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SENATE BILL 8

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

INTRODUCED BY

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Patricia Roybal Caballero

AN ACT

RELATING TO GEOTHERMAL RESOURCES; ADDING GEOTHERMAL RESOURCES
TO THE CENTER OF EXCELLENCE 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
RESOURCES DEVELOPMENT FUND; AUTHORIZING GRANTS; CREATING THE
GEOTHERMAL RESOURCES REVOLVING LOAN FUND; AUTHORIZING LOANS;
MAKING APPROPRIATIONS.

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:

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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 and geothermal
4 resources;

5 (2) New Mexico state university to work toward
6 developing and promoting innovation in and expanding
7 sustainable agricultural industries;

8 (3) San Juan college to work toward developing
9 and promoting innovation in and expanding sustainable and
10 renewable energy industries; and

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

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

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

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

24 (3) the execution of those strategies.

25 C. Each center of excellence provided for in

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1 Subsection A of this section shall:

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

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

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

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

13 "71-9-1. SHORT TITLE.--~~[Sections 1 through 11 of this~~
14 ~~act]~~ Chapter 71, Article 9 NMSA 1978 may be cited as the
15 "Geothermal Resources Development Act"."

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

19 "71-9-3. DEFINITIONS.--As used in the Geothermal
20 Resources Development Act:

21 A. "correlative rights" means the opportunity
22 afforded, insofar as is practicable, to each owner or
23 leaseholder in a geothermal reservoir to produce the owner's or
24 leaseholder's just and equitable share of the geothermal
25 resources within such reservoir, being an amount, so far as can

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

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

11 C. "geothermal reservoir" means an underground
12 reservoir containing geothermal resources, whether the fluids
13 in the reservoir are native to the reservoir or flow into or
14 are injected into the reservoir;

15 D. "geothermal resources" means the natural heat of
16 the earth in excess of two hundred fifty degrees Fahrenheit, or
17 the energy, in whatever form, below the surface of the earth
18 present in, resulting from, created by or that may be extracted
19 from this natural heat in excess of two hundred fifty degrees
20 Fahrenheit, and all minerals in solution or other products
21 obtained from naturally heated fluids, brines, associated gases
22 and steam, in whatever form, found below the surface of the
23 earth, but excluding oil, hydrocarbon gas and other hydrocarbon
24 substances and excluding the heating and cooling capacity of
25 the earth not resulting from the natural heat of the earth in

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1 excess of two hundred fifty degrees Fahrenheit, as may be used
2 for the heating and cooling of buildings through an on-site
3 geo-exchange heat pump or similar on-site system; [~~and~~]

4 E. "geothermal resources development project" means
5 a project using geothermal resources to generate electricity or
6 otherwise support industrial, commercial or residential uses;
7 and

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

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

14 "71-9-5. GENERAL DUTIES, JURISDICTION AND AUTHORITY OF
15 THE DIVISION.--

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

25 B. The division has jurisdiction over all matters

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

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

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

21 E. The division shall:

22 (1) administer laws and rules relating
23 to geothermal resources, except those laws specifically
24 administered by another authority;

25 (2) administer the geothermal resources

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1 development fund and the geothermal resources revolving loan
2 fund and ensure that all applicable state economic development
3 incentive programs are used for grants and loans from those
4 funds;

5 (3) apply for federal grants related to
6 geothermal resources development; and

7 (4) foster the growth of geothermal
8 resources in New Mexico."

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

11 "[NEW MATERIAL] GEOTHERMAL RESOURCES DEVELOPMENT FUND
12 CREATED--STUDY GRANTS--PROJECT GRANTS--ANNUAL REPORT.--

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

19 B. Money in the geothermal resources development
20 fund may be used to make grants of up to two hundred fifty
21 thousand dollars (\$250,000) for the purposes of studying the
22 costs and benefits of a proposed geothermal resources
23 development project as approved by the secretary of energy,
24 minerals and natural resources.

25 C. Money in the geothermal resources development

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1 fund may be used to provide grants for financing a geothermal
2 resources development project approved by the secretary of
3 energy, minerals and natural resources.

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

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

15 F. Money in the geothermal resources development
16 fund may be used for administrative and reimbursable costs
17 incurred by the energy, minerals and natural resources
18 department subject to the legislative appropriation process.

