

LFC Requester:

Austin Davidson

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/6/2025

Check all that apply:

Bill Number: HB 289

Original Correction
Amendment Substitute

Sponsor: Rep. Patricia Roybal
Caballero

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Short Title: Geothermal Projects
Development Fund

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Section 1 of HB 289 would amend § 71-9-12 of the Geothermal Resources Development Act, N.M.S.A. § 71-9-1 to -13, to allow money in the geothermal projects development fund to be used for geothermal development projects by “other entities that participate in a competitive bidding process conducted in accordance with the Procurement Code.”

Currently, Section 71-9-12 allows for the funds to be used only by “a political subdivision of the state” or a “state university.”

Section 2 makes an appropriation of \$20,000,000 from the general fund to the geothermal projects development fund for expenditure in fiscal year 2026 and subsequent years.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Section 2 of HB 289 may possibly be subject to challenges under the Anti-Donation Clause of the New Mexico Constitution, N.M. Const. art. IX, § 14, if it is questionable whether the State would be receiving any consideration from private entities in return for funding geothermal development projects. *See, e.g., State ex rel. Off. of State Eng'r v. Lewis*, 2007-NMCA-008, ¶ 49 (“Any aid to private enterprise must have the character of a donation in substance and effect in order to violate the anti-donation clause. Consideration for the allocation can be a defining element.” (internal quotation marks and citations omitted)).

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Because HB 289 opens up the bidding process for geothermal development projects under New Mexico's Procurement Code, other bills amending the Procurement Code may be related, such as SB 206.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS