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AN ACT

RELATING TO MINING; CREATING THE MINING ACT FORFEITURE FUND;
MAKING AN APPROPRIATION.

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

SECTION 1. Section 69-36-19 NMSA 1978 (being Laws 1993,
Chapter 315, Section 19) is amended to read:

"69-36-19. FUNDS CREATED.--

A. There is created within the state treasury the
"mining act fund". All money received by the state from
permit applicants, permit holders, the federal government,
other state agencies or legislative appropriations shall be
delivered to the state treasurer and deposited in the fund.
Disbursements from the fund shall be made upon warrants drawn
by the secretary of finance and administration pursuant to
vouchers signed by the secretary of energy, minerals and
natural resources. Money in the fund is appropriated to the
energy, minerals and natural resources department to carry
out the purposes of the New Mexico Mining Act. Any
unexpended or unencumbered balance remaining in the mining
act fund at the end of a fiscal year shall not revert to the
general fund but shall remain and accrue to the benefit of
the mining act fund.

B. There is created within the state treasury the
"inactive or abandoned non-coal mine reclamation fund". All

1 money received from administrative or court-imposed penalties
2 shall be delivered to the state treasurer and deposited in
3 the fund. Disbursements from the fund shall be made upon
4 warrants drawn by the secretary of finance and administration
5 pursuant to vouchers signed by the secretary of energy,
6 minerals and natural resources. Money in the fund is
7 appropriated to the energy, minerals and natural resources
8 department to conduct reclamation activities on abandoned or
9 inactive non-coal mining areas. Any unexpended or
10 unencumbered balance remaining in the inactive or abandoned
11 non-coal mine reclamation fund at the end of a fiscal year
12 shall not revert to the general fund but shall remain and
13 accrue to the benefit of the inactive or abandoned non-coal
14 mine reclamation fund.

15 C. There is created within the state treasury a
16 nonreverting fund to be known as the "mining act forfeiture
17 fund". All money received by the division from forfeitures
18 of financial assurance as required by rules adopted pursuant
19 to the New Mexico Mining Act shall be paid to the state
20 treasurer for credit to the mining act forfeiture fund for
21 the sole benefit of the specific reclamation project or
22 closeout plan, or portion thereof, to which the forfeited
23 financial assurance applies. Upon the forfeiture of some or
24 all of the financial assurance attributable to a specific
25 reclamation project or closeout plan, the director shall

1 determine whether such reclamation project or closeout plan
2 will exceed a duration of five years from the date of the
3 forfeiture. Each amount credited to the mining act
4 forfeiture fund for a reclamation project or closeout plan
5 that exceeds five years pursuant to the director's
6 determination shall be held in a separate account of the
7 mining act forfeiture fund for the sole benefit of that
8 reclamation project or closeout plan and may be invested by
9 the state investment council with the advice of an
10 independent investment advisor hired by the energy, minerals
11 and natural resources department. Income from the mining act
12 forfeiture fund shall be credited to the fund; provided that
13 the income attributable to each source of forfeited financial
14 assurance may be used only for the benefit of the specific
15 reclamation project or closure plan, or portions thereof, to
16 which the forfeited financial assurance applies.

17 Disbursements from the mining act forfeiture fund shall be
18 made upon warrants drawn by the secretary of finance and
19 administration pursuant to vouchers signed by the secretary
20 of energy, minerals and natural resources. Money in the
21 mining act forfeiture fund is appropriated to the energy,
22 minerals and natural resources department to complete, as
23 provided by rules adopted pursuant to the New Mexico Mining
24 Act, the approved reclamation projects or closeout plans, or
25 portions thereof, on a permit area, affected area or

1 increment to which the forfeited financial assurance applies
2 and for which the reclamation project or closeout plan is
3 necessary to mitigate an endangerment of life and property or
4 constitutes a hazard to the public health and safety. Any
5 funds remaining after a reclamation project or closeout plan
6 is completed shall be returned to the appropriate person as
7 provided by the rules adopted pursuant to the New Mexico
8 Mining Act. Nothing in this subsection shall require the
9 forfeiture and transfer of funds held in a trust established
10 for the benefit of the state of New Mexico and approved by
11 the director in accordance with rules adopted pursuant to the
12 New Mexico Mining Act."

13 SECTION 2. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2021. _____

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