

HOUSE BILL 365

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO GEOTHERMAL RESOURCES; ADDING A CENTER OF EXCELLENCE FOR GEOTHERMAL RESOURCES AT THE NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY; AMENDING THE DUTIES OF THE ENERGY CONSERVATION AND MANAGEMENT DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT; CREATING THE GEOTHERMAL PROJECTS DEVELOPMENT FUND; AUTHORIZING GRANTS; CREATING THE GEOTHERMAL PROJECTS REVOLVING LOAN FUND; AUTHORIZING LOANS ~~Sf11~~; ~~MAKING~~ ~~APPROPRIATIONS~~ ~~Sf11~~ .

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

SECTION 1. Section 21-1-27.11 NMSA 1978 (being Laws 2019, Chapter 60, Section 1) is amended to read:

"21-1-27.11. CENTERS OF EXCELLENCE.--

A. A "center of excellence" is established at the following higher education institutions:

(1) the New Mexico institute of mining and technology to work toward developing and promoting innovation in and expanding cybersecurity industries;

(2) the New Mexico institute of mining and technology to work toward developing and promoting innovation in and expanding geothermal resources;

~~(2)~~ (3) New Mexico state university to work toward developing and promoting innovation in and expanding sustainable agricultural industries;

~~(3)~~ (4) San Juan college to work toward developing and promoting innovation in and expanding sustainable and renewable energy industries; and

~~(4)~~ (5) the university of New Mexico health sciences center-affiliated entity, the New Mexico bioscience authority, to continue its work toward developing, promoting innovation in and expanding the bioscience industry in New Mexico.

B. Each center of excellence provided for in Subsection A of this section shall foster excellence in the

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noted ~~[field]~~ fields through:

(1) collaboration among leaders of the state's agencies, higher education institutions, business sector, national laboratories and community organizations;

(2) the development by those leaders of strategies to accomplish that aim; and

(3) the execution of those strategies.

C. Each center of excellence provided for in Subsection A of this section shall:

(1) actively seek, and may accept, public and private funding for its work;

(2) establish short- and long-term goals for job creation, business creation and private equity investment outcomes of its work; and

(3) beginning in 2020, report annually to the higher education department and the legislative finance committee on its goals and achievements."

**SECTION 2.** Section 71-9-1 NMSA 1978 (being Laws 2016, Chapter 71, Section 1 and Laws 2016, Chapter 78, Section 1) is amended to read:

"71-9-1. SHORT TITLE.--~~[Sections 1 through 11 of this act]~~ Chapter 71, Article 9 NMSA 1978 may be cited as the "Geothermal Resources Development Act"."

**SECTION 3.** Section 71-9-3 NMSA 1978 (being Laws 2016, Chapter 71, Section 3 and Laws 2016, Chapter 78, Section 3) is

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amended to read:

"71-9-3. DEFINITIONS.--As used in the Geothermal Resources Development Act:

A. "correlative rights" means the opportunity afforded, insofar as is practicable, to each owner or leaseholder in a geothermal reservoir to produce the owner's or leaseholder's just and equitable share of the geothermal resources within such reservoir, being an amount, so far as can be practicably determined and so far as can be practicably obtained without waste, substantially in the proportion that the recoverable geothermal resources of such ownership or lease interest bear to the total recoverable geothermal resources in the reservoir and, for such purpose, to use the owner's or leaseholder's just and equitable share of the natural heat or energy in the reservoir;

B. "division" means the energy conservation and management division of the energy, minerals and natural resources department;

C. "geothermal development project" means a project using the heat of the earth above one hundred degrees Fahrenheit to generate electricity or otherwise support industrial, commercial or residential uses;

[G-] D. "geothermal reservoir" means an underground reservoir containing geothermal resources, whether the fluids in the reservoir are native to the reservoir or flow into or

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are injected into the reservoir;

[D-] E. "geothermal resources" means the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit, or the energy, in whatever form, below the surface of the earth present in, resulting from, created by or that may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the surface of the earth, but excluding oil, hydrocarbon gas and other hydrocarbon substances and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit, as may be used for the heating and cooling of buildings through an on-site geo-exchange heat pump or similar on-site system; and

[E-] F. "person" means an individual or other legal entity, including federal, state or local governments or their agents or instrumentalities."

SECTION 4. Section 71-9-5 NMSA 1978 (being Laws 2016, Chapter 71, Section 5 and Laws 2016, Chapter 78, Section 5) is amended to read:

"71-9-5. GENERAL DUTIES, JURISDICTION AND AUTHORITY OF THE DIVISION.--

A. The division shall regulate the exploration,

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development and production of geothermal resources on public and private land for the purposes of conservation; protection of correlative rights; protection of life, health, property, natural resources, the environment and the public welfare; and encouraging maximum economic recovery of the geothermal resources. The division may require persons seeking to explore, develop or produce geothermal resources to obtain permits from the division.

B. The division has jurisdiction over all matters relating to the exploration, development and production of geothermal resources. It has jurisdiction, authority and control of all persons, matters and things necessary or proper to enforce effectively the provisions of the Geothermal Resources Development Act, including making investigations and inspections of geothermal projects, facilities and wells.

C. The division may limit and allocate production of geothermal resources as needed to prevent waste whenever the total amount of geothermal resources that may be produced from a geothermal reservoir is limited. The division shall allocate and distribute the allowable production, insofar as is practicable, to afford each ownership or lease interest in a geothermal reservoir the opportunity to produce its just and equitable share of the geothermal resources in the reservoir.

D. The division shall have exclusive authority to regulate injection into geothermal wells pursuant to the

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Geothermal Resources Development Act and shall have exclusive authority over matters related to the protection of natural resources, property, health and public welfare as they relate to geothermal injection wells.

