1, 2008.

17 B. The secretary shall adopt rules for applying for
18 financial assistance from the fund and for establishing
19 priorities for qualified projects. The priorities for
20 approving qualified projects shall be based upon:

21 (1) the protection of public health, safety
22 and welfare;

23 (2) the protection of the environment from
24 existing or potential contamination;

25 (3) the ability to leverage funds available

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1 from other sources to implement qualified projects;

2 (4) the degree to which a qualified project
3 can be completed with the requested funding;

4 (5) the size of the area to be included with
5 the qualified project;

6 (6) the number of persons affected or
7 potentially affected by contamination at the site of the
8 qualified project;

9 (7) the level of actual or potential radiation
10 exposure at the site of the qualified project;

11 (8) the potential for an increase of the area
12 contaminated or potential exposure to persons if the site of a
13 qualified project is not cleaned up;

14 (9) the lack of any potentially responsible
15 party obligated to conduct a cleanup pursuant to any federal,
16 state or tribal law;

17 (10) the potential uses for the site following
18 the completion of the qualified project; and

19 (11) the legal authority of the applicant to
20 conduct cleanup activities on the proposed site.

21 C. Financial assistance may be provided to
22 qualified projects in which the state of New Mexico, other
23 state governments, the federal government, tribal governments
24 and other public and private entities are participating.

25 Section 5. [NEW MATERIAL] REPORT TO LEGISLATURE.--The

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1 secretary shall report to the appropriate interim legislative
2 committee no later than October 1 of each year regarding the
3 total expenditures from the fund for the previous fiscal year,
4 the purposes for which expenditures were made, an analysis of
5 the progress of the projects funded and proposals for
6 legislative action in the subsequent legislative session.

7 Section 6. Section 7-1-6.20 NMSA 1978 (being Laws 1985,
8 Chapter 65, Section 6, as amended) is amended to read:

9 "7-1-6.20. IDENTIFICATION OF MONEY IN EXTRACTION TAXES
10 SUSPENSE FUND--DISTRIBUTION.--

11 A. Except as provided in Subsection B of this
12 section, after the necessary disbursements have been made from
13 the extraction taxes suspense fund, the money remaining in the
14 suspense fund as of the last day of the month shall be
15 identified by tax source and distributed or transferred in
16 accordance with the provisions of Sections 7-1-6.21 through
17 7-1-6.23, 7-1-6.59 and 7-1-6.60 NMSA 1978. After the necessary
18 distributions and transfers, any balance, except for
19 remittances unidentified as to source or disposition, shall be
20 transferred to the general fund.

21 B. Payments on assessments issued by the department
22 pursuant to the Oil and Gas Conservation Tax Act, the Oil and
23 Gas Emergency School Tax Act, the Oil and Gas Ad Valorem
24 Production Tax Act and the Oil and Gas Severance Tax Act shall
25 be held in the extraction taxes suspense fund until the

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1 secretary determines that there is no substantial risk of
2 protest or other litigation, whereupon after the necessary
3 disbursements have been made from the extraction taxes suspense
4 fund, the money remaining in the suspense fund as of the last
5 day of the month attributed to these payments shall be
6 identified by tax source and distributed or transferred in
7 accordance with the provisions of Sections 7-1-6.21 through
8 7-1-6.23 NMSA 1978. After the necessary distributions and
9 transfers, any balance, except for remittance unidentified as
10 to source or disposition, shall be transferred to the general
11 fund."

12 Section 7. A new section of the Tax Administration Act,
13 Section 7-1-6.59 NMSA 1978, is enacted to read:

14 "7-1-6.59. [NEW MATERIAL] DISTRIBUTION TO URANIUM LEGACY
15 CLEANUP FUND--URANIUM LEGACY CLEANUP SURTAX.--A distribution
16 pursuant to Section 7-1-6.20 NMSA 1978 of the net receipts
17 attributable to the uranium legacy cleanup surtax shall be made
18 to the uranium legacy cleanup fund."

19 Section 8. A new section of the Tax Administration Act,
20 Section 7-1-6.60 NMSA 1978, is enacted to read:

21 "7-1-6.60. [NEW MATERIAL] DISTRIBUTION TO URANIUM LEGACY
22 CLEANUP FUND--RESOURCES EXCISE TAX.--A distribution pursuant to
23 Section 7-1-6.20 NMSA 1978 of fifty percent of the net receipts
24 attributable to taxes on uranium pursuant to the Resources
25 Excise Tax Act shall be made to the uranium legacy cleanup

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1 fund."

2 Section 9. A new section of the Resources Excise Tax Act
3 is enacted to read:

4 "[NEW MATERIAL] RATE AND MEASURE OF SURTAX--DENOMINATION
5 AS "URANIUM LEGACY CLEANUP SURTAX".--

6 A. For the privilege of severing or the related
7 processing of uranium, there is imposed a "uranium legacy
8 cleanup surtax" on any severer or related processor of uranium
9 in New Mexico. A severer of uranium shall not be subject to
10 the uranium legacy cleanup surtax with respect to severed
11 uranium if the surtax on that severed uranium is paid by a
12 processor. The uranium legacy cleanup surtax shall be imposed
13 at an amount equal to fifty cents (\$.50) per pound of the
14 content of U308 contained in uranium severed or processed after
15 such severing, regardless of the form in which the product is
16 actually disposed of.

17 B. For the privilege of severing or the related
18 processing in New Mexico of uranium that is severed in New
19 Mexico and is owned by another person and not otherwise taxed
20 by Subsection A of this section, there is imposed on the
21 service charge of any person severing or processing after the
22 severing of uranium owned by another person a uranium legacy
23 cleanup surtax at the same rate that would be imposed on an
24 owner of uranium for performing the same function.

25 C. Notwithstanding the provisions of Subsections A

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1 and B of this section, the uranium legacy cleanup surtax shall
2 not be imposed upon the purification, UF6 conversion,
3 enrichment, deconversion, reprocessing or disposal of uranium."

4 Section 10. SEVERABILITY.--If any part or application of
5 the Uranium Legacy Cleanup Act is held invalid, the remainder
6 or its application to other situations or persons shall not be
7 affected.

8 Section 11. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is January 1, 2009.