

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 91

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Patricia Roybal Caballero and Tara L. Lujan and
Gerald Ortiz y Pino

AN ACT

RELATING TO GEOTHERMAL RESOURCES; 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; MAKING APPROPRIATIONS.

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

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

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

SECTION 2. Section 71-9-3 NMSA 1978 (being Laws 2016,

underscored material = new
[bracketed material] = delete

1 Chapter 71, Section 3 and Laws 2016, Chapter 78, Section 3) is
2 amended to read:

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

5 A. "correlative rights" means the opportunity
6 afforded, insofar as is practicable, to each owner or
7 leaseholder in a geothermal reservoir to produce the owner's or
8 leaseholder's just and equitable share of the geothermal
9 resources within such reservoir, being an amount, so far as can
10 be practicably determined and so far as can be practicably
11 obtained without waste, substantially in the proportion that
12 the recoverable geothermal resources of such ownership or lease
13 interest bear to the total recoverable geothermal resources in
14 the reservoir and, for such purpose, to use the owner's or
15 leaseholder's just and equitable share of the natural heat or
16 energy in the reservoir;

17 B. "division" means the energy conservation and
18 management division of the energy, minerals and natural
19 resources department;

20 C. "geothermal development project" means a project
21 using the heat of the earth above one hundred degrees
22 Fahrenheit to generate electricity or otherwise support
23 industrial, commercial or residential uses;

24 [G.] D. "geothermal reservoir" means an underground
25 reservoir containing geothermal resources, whether the fluids

.227236.1

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

1 in the reservoir are native to the reservoir or flow into or
2 are injected into the reservoir;

3 ~~[D.]~~ E. "geothermal resources" means the natural
4 heat of the earth in excess of two hundred fifty degrees
5 Fahrenheit, or the energy, in whatever form, below the surface
6 of the earth present in, resulting from, created by or that may
7 be extracted from this natural heat in excess of two hundred
8 fifty degrees Fahrenheit, and all minerals in solution or other
9 products obtained from naturally heated fluids, brines,
10 associated gases and steam, in whatever form, found below the
11 surface of the earth, but excluding oil, hydrocarbon gas and
12 other hydrocarbon substances and excluding the heating and
13 cooling capacity of the earth not resulting from the natural
14 heat of the earth in excess of two hundred fifty degrees
15 Fahrenheit, as may be used for the heating and cooling of
16 buildings through an on-site geo-exchange heat pump or similar
17 on-site system; and

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

21 **SECTION 3.** Section 71-9-5 NMSA 1978 (being Laws 2016,
22 Chapter 71, Section 5 and Laws 2016, Chapter 78, Section 5) is
23 amended to read:

24 "71-9-5. GENERAL DUTIES, JURISDICTION AND AUTHORITY OF
25 THE DIVISION.--

.227236.1

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

1 A. The division shall regulate the exploration,
2 development and production of geothermal resources on public
3 and private land for the purposes of conservation; protection
4 of correlative rights; protection of life, health, property,
5 natural resources, the environment and the public welfare; and
6 encouraging maximum economic recovery of the geothermal
7 resources. The division may require persons seeking to
8 explore, develop or produce geothermal resources to obtain
9 permits from the division.

10 B. The division has jurisdiction over all matters
11 relating to the exploration, development and production of
12 geothermal resources. It has jurisdiction, authority and
13 control of all persons, matters and things necessary or proper
14 to enforce effectively the provisions of the Geothermal
15 Resources Development Act, including making investigations and
16 inspections of geothermal projects, facilities and wells.

17 C. The division may limit and allocate production
18 of geothermal resources as needed to prevent waste whenever the
19 total amount of geothermal resources that may be produced from
20 a geothermal reservoir is limited. The division shall allocate
21 and distribute the allowable production, insofar as is
22 practicable, to afford each ownership or lease interest in a
23 geothermal reservoir the opportunity to produce its just and
24 equitable share of the geothermal resources in the reservoir.

25 D. The division shall have exclusive authority to

.227236.1

underscored material = new
[bracketed material] = delete

1 regulate injection into geothermal wells pursuant to the
2 Geothermal Resources Development Act and shall have exclusive
3 authority over matters related to the protection of natural
4 resources, property, health and public welfare as they relate
5 to geothermal injection wells.

6 E. The division shall:

7 (1) administer laws and rules relating
8 to geothermal resources, except those laws specifically
9 administered by another authority;

10 (2) administer the geothermal projects
11 development fund and geothermal projects revolving loan fund
12 and ensure that all applicable state economic development
13 incentive programs are used for grants and loans from those
14 funds;

15 (3) apply for federal grants related to
16 geothermal resources development; and

17 (4) foster the growth of geothermal
18 resources in New Mexico."

19 SECTION 4. A new section of the Geothermal Resources
20 Development Act is enacted to read:

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

23 A. The "geothermal projects development fund" is
24 created in the state treasury. The fund consists of
25 appropriations, income from investment of the fund and any

.227236.1

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

1 other money distributed or otherwise allocated to the fund.
2 Balances in the fund at the end of any fiscal year shall not
3 revert to the general fund. The division shall administer the
4 fund. Money in the fund is subject to appropriation by the
5 legislature.