E. The division shall:

(1) administer laws and rules relating to geothermal resources, except those laws specifically administered by another authority;

(2) administer the geothermal projects development fund and the geothermal projects revolving loan fund and ensure that all applicable state economic development incentive programs are used for grants and loans from those funds;

(3) apply for federal grants related to geothermal resources development; and

(4) foster the growth of geothermal resources in New Mexico."

SECTION 5. A new section of the Geothermal Resources Development Act is enacted to read:

"[NEW MATERIAL] GEOTHERMAL PROJECTS DEVELOPMENT FUND  
CREATED--STUDY GRANTS--PROJECT GRANTS--ANNUAL REPORT.--

A. The "geothermal projects development fund" is created in the state treasury. The fund consists of appropriations, income from investment of the fund and any other money distributed or otherwise allocated to the fund.

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Balances in the fund at the end of any fiscal year shall not revert to the general fund. Sfl1→Money in the fund is subject to appropriation by the legislature.←Sfl1

B. Money in the geothermal projects development fund may be used to make grants of up to two hundred fifty thousand dollars (\$250,000) for the purposes of studying the costs and benefits of a proposed geothermal development project as approved by the secretary of energy, minerals and natural resources.

C. Money in the geothermal projects development fund may be used to provide grants for financing a geothermal development project approved by the secretary of energy, minerals and natural resources.

D. Except as provided in Subsection E of this section, money in the geothermal projects development fund may be used pursuant to Subsections B and C of this section only for grants to a political subdivision of the state or to a state university for a geothermal development project.

E. Money in the geothermal projects development fund may be used for grants to an Indian nation, tribe or pueblo for the development of a geothermal development project only if the grant application is approved by the secretary of energy, minerals and natural resources.

F. Geothermal development projects approved by the secretary of energy, minerals and natural resources under this

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section shall not be exempt from any required permits or permissions under New Mexico or United States law.

G. Money in the geothermal projects development fund may be used for administrative and reimbursable costs incurred by the energy, minerals and natural resources department Sfl1 ~~subject to the legislative appropriation process~~ Sfl1 .

H. Disbursements from the geothermal projects development fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources or the secretary's authorized representative.

I. By December 1, 2023, and by December 1 of each year thereafter, the secretary of energy, minerals and natural resources shall provide a report to the governor, the legislative finance committee and the library of the legislative council service regarding:

- (1) grants approved by the secretary pursuant to Subsections B and C of this section;
- (2) the status of studies funded in part by grants made pursuant to Subsection B of this section;
- (3) the status of projects funded in part by grants made pursuant to Subsection C of this section;
- (4) money used for administrative and reimbursable costs pursuant to Subsection G of this section;

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and

(5) the status of the geothermal projects development fund."

SECTION 6. A new section of the Geothermal Resources Development Act is enacted to read:

"[NEW MATERIAL] GEOTHERMAL PROJECTS REVOLVING LOAN FUND CREATED--PROJECT LOANS--ANNUAL REPORT.--

A. The "geothermal projects revolving loan fund" is created in the state treasury. The fund shall consist of appropriations, federal funds received for the purpose of making loans, repayment of loans and interest, gifts, grants and donations made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. Sfl1→Money in the fund is subject to appropriation by the legislature.←Sfl1

B. Money in the geothermal projects revolving loan fund may be used to provide revolving loans to political subdivisions of the state, state universities, Indian nations, tribes or pueblos, nonprofit organizations and private entities for financing a geothermal development project approved by the secretary of energy, minerals and natural resources. Loans from the fund are to be made at the lowest legally permissible interest rates.

C. Geothermal development projects approved by the

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secretary of energy, minerals and natural resources under this section shall not be exempt from any required permits or permissions under New Mexico or United States law.

D. Money in the geothermal projects revolving loan fund may be used for administrative and reimbursable costs incurred by the energy, minerals and natural resources department Sfl1→~~subject to the legislative appropriation process~~←Sfl1 .

E. Disbursements from the geothermal projects revolving loan fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources or the secretary's authorized representative.

F. By December 1, 2023, and by December 1 of each year thereafter, the secretary of energy, minerals and natural resources shall provide a report to the governor, the legislative finance committee and the library of the legislative council service regarding:

(1) loans approved by the secretary pursuant to Subsection B of this section;

(2) the status of repayment obligations for revolving loans made pursuant to Subsection B of this section;

(3) money used for administrative and reimbursable costs pursuant to Subsection D of this section;

and

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(4) the status of the geothermal projects revolving loan fund."

HAFC → ~~SECTION 7. APPROPRIATIONS.~~

~~A. Six hundred thousand dollars (\$600,000) is appropriated from the general fund to the energy, minerals and natural resources department for expenditure in fiscal year 2024 for staffing and other operational expenses to carry out the duties of the Geothermal Resources Development Act and to administer the geothermal projects development fund and the geothermal projects revolving loan fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2024 shall revert to the general fund.~~

~~B. Five hundred thousand dollars (\$500,000) is appropriated from the general fund to the board of regents of the New Mexico institute of mining and technology for expenditure in fiscal year 2024 for geothermal energy research and development. Any unexpended or unencumbered balance remaining at the end of fiscal year 2024 shall revert to the general fund.~~

~~C. Ten million dollars (\$10,000,000) is appropriated from the general fund to the geothermal projects development fund for expenditure in fiscal year 2024 and subsequent fiscal years to fund geothermal development projects. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.~~

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~~D. Fifteen million dollars (\$15,000,000) is appropriated from the general fund to the geothermal projects revolving loan fund for expenditure in fiscal year 2024 and subsequent fiscal years to fund geothermal development projects. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.~~ ←H AFC

SECTION H AFC →8. ←H AFC H AFC →7. ←H AFC EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.