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## FISCAL IMPACT REPORT

SPONSOR Roybal Caballero LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 02/14/2025  
BILL  
SHORT TITLE Geothermal Projects Development Fund NUMBER House Bill 289  
ANALYST Chilton

### APPROPRIATION\* (dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
	\$20,000.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Energy, Minerals and Natural Resources Department (EMNRD)  
Higher Education Department (HED)

#### Agency Analysis was Solicited but Not Received From

New Mexico Attorney General (NMAG)

## SUMMARY

### Synopsis of House Bill 289

House Bill 289 (HB289) amends the geothermal projects development fund statute (Section 71-9-12 NMSA 1978) to widen the scope of institutions that can apply for grants to the fund. It does not alter other aspects of the fund's enabling statute. The bill also appropriates \$20 million from the general fund to the geothermal projects development fund, which makes grants to political subdivisions, Indian nations, tribes, and pueblos, state universities in New Mexico and, as a result of an amendment to statute contained in this bill, to other entities participating in a competitive bidding process.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## FISCAL IMPLICATIONS

The appropriation of \$20 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY26 and subsequent years shall revert to the general fund.

## SIGNIFICANT ISSUES

EMNRD notes the value and importance of advanced geothermal electricity as follows:

Advanced geothermal electricity is “clean firm” power, meaning it’s zero-emissions electricity that’s available 24/7 and is dispatchable. When combined with intermittent renewables such as solar and wind, geothermal electricity can allow New Mexico to achieve its emissions goals of the Energy Transition Act while also increasing generation and thus enabling economic growth.

In addition to clean firm electricity, geothermal plants offer the following benefits to New Mexico:

- “Green” jobs for oil and gas field workers, as the mechanics of drilling geothermal and oil and gas wells are nearly identical.
- Abundant electricity to attract investment and spur economic development.
- “Islandable” electricity that continues to offer power during blackouts.
- Dispatchable electricity that can ramp up and down to balance intermittent renewables
- “Black start” services that can re-start the grid after total blackouts (solar and wind cannot do this)

The state of New Mexico not only already hosts an existing successful geothermal plant but has also successfully supported new technologies to advance the industry here. Think GeoEnergy reports that the state’s existing geothermal plant, Lightning Dock, recently used new techniques to increase its capacity to 200 thermal megawatts, meaning it’s now “positioned to become the most productive pumped geothermal well in operation in the USA.”

However, while geothermal electricity is reasonably priced and geothermal plants can operate for decades with very low maintenance costs, the initial capital expenditure can present an expensive one-time investment. While the existing appropriation of \$2.5 million is significant...is it too little to offer meaningful support to geothermal projects. \$20 million is the right “scale” to meaningfully help offset this capital expense and spur the development of geothermal electricity in NM.

EMNRD raises and then dismisses concerns that opening bidding to nongovernmental entities might violate the state’s constitutional Anti-Donation Clause:

While the “other entities” language found in Section 1(D) could potentially implicate the Anti-Donation Clause, the competitive process involved in selecting grant recipients that EMNRD undertakes will ensure that the state is receiving adequate consideration in exchange for the grants. See *State ex rel. Office of State Eng’r v. Lewis ...* (observing that the Anti-Donation Clause is not violated when the state receives adequate consideration in return for the funds). Additionally, the exceptions in the clause explicitly contemplate private recipients of public funds under certain conditions, including “infrastructure that

allows ... energy.” Private geothermal developers serving primarily residential load would qualify under this exception. EMNRD is able to make assessments as to whether competitive respondents meet the constitutional criteria without additional resources.

The Higher Education Department (HED) notes:

HB289 amends 71-9-12 NMSA 2024 to allow entities that participate in a competitive bidding process conducted in accordance with the Procurement Code to receive these grants as well, opening up grant funding to private entities. HB289 may result in competition for grants that New Mexico higher educational institutions (HEIS) are looking to secure, potentially reducing the funding available for HEI geothermal development projects.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Related to 2024 House Bill 91, which created the fund and another fund, the geothermal projects revolving loan fund, and appropriated \$25 million for the two programs; however, the appropriation was stripped from the bill before it was passed. The geothermal projects development fund did receive a \$2.5 million appropriation in the 2024 General Appropriation Act.

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