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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Brown</u>	<b>LAST UPDATED</b> _____
	<b>ORIGINAL DATE</b> <u>2/27/23</u>
<b>SHORT TITLE</b> <u>Study Capping Abandoned Water Wells</u>	<b>BILL NUMBER</b> <u>House Memorial 59</u>
	<b>ANALYST</b> <u>Sanchez</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		Indeterminate but minimal				Interim Committee Operating Budget

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

### Sources of Information

LFC Files

### No Response Received

Office of the State Engineer (OSE)  
New Mexico Municipal League (NMML)

## SUMMARY

### Synopsis of House Memorial 59

House Memorial 33 requests that the legislative interim committee that studies issues pertaining to water and natural resources (WNRC) conduct a study of the feasibility of establishing and strengthening requirements for capping abandoned water wells on private and public property. The memorial requests that the WNRC obtain information and testimony from the New Mexico Municipal League and the Office of the State Engineer. The memorial further requests that the WNRC report its findings by December 1, 2023.

## FISCAL IMPLICATIONS

This memorial contains no appropriations. No fiscal impact was noted in analysis.

## SIGNIFICANT ISSUES

In analysis of a similar resolution in the 2014 regular session (House Memorial 33), the Office of the State Engineer stated that it is the agency responsible for enforcing regulations that govern how abandoned water wells must be dealt with. That analysis stated:

[Abandoned water wells] may not simply be “capped”...“If abandoned water wells were

required to only be capped and not plugged, then there would be a risk to groundwater. Abandoned water wells should be plugged as opposed to capped to prevent groundwater from being contaminated and subsurface zones from communicating with each other. Individuals who plug an abandoned water well may have to comply with State Engineer regulation 19.27.4 NMAC which governs plugging of water wells.

In its analysis of the same 2014 memorial, the New Mexico Municipal League indicated:

Municipalities in New Mexico have no detailed records of water wells that may exist within the boundaries of the municipality and would have no method of identifying such wells or enforcing a requirement that they be capped...The New Mexico Municipal League believes that this problem of abandoned water wells is a statewide issue in as much as such abandoned wells likely exist both inside and outside municipal boundaries. The New Mexico Municipal League further believes that this issue should best be addressed by the legislature through legislation requiring any property owner to cap an abandoned well on their property.

## OTHER SUBSTANTIVE ISSUES

Section 19.27.4.30 of the New Mexico Administrative Code includes a section that sets forth the regulations related to plugging non-artesian wells that have been permanently discontinued. See below:

C. Well plugging: A non-artesian well that is a permanently discontinued well or a well in a state of disrepair, a failed well drilling attempt, an improperly constructed or completed well, or a replaced well with a permit condition to plug shall be plugged. A well plugging plan of operations shall be approved by the state engineer prior to plugging unless the well is a replaced well with a permit condition to plug. The state engineer may require that the plugging process be witnessed by an authorized representative.

(1) Methods and materials: To plug a well, the entire well shall be filled from the bottom upwards to ground surface using a tremie pipe. The bottom of the tremie shall remain submerged in the sealant throughout the entire sealing process; other placement methods may be acceptable and approved by the state engineer. The well shall be plugged with an office of the state engineer approved sealant for use in the plugging of non-artesian wells. Wells that do not encounter a water bearing stratum shall at a minimum be plugged by filling the well with drill cuttings or clean native fill to within 10 feet of ground surface and by plugging the remaining 10 feet of the well to ground surface with a plug of the office of the state engineer approved sealant.

(2) Contamination indicated: Wells encountering contaminated water or soil may require coordination between the office of the state engineer and the New Mexico environment department (or other authorized agency or department) prior to the plugging of the well. Specialty plugging materials and plugging methods may be required.

(3) Plugging record: A well driller shall keep a record of each plugging activity as the work progresses. The well driller shall file a complete plugging record with the state engineer and the permit holder no later than 30 days after completion of the plugging. The plugging record shall be on a form prescribed by the state engineer and shall include the name and address of the well owner, the well driller's name and license number, the name of each drill rig supervisor that supervised the well plugging, the state engineer file number for the well, the location of the well (reported

in latitude and longitude using a global positioning system (gps) receiver capable of five meters accuracy), the date when plugging began, the date when plugging concluded, the plugging material(s) used, the interval in which each plugging material was installed, the amount of plugging material installed, the depth of the well, the size and type of casing, the location of perforations, and any other information required by the state engineer.

[19.27.4.30 NMAC - Rp, 19.27.4.30 NMAC, 6/30/2017]

Amendments to the New Mexico Administrative Code are to be initiated by the agency with oversight of the relevant sections of the code (Section 1.24.10.18, NMAC). In this case, the Office of the State Engineer would be responsible for making any modifications proposed in response to the results of the study requested in this memorial. Without an updated analysis from OSE, the impact of the study is indeterminate, and so too are the administrative or performance impacts associated with the memorial.

SS/al/ne