19 G. Disbursements from the geothermal resources
20 development fund shall be made by warrant of the secretary of
21 finance and administration pursuant to vouchers signed by the
22 secretary of energy, minerals and natural resources or the
23 secretary's authorized representative.

24 H. By December 1, 2023, and by December 1 of each
25 year thereafter, the secretary of energy, minerals and natural

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1 resources shall provide a report to the governor, the
2 legislative finance committee and the library of the
3 legislative council service regarding:

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

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

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

10 (4) money used for administrative and
11 reimbursable costs pursuant to Subsection F of this section;
12 and

13 (5) the status of the geothermal resources
14 development fund."

15 SECTION 6. A new section of the Geothermal Resources
16 Development Act is enacted to read:

17 "[NEW MATERIAL] GEOTHERMAL RESOURCES REVOLVING LOAN FUND
18 CREATED--PROJECT LOANS--ANNUAL REPORT.--

19 A. The "geothermal resources revolving loan fund"
20 is created in the state treasury. The fund shall consist of
21 appropriations, federal funds received for the purpose of
22 making loans, repayment of loans and interest, gifts, grants
23 and donations made to the fund. Income from the fund shall be
24 credited to the fund, and money in the fund shall not revert or
25 be transferred to any other fund at the end of a fiscal year.

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1 B. Money in the geothermal resources revolving loan
2 fund may be used to provide revolving loans to political
3 subdivisions of the state, state universities, Indian nations,
4 tribes or pueblos, nonprofit organizations and private entities
5 for financing a geothermal resources development project
6 approved by the secretary of energy, minerals and natural
7 resources. Loans from the fund are to be made at the lowest
8 legally permissible interest rates.

9 C. Money in the geothermal resources revolving loan
10 fund may be used for administrative and reimbursable costs
11 incurred by the energy, minerals and natural resources
12 department subject to the legislative appropriation process.

13 D. Disbursements from the geothermal resources
14 revolving loan fund shall be made by warrant of the secretary
15 of finance and administration pursuant to vouchers signed by
16 the secretary of energy, minerals and natural resources or the
17 secretary's authorized representative.

18 E. By December 1, 2023, and by December 1 of each
19 year thereafter, the secretary of energy, minerals and natural
20 resources shall provide a report to the governor, the
21 legislative finance committee and the library of the
22 legislative council service regarding:

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

25 (2) the status of repayment obligations for

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1 revolving loans made pursuant to Subsection B of this section;

2 (3) money used for administrative and
3 reimbursable costs pursuant to Subsection C of this section;
4 and

5 (4) the status of the geothermal resources
6 revolving loan fund."

7 SECTION 7. APPROPRIATIONS.--

8 A. Six hundred thousand dollars (\$600,000) is
9 appropriated from the general fund to the energy, minerals and
10 natural resources department for expenditure in fiscal year
11 2024 to carry out the duties of the energy conservation and
12 management division of the energy, minerals and natural
13 resources department and to administer the geothermal resources
14 development fund. Any unexpended or unencumbered balance
15 remaining at the end of fiscal year 2024 shall revert to the
16 general fund.

17 B. Five hundred thousand dollars (\$500,000) is
18 appropriated from the general fund to the board of regents of
19 the New Mexico institute of mining and technology for
20 expenditure in fiscal year 2024 for geothermal energy research
21 and development. Any unexpended or unencumbered balance
22 remaining at the end of fiscal year 2024 shall revert to the
23 general fund.

24 C. Ten million dollars (\$10,000,000) is
25 appropriated from the general fund to the geothermal resources

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1 development fund for expenditure in fiscal year 2024 and
2 subsequent fiscal years to fund geothermal resources
3 development projects. Any unexpended or unencumbered balance
4 remaining at the end of a fiscal year shall not revert to the
5 general fund.

6 D. Fifteen million dollars (\$15,000,000) is
7 appropriated from the general fund to the geothermal resources
8 revolving loan fund for expenditure in fiscal year 2024 and
9 subsequent fiscal years to fund geothermal resources
10 development projects. Any unexpended or unencumbered balance
11 remaining at the end of a fiscal year shall not revert to the
12 general fund.

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