

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 8

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

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.

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

1 technology to work toward developing and promoting innovation
2 in and expanding cybersecurity industries;

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

6 ~~[(2)]~~ (3) New Mexico state university to work
7 toward developing and promoting innovation in and expanding
8 sustainable agricultural industries;

9 ~~[(3)]~~ (4) San Juan college to work toward
10 developing and promoting innovation in and expanding
11 sustainable and renewable energy industries; and

12 ~~[(4)]~~ (5) the university of New Mexico health
13 sciences center-affiliated entity, the New Mexico bioscience
14 authority, to continue its work toward developing, promoting
15 innovation in and expanding the bioscience industry in New
16 Mexico.

17 B. Each center of excellence provided for in
18 Subsection A of this section shall foster excellence in the
19 noted ~~[field]~~ fields through:

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

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

25 (3) the execution of those strategies.

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

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

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

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

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

14 "71-9-1. SHORT TITLE.--~~[Sections 1 through 11 of this~~
15 ~~act]~~ Chapter 71, Article 9 NMSA 1978 may be cited as the
16 "Geothermal Resources Development Act"."

17 SECTION 3. Section 71-9-3 NMSA 1978 (being Laws 2016,
18 Chapter 71, Section 3 and Laws 2016, Chapter 78, Section 3) is
19 amended to read:

20 "71-9-3. DEFINITIONS.--As used in the Geothermal
21 Resources Development Act:

22 A. "correlative rights" means the opportunity
23 afforded, insofar as is practicable, to each owner or
24 leaseholder in a geothermal reservoir to produce the owner's or
25 leaseholder's just and equitable share of the geothermal

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1 resources within such reservoir, being an amount, so far as can
2 be practicably determined and so far as can be practicably
3 obtained without waste, substantially in the proportion that
4 the recoverable geothermal resources of such ownership or lease
5 interest bear to the total recoverable geothermal resources in
6 the reservoir and, for such purpose, to use the owner's or
7 leaseholder's just and equitable share of the natural heat or
8 energy in the reservoir;

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

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

16 [~~E.~~] D. "geothermal reservoir" means an underground
17 reservoir containing geothermal resources, whether the fluids
18 in the reservoir are native to the reservoir or flow into or
19 are injected into the reservoir;

20 [~~D.~~] E. "geothermal resources" means the natural
21 heat of the earth in excess of two hundred fifty degrees
22 Fahrenheit, or the energy, in whatever form, below the surface
23 of the earth present in, resulting from, created by or that may
24 be extracted from this natural heat in excess of two hundred
25 fifty degrees Fahrenheit, and all minerals in solution or other

1 products obtained from naturally heated fluids, brines,
2 associated gases and steam, in whatever form, found below the
3 surface of the earth, but excluding oil, hydrocarbon gas and
4 other hydrocarbon substances and excluding the heating and
5 cooling capacity of the earth not resulting from the natural
6 heat of the earth in excess of two hundred fifty degrees
7 Fahrenheit, as may be used for the heating and cooling of
8 buildings through an on-site geo-exchange heat pump or similar
9 on-site system; and

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

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

16 "71-9-5. GENERAL DUTIES, JURISDICTION AND AUTHORITY OF
17 THE DIVISION.--

18 A. The division shall regulate the exploration,
19 development and production of geothermal resources on public
20 and private land for the purposes of conservation; protection
21 of correlative rights; protection of life, health, property,
22 natural resources, the environment and the public welfare; and
23 encouraging maximum economic recovery of the geothermal
24 resources. The division may require persons seeking to
25 explore, develop or produce geothermal resources to obtain

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1 permits from the division.

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

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

17 D. The division shall have exclusive authority to
18 regulate injection into geothermal wells pursuant to the
19 Geothermal Resources Development Act and shall have exclusive
20 authority over matters related to the protection of natural
21 resources, property, health and public welfare as they relate
22 to geothermal injection wells.

23 E. The division shall:

24 (1) administer laws and rules relating
25 to geothermal resources, except those laws specifically

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1 administered by another authority;

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

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

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

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

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

15 A. The "geothermal projects development fund" is
16 created in the state treasury. The fund consists of
17 appropriations, income from investment of the fund and any
18 other money distributed or otherwise allocated to the fund.
19 Balances in the fund at the end of any fiscal year shall not
20 revert to the general fund. Money in the fund is subject to
21 appropriation by the legislature.

22 B. Money in the geothermal projects development
23 fund may be used to make grants of up to two hundred fifty
24 thousand dollars (\$250,000) for the purposes of studying the
25 costs and benefits of a proposed geothermal development project

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1 as approved by the secretary of energy, minerals and natural
2 resources.

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

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

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

17 F. Geothermal development projects approved by the
18 secretary of energy, minerals and natural resources under this
19 section shall not be exempt from any required permits or
20 permissions under New Mexico or United States law.

21 G. Money in the geothermal projects development
22 fund may be used for administrative and reimbursable costs
23 incurred by the energy, minerals and natural resources
24 department.

25 H. Disbursements from the geothermal projects

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underscoring material = new
~~[bracketed material] = delete~~

1 development fund shall be made by warrant of the secretary of
 2 finance and administration pursuant to vouchers signed by the
 3 secretary of energy, minerals and natural resources or the
 4 secretary's authorized representative.

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

10 (1) grants approved by the secretary pursuant
 11 to Subsections B and C of this section;

12 (2) the status of studies funded in part by
 13 grants made pursuant to Subsection B of this section;

14 (3) the status of projects funded in part by
 15 grants made pursuant to Subsection C of this section;

16 (4) money used for administrative and
 17 reimbursable costs pursuant to Subsection G of this section;
 18 and

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

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

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

25 A. The "geothermal projects revolving loan fund" is
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underscored material = new
 [bracketed material] = delete

1 created in the state treasury. The fund shall consist of
2 appropriations, federal funds received for the purpose of
3 making loans, repayment of loans and interest, gifts, grants
4 and donations made to the fund. Income from the fund shall be
5 credited to the fund, and money in the fund shall not revert or
6 be transferred to any other fund at the end of a fiscal year.
7 Money in the fund is subject to appropriation by the
8 legislature.

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

17 C. Geothermal development projects approved by the
18 secretary of energy, minerals and natural resources under this
19 section shall not be exempt from any required permits or
20 permissions under New Mexico or United States law.

21 D. Money in the geothermal projects revolving loan
22 fund may be used for administrative and reimbursable costs
23 incurred by the energy, minerals and natural resources
24 department.

25 E. Disbursements from the geothermal projects

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1 revolving loan fund shall be made by warrant of the secretary
2 of finance and administration pursuant to vouchers signed by
3 the secretary of energy, minerals and natural resources or the
4 secretary's authorized representative.

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

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

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

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

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

19 SECTION 7. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2023.