

1 HOUSE BILL 365

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO GEOTHERMAL RESOURCES; ADDING A CENTER OF EXCELLENCE
12 FOR GEOTHERMAL RESOURCES AT THE NEW MEXICO INSTITUTE OF MINING
13 AND TECHNOLOGY; AMENDING THE DUTIES OF THE ENERGY CONSERVATION
14 AND MANAGEMENT DIVISION OF THE ENERGY, MINERALS AND NATURAL
15 RESOURCES DEPARTMENT; CREATING THE GEOTHERMAL PROJECTS
16 DEVELOPMENT FUND; AUTHORIZING GRANTS; CREATING THE GEOTHERMAL
17 PROJECTS REVOLVING LOAN FUND; AUTHORIZING LOANS; MAKING
18 APPROPRIATIONS.
19

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

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

23 "21-1-27.11. CENTERS OF EXCELLENCE.--

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

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

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

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

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

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

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

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

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

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1 (3) the execution of those strategies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 explore, develop or produce geothermal resources to obtain
2 permits from the division.

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

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

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

24 E. The division shall:

25 (1) administer laws and rules relating

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1 to geothermal resources, except those laws specifically
2 administered by another authority;

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

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

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

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

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

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

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 subject to the legislative appropriation process.

25 H. Disbursements from the geothermal projects

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

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

19 D. Money in the geothermal projects revolving loan
20 fund may be used for administrative and reimbursable costs
21 incurred by the energy, minerals and natural resources
22 department subject to the legislative appropriation process.

23 E. Disbursements from the geothermal projects
24 revolving loan fund shall be made by warrant of the secretary
25 of finance and administration pursuant to vouchers signed by

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1 the secretary of energy, minerals and natural resources or the
2 secretary's authorized representative.

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

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

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

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

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

17 SECTION 7. APPROPRIATIONS.--

18 A. Six hundred thousand dollars (\$600,000) is
19 appropriated from the general fund to the energy, minerals and
20 natural resources department for expenditure in fiscal year
21 2024 for staffing and other operational expenses to carry out
22 the duties of the Geothermal Resources Development Act and to
23 administer the geothermal projects development fund and the
24 geothermal projects revolving loan fund. Any unexpended or
25 unencumbered balance remaining at the end of fiscal year 2024

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1 shall revert to the general fund.

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

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

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

21 SECTION 8. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2023.

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