6 B. Money in the geothermal projects development
7 fund may be used to make grants of up to two hundred fifty
8 thousand dollars (\$250,000) for the purposes of studying the
9 costs and benefits of a proposed geothermal development project
10 as approved by the secretary of energy, minerals and natural
11 resources.

12 C. Money in the geothermal projects development
13 fund may be used to provide grants for financing a geothermal
14 development project approved by the secretary of energy,
15 minerals and natural resources.

16 D. Except as provided in Subsection E of this
17 section, money in the geothermal projects development fund may
18 be used pursuant to Subsections B and C of this section only
19 for grants to a political subdivision of the state or to a
20 state university for a geothermal development project.

21 E. Money in the geothermal projects development
22 fund may be used for grants to an Indian nation, tribe or
23 pueblo for the development of a geothermal development project
24 only if the grant application is approved by the secretary of
25 energy, minerals and natural resources.

.227236.1

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

1 F. Geothermal development projects approved for a
2 grant by the secretary of energy, minerals and natural
3 resources under this section shall not be exempt from any
4 required permits or permissions under New Mexico or United
5 States law.

6 G. Money in the geothermal projects development
7 fund may be used for administrative and reimbursable costs
8 incurred by the energy, minerals and natural resources
9 department.

10 H. Disbursements from the geothermal projects
11 development fund shall be made by warrant of the secretary of
12 finance and administration pursuant to vouchers signed by the
13 secretary of energy, minerals and natural resources or the
14 secretary's authorized representative.

15 I. By December 1, 2024, and by December 1 of each
16 year thereafter, the secretary of energy, minerals and natural
17 resources shall provide a report to the governor, the
18 legislative finance committee and the library of the
19 legislative council service regarding:

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

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

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

.227236.1

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

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

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

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

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

10 A. The "geothermal projects revolving loan fund" is
11 created in the state treasury. The fund consists of
12 appropriations, federal funds received for the purpose of
13 making loans, repayment of loans and interest, gifts, grants
14 and donations made to the fund. Income from the fund shall be
15 credited to the fund, and money in the fund shall not revert or
16 be transferred to any other fund at the end of a fiscal year.
17 The division shall administer the fund. Money in the fund is
18 subject to appropriation by the legislature.

19 B. Money in the geothermal projects revolving loan
20 fund may be used to provide revolving loans to political
21 subdivisions of the state, state universities, Indian nations,
22 tribes or pueblos, nonprofit organizations and private entities
23 for financing a geothermal development project approved by the
24 secretary of energy, minerals and natural resources. Loans
25 from the fund are to be made at the lowest legally permissible

.227236.1

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

1 interest rates.

2 C. Geothermal development projects approved for a
3 loan by the secretary of energy, minerals and natural resources
4 under this section shall not be exempt from any required
5 permits or permissions under New Mexico or United States law.

6 D. Money in the geothermal projects revolving loan
7 fund may be used for administrative and reimbursable costs
8 incurred by the energy, minerals and natural resources
9 department.

10 E. Disbursements from the geothermal projects
11 revolving loan fund shall be made by warrant of the secretary
12 of finance and administration pursuant to vouchers signed by
13 the secretary of energy, minerals and natural resources or the
14 secretary's authorized representative.

15 F. By December 1, 2024, and by December 1 of each
16 year thereafter, the secretary of energy, minerals and natural
17 resources shall provide a report to the governor, the
18 legislative finance committee and the library of the
19 legislative council service regarding:

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

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

24 (3) money used for administrative and
25 reimbursable costs pursuant to Subsection D of this section;

.227236.1

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

1 and

2 (4) the status of the geothermal projects
3 revolving loan fund."

4 SECTION 6. APPROPRIATIONS.--

5 A. Six hundred thousand dollars (\$600,000) is
6 appropriated from the general fund to the energy, minerals and
7 natural resources department for expenditure in fiscal year
8 2025 for staffing and other operational expenses to carry out
9 the duties of the Geothermal Resources Development Act and to
10 administer the geothermal projects development fund and the
11 geothermal projects revolving loan fund. Any unexpended or
12 unencumbered balance remaining at the end of fiscal year 2025
13 shall revert to the general fund.

14 B. Ten million dollars (\$10,000,000) is
15 appropriated from the general fund to the geothermal projects
16 development fund for expenditure in fiscal year 2025 and
17 subsequent fiscal years to fund geothermal development
18 projects. Any unexpended or unencumbered balance remaining at
19 the end of a fiscal year shall not revert to the general fund.

20 C. Fifteen million dollars (\$15,000,000) is
21 appropriated from the general fund to the geothermal projects
22 revolving loan fund for expenditure in fiscal year 2025 and
23 subsequent fiscal years to fund geothermal development
24 projects. Any unexpended or unencumbered balance remaining at
25 the end of a fiscal year shall not revert to the general fund.

.227236.1

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.