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## FISCAL IMPACT REPORT

SPONSOR Townsend LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 2/23/2025  
BILL  
SHORT TITLE Stock Water Applications to State Engineer NUMBER Senate Bill 470  
ANALYST Davidson

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
OSE		\$350.0	\$350.0	\$700.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From  
New Mexico Attorney General (NMAG)  
Office of the State Engineer (OSE)

## SUMMARY

### Synopsis of Senate Bill 470

Senate Bill 470 modifies Section 72-9-3 NMSA to change “Any stockmen” to “Only stockmen” when discussing who may apply to the Office of the State Engineer to impound surface waters of the state for the watering of livestock.

The effective date of this bill is July 1st, 2025.

## FISCAL IMPLICATIONS

If implemented, Senate Bill 470 has the potential to increase the legal workload of the Office of the State Engineer (OSE), the entity who processes the permits the bill is amending. Due to the ambiguity the bill could create (see Significant Issues), LFC analysis estimates the bill has the potential to require OSE to need \$350 thousand in staffing costs, or roughly two additional attorneys, to accommodate potential workload increases.

## SIGNIFICANT ISSUES

Analysis from the Office of the State Engineer (OSE) notes the purpose of the bill is ambiguous. OSE notes under current law any ranchers (or as described in statute stockmen or stock owners) have the ability to apply for and receive a permit to impound surface waters for livestock water purposes. OSE analysis further notes the consistent understanding of current statute is stockmen or stock owners are the only entities applying for this permitting scheme. OSE notes:

If a different person or entity who is NOT a stockman or stock owner sought to apply for a livestock surface impoundment, their application would not meet all the elements of the statute, because they would not be among the persons entitled to file the application. Thus, it would appear to be unnecessary to change the law to say that “only” stockmen or stock owners can apply for livestock surface impoundment permits.

Analysis from the New Mexico Attorney General (NMAG) provides context for the creation of the current statute, noting a 2004 amendment to the statute the bill addresses:

Had the effect of requiring all groundwater impoundment requests for livestock to be approved by the Office of the State Engineer (OSE), where previously those at or under ten acre-feet were completely exempt. However, it also ensured that all impoundments under ten acre-feet would be approved if the specific requirements in the statute were met, without the involved process otherwise required under the Water Code.

NMAG analysis notes regardless of the bill’s passage, a stock owner who wants to appropriate water for livestock use must still apply for a permit from OSE. NMAG analysis notes it is possible the bill aims to ensure other individuals do not need to apply for one, though this reading could potentially entail the bill aiming to create an exception for those who still wish to impound surface waters for water livestock but do not actually own the stock. NMAG analysis further notes the replacing of “any” with “only” could be interpreted to mean, “other individuals who wish to impound surface water do not have the ability to apply to the OSE or to be guaranteed a permit.” This reading aligns in some ways with OSE’s interpretation, which notes individuals who are not in actuality stockmen, or a stock owner, do not meet the current criteria needed to receive a permit to impound surface waters for such use.

NMAG analysis notes there is further ambiguity in the aim of the bill, noting the bill could be interpreted to be specifically excluding entities from applying for use of stock water even though those entities do not actually own any livestock, but may be intending to commercialize one or a series of smaller water structures and thus following the guidelines of current statute:

If the state engineer finds that the capacity of the proposed impoundment is ten acre-feet or less, will not be on a perennial stream and will be used for watering of livestock as defined in Subsection D of this section, the state engineer shall issue a permit to the applicant to impound and use the waters applied for.

NMAG analysis notes due to the variability and ambiguities the bill has the likely potential to create, more explicit and clear language would be necessary to avoid confusion.

## ALTERNATIVES

NMAG analysis provides examples of issues the bill currently does not address and clarifying language the bill could add to address discussed issues:

For instance, if the intent is to avoid a large-scale operation from commercializing the water permit ability, then adding a section clarifying that the under ten acre-feet exemption may only be granted to an entity that actually owns livestock and can only use it for watering its own livestock. The statute as it currently exists seems to contemplate this already. It is also possible that there is a concern that this type of impoundment is subject to abuse by transfer and that an entity could amass a large number of these small-scale impoundments by buying ones that are not in use, and result in more water use than was originally contemplated. Again, if this is the concern, an entirely new section would be more effective. If none of these are the concern addressed by the bill, then it is simply unclear why the change is proposed and what effect it would have.

AD/hj/SL2