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FISCAL IMPACT REPORT

SPONSOR <u>Sen. Ortiz y Pino/Rep. Roybal Caballero</u> SHORT TITLE <u>Geothermal Project Funding & Management</u>	LAST UPDATED <u>2/7/24</u> ORIGINAL DATE <u>1/26/24</u> BILL NUMBER <u>Senate Bill 59/aSCONC</u> ANALYST <u>Wan Smith</u>
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APPROPRIATION* (dollars in thousands)

FY24	FY25	Recurring or Nonrecurring	Fund Affected
	\$25,600.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Office of the State Engineer	No fiscal impact	\$75.0	\$75.0	\$150.0	Recurring	General Fund
Total	No fiscal impact	\$75.0	\$75.0	\$150.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Duplicates House Bill 91

Sources of Information

LFC Files

Agency Analysis Received From
 Energy, Minerals and Natural Resources Department (EMNRD)
 Office of the State Engineer (OSE)

SUMMARY

Synopsis of SCONC Amendment to Senate Bill 59

The Senate Conservation Committee amendment to Senate Bill 59 adds language to Section 5 of the bill requiring the Energy, Minerals and Natural Resources Secretary to develop criteria for approving projects for a loan from the geothermal projects revolving loan fund and to prioritize projects that maximize economic benefits to the state.

The amendment changes the bill's \$600 thousand appropriation for operational expenses from a

single year appropriation to a multiyear appropriation, extending the time the funds will be available through FY28.

Synopsis of Original Bill

Senate Bill 59 (SB59) appropriates \$600 thousand from the general fund to the Energy, Minerals and Natural Resources Department (EMNRD) for the purpose of carrying out the provisions of the legislation and administering the funds and programs it creates. SB59 also appropriates \$25 million from the general fund to two new funds created for the purpose of financing geothermal development projects, as defined by the bill.

SB59 creates the geothermal projects development fund as a nonreverting fund to be administered by EMNRD’s Energy Conservation and Management Division (ECMD) and appropriated by the Legislature. The fund may be used to provide grants up to \$250 thousand for cost-benefit studies of proposed geothermal development projects. The fund may also provide grants for financing a geothermal development project. A grant recipient must be a political subdivision of the state, a state university, or an Indian nation, tribe, or pueblo, when approved by the EMNRD cabinet secretary. The bill permits use of the geothermal projects development fund for administrative costs incurred by the agency.

The legislation creates the geothermal projects revolving loan fund, also to be administered by ECMD. The fund is nonreverting but subject to appropriation by the Legislature. The fund may be used to provide loans to political subdivisions of the state, state universities, Indian nations, tribes, or pueblos, nonprofit organizations, and private entities for financing geothermal development projects. The bill stipulates that loans are to be made at the lowest legally permissible interest rates. The fund may also be used for EMNRD administrative costs.

SB59 defines a “geothermal development project” as a project that uses the heat of the earth above 100 degrees Fahrenheit to generate electricity or otherwise support industrial, commercial, or residential uses. The bill additionally amends ECMD’s duties to include (1) administration of laws and rules relating to geothermal resources, except those specifically administered by another authority, (2) administration of the geothermal projects development fund and grant program and the geothermal projects revolving loan fund and loan program, (3) application for federal grants related to geothermal resources development, and (4) fostering growth of geothermal resources in New Mexico.

The effective date of this bill is July 1, 2024.

FISCAL IMPLICATIONS

The appropriation of \$25 million contained in this bill for the two new funds is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY25 shall not revert to the general fund. The appropriation of \$600 thousand for personnel and operating expenses contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY25 shall revert to the general fund. Although SB59 does not specify future appropriations, establishing a new grant program could create an expectation the program will continue in future fiscal years; therefore, this cost is assumed to be recurring.

EMNRD would use approximately \$325 thousand of the \$600 thousand appropriation to hire a regulatory specialist in ECMD and one or two underground injection well specialists to focus primarily on geothermal wells in the Oil Conservation Division. The remaining funds would support a program manager to administer the grant and loan program, annual IT costs for the new program and FTEs, and operating costs such as equipment and travel.

The Office of the State Engineer (OSE) reports that SB59 would have a significant impact on the agency's Water Rights Division and Hydrology Bureau. From OSE's analysis:

As most of the state's thermal resources lie between the temperatures of 100 and 250 degrees Fahrenheit and those waters are under the jurisdiction of the OSE pursuant to Chapter 72 NMSA, they are subject to prior appropriation system of groundwater and injection and/or recovery wells constructed for geothermal exploration and development of any found thermal resource are subject to the jurisdiction, review, and analysis of the OSE.

OSE expects to need an additional 0.5 FTE to review and approve exploratory geothermal well designs as well as any water rights issues that arise in relation to geothermal projects.

SIGNIFICANT ISSUES

ECMD currently regulates high temperature geothermal resources under the authority of the Geothermal Resources Development Act, and SB59 makes minor adjustments to its duties under that statute. However, SB59 provides that ECMD apply for federal geothermal grants, and the agency notes this type of grant has historically been targeted to universities and other research organizations and it is unlikely ECMD would be eligible for existing funding programs.

As noted in "Fiscal Implications," projects involving water below 250 degrees Fahrenheit may require permitting with OSE. For that reason, OSE suggests adding clarifying language to the bill to ensure projects seeking grants are appropriately permitted. The agency recommends language used in Section 72-5A-4 NMSA 1978 specifying that a groundwater storage and recovery project application include a project plan that:

- (a) shows that the project will not cause harm to users of land and water within the area of hydrologic effect;
- (b) demonstrates that the project is hydrologically feasible;
- (c) demonstrates that the project will not impair existing water rights or the state's interstate obligations;
- (d) demonstrates that the project will not be contrary to the conservation of water within the state; and
- (e) demonstrates that the project will not be detrimental to the public welfare of the state.