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FISCAL IMPACT REPORT

SPONSOR HAFC **DATE TYPED** 3/10/05 **HB** 195/HAFCS

SHORT TITLE Create Strategic Water Reserve **SB** _____

ANALYST Aguilar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			Indeterminate	Recurring	State Engineer Operating Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicate to SB 123/SFCS

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
		Indeterminate	Recurring	State Engineer Operating Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Office of the State Engineer (OSE)
- New Mexico Environment Department (NMED)
- New Mexico Department of Agriculture (NMDA)
- New Mexico Finance Authority (NMFA)

SUMMARY

Synopsis of Bill

The House Appropriations and Finance Committee substitute for House Bill 195 establishes the Strategic Water Reserve (SWR) and provides for the purchase, lease or donation of surface water or water rights or storage rights to make up the reserve. Underground water and water rights

could also be acquired in a similar manner to implement a cessation of pumping or for limited stream augmentation.

The committee substitute also provides for collaborative management of water when appropriate processes are in place and with a number of governmental entities. Authority vested in these entities cannot be repealed or modified by provision of this legislation.

Significant Issues

The ISC shall develop river reach or ground water basin priorities for the acquisition of the water, water rights or storage. For each priority reach or ground water basin, the ISC shall coordinate with Indian tribes and pueblos, boards of county commissioners, special districts, soil and water conservation districts, water authorities, and water planning regions to do additional prioritization.

The commission may not acquire water rights for the SWR that are served by an acequia or community ditch. The ISC shall acquire water rights that have sufficient seniority and consistent, historic, beneficial use, and cannot acquire rights for the SWR through condemnation. Strategic river reserve water rights will not be subject to forfeiture for non use.

Water or water rights acquired under the provisions of this bill must remain in the river reach or ground basin of origin.

ISC may **lease** water at market value and the proceeds of the leases are appropriated to the ISC to carry out the purposes of the SWR. The ISC may **sell** water rights that are no longer necessary for the strategic water reserve, but water rights may not be sold to the United States and the first offer of sale shall be for its original purpose of use. Proceeds from the sale of water are appropriated to the State Engineer to adjudicate water rights.

The Environment Department notes a strategic water reserve will allow the state to more effectively manage its limited water supplies and interstate stream compact obligations. However, the uses of the strategic water reserve are limited and should be expanded to prevent impacts to water quality and aquatic ecosystems caused by reductions in water quantity.

The Department of Agriculture notes the State Engineer does not have a plan in place for the management of lands where water rights are purchased or leased.

PERFORMANCE IMPLICATIONS

This bill seeks to implement an action item in the New Mexico State Water Plan.

Provisions contained in this bill may assist the state meet its stream obligations.

FISCAL IMPLICATIONS

Revenue generating opportunities as a result of provisions contained in this legislation are significant however specific amounts are difficult to estimate at this time.

The committee substitute appropriates funds to the Office of the State Engineer and the Interstate

Stream Commission. The appropriations contained in this bill do not direct funds to a particular fund. The assumption is they would be directed to the state engineer operating fund. Reversion language regarding these appropriations is not included in the bill.

The bill provides for continuing appropriations. The LFC objects to including continuing appropriation language in statutory provisions. Earmarking reduces the ability of the legislature to establish spending priorities.

ADMINISTRATIVE IMPLICATIONS

The Interstate Stream Commission notes the bill directs the development of rules for implementation. Staff will be needed to manage the funding, identify and purchase the water rights, provide for public involvement, and implement the policy and manage the reserve

TECHNICAL ISSUES

The State Engineer's office suggested a new fund be established to receive funds generated from sales, leases and other sources of revenue.

OTHER SUBSTANTIVE ISSUES

The Environment Department reports water quality impairments due to low flow caused by drought conditions can have a detrimental impact on aquatic ecosystems. These impairments can reduce habitat and lead to reductions in populations of aquatic species, and could ultimately result in additional threatened or endangered species in New Mexico. The strategic water reserve should be available to mitigate low flow impacts to water quality and aquatic ecosystems.

PA/lg