

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

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

10 Section 1. SHORT TITLE.--Sections 1 through 5 of this  
11 act may be cited as the "Uranium Legacy Cleanup Act".

12 Section 2. DEFINITIONS.--As used in the Uranium Legacy  
13 Cleanup Act:

- 14 A. "department" means the energy, minerals and  
15 natural resources department;
- 16 B. "financial assistance" means providing grants  
17 or loans on terms and conditions approved by the secretary  
18 for qualified projects;
- 19 C. "fund" means the uranium legacy cleanup fund;
- 20 D. "qualified project" means a project that is  
21 directed at the elimination or reduction of actual or  
22 potential exposure of persons to contamination that may have  
23 resulted from uranium mining or milling activities that  
24 occurred prior to July 1, 2008 and is selected by the  
25 secretary for financial assistance; and

1           E. "secretary" means the secretary of energy,  
2 minerals and natural resources.

3           Section 3. URANIUM LEGACY CLEANUP FUND--CREATED--  
4 PURPOSE--APPROPRIATIONS.--

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

17           B. The department shall establish procedures and  
18 adopt rules as required to administer the fund and to  
19 originate grants or loans for qualified projects approved by  
20 the secretary.

21           C. Money in the fund shall be appropriated by the  
22 legislature to the department to carry out the purposes of  
23 the Uranium Legacy Cleanup Act by providing financial  
24 assistance for qualified projects. Money shall be disbursed  
25 from the fund only on warrant of the secretary of finance and

1 administration upon vouchers signed by the secretary of  
2 energy, minerals and natural resources or the secretary's  
3 authorized representative. Any unexpended or unencumbered  
4 balance remaining at the end of a fiscal year shall not  
5 revert to the general fund.

6 Section 4. DUTIES OF THE SECRETARY.--

7 A. Expenditures from the fund for financial  
8 assistance shall be approved by the secretary for qualified  
9 projects.

10 B. The secretary shall adopt rules for applying  
11 for financial assistance from the fund and for establishing  
12 priorities for qualified projects. The priorities for  
13 approving qualified projects shall be based upon:

14 (1) the protection of public health, safety  
15 and welfare;

16 (2) the protection of the environment from  
17 existing or potential contamination;

18 (3) the ability to leverage funds available  
19 from other sources to implement qualified projects;

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

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

24 (6) the number of persons affected or  
25 potentially affected by contamination at the site of the

1 qualified project;

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

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

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

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

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

14 C. Financial assistance may be provided to  
15 qualified projects in which the state of New Mexico, other  
16 state governments, the federal government, tribal governments  
17 and other public and private entities are participating.

18 Section 5. REPORT TO LEGISLATURE.--The secretary shall  
19 report to the appropriate interim legislative committee no  
20 later than October 1 of each year regarding the total  
21 expenditures from the fund for the previous fiscal year, the  
22 purposes for which expenditures were made, an analysis of the  
23 progress of the projects funded and proposals for legislative  
24 action in the subsequent legislative session.

25 Section 6. Section 7-1-6.20 NMSA 1978 (being Laws 1985,

1 Chapter 65, Section 6, as amended) is amended to read:

2 "7-1-6.20. IDENTIFICATION OF MONEY IN EXTRACTION TAXES  
3 SUSPENSE FUND--DISTRIBUTION.--

4 A. Except as provided in Subsection B of this  
5 section, after the necessary disbursements have been made  
6 from the extraction taxes suspense fund, the money remaining  
7 in the suspense fund as of the last day of the month shall be  
8 identified by tax source and distributed or transferred in  
9 accordance with the provisions of Sections 7-1-6.21 through  
10 7-1-6.23, 7-1-6.59 and 7-1-6.60 NMSA 1978. After the  
11 necessary distributions and transfers, any balance, except  
12 for remittances unidentified as to source or disposition,  
13 shall be transferred to the general fund.

14 B. Payments on assessments issued by the  
15 department pursuant to the Oil and Gas Conservation Tax Act,  
16 the Oil and Gas Emergency School Tax Act, the Oil and Gas  
17 Ad Valorem Production Tax Act and the Oil and Gas Severance  
18 Tax Act shall be held in the extraction taxes suspense fund  
19 until the secretary determines that there is no substantial  
20 risk of protest or other litigation, whereupon after the  
21 necessary disbursements have been made from the extraction  
22 taxes suspense fund, the money remaining in the suspense fund  
23 as of the last day of the month attributed to these payments  
24 shall be identified by tax source and distributed or  
25 transferred in accordance with the provisions of Sections

1 7-1-6.21 through 7-1-6.23 NMSA 1978. After the necessary  
2 distributions and transfers, any balance, except for  
3 remittance unidentified as to source or disposition, shall be  
4 transferred to the general fund."

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

7 "7-1-6.59. DISTRIBUTION TO URANIUM LEGACY CLEANUP  
8 FUND--URANIUM LEGACY CLEANUP SURTAX.--A distribution pursuant  
9 to Section 7-1-6.20 NMSA 1978 of the net receipts  
10 attributable to the uranium legacy cleanup surtax shall be  
11 made to the uranium legacy cleanup fund."

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

14 "7-1-6.60. DISTRIBUTION TO URANIUM LEGACY CLEANUP  
15 FUND--RESOURCES EXCISE TAX.--A distribution pursuant to  
16 Section 7-1-6.20 NMSA 1978 of fifty percent of the net  
17 receipts attributable to taxes on uranium pursuant to the  
18 Resources Excise Tax Act shall be made to the uranium legacy  
19 cleanup fund."

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

22 "RATE AND MEASURE OF SURTAX--DENOMINATION AS "URANIUM  
23 LEGACY CLEANUP SURTAX".--

24 A. For the privilege of severing or the related  
25 processing of uranium, there is imposed a "uranium legacy

1 cleanup surtax" on any severer or related processor of  
2 uranium in New Mexico. A severer of uranium shall not be  
3 subject to the uranium legacy cleanup surtax with respect to  
4 severed uranium if the surtax on that severed uranium is paid  
5 by a processor. The uranium legacy cleanup surtax shall be  
6 imposed at an amount equal to fifty cents (\$.50) per pound of  
7 the content of U308 contained in uranium severed and saved or  
8 processed and saved after such severing, regardless of the  
9 form in which the product is actually disposed of.

10 B. For the privilege of severing or the related  
11 processing in New Mexico of uranium that is severed in New  
12 Mexico and is owned by another person and not otherwise taxed  
13 by Subsection A of this section, there is imposed on the  
14 service charge of any person severing or processing after the  
15 severing of uranium owned by another person a uranium legacy  
16 cleanup surtax at the same rate that would be imposed on an  
17 owner of uranium for performing the same function.

18 C. Notwithstanding the provisions of Subsections A  
19 and B of this section, the uranium legacy cleanup surtax  
20 shall not be imposed upon the purification, UF6 conversion,  
21 enrichment, deconversion, reprocessing or disposal of  
22 uranium."

23 Section 10. SEVERABILITY.--If any part or application  
24 of the Uranium Legacy Cleanup Act is held invalid, the  
25 remainder or its application to other situations or persons

