

LFC Requester: _____

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)**

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original Amendment
Correction Substitute

Date Prepared 2.13.2025

Bill Number: HOUSE BILL 137/cs

Sponsor: Herrera;
Short STRATEGIC WATER
Title: SUPPLY ACT

Agency Name
and Code DFA-341
Number: _____
Person Writing Delgado L.
Phone: _____ Email leonardo.delgado@dfa.n

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
	\$75,000	Nonrecurring	GF
	\$28,750	Nonrecurring	GF
	\$4,000	Nonrecurring	GF

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

	Estimated Revenue					Recurring or Nonrecurring	Fund Affected
	FY25	FY26	FY27	FY28	FY29		
Fee on produced water		\$58,444	\$60,692	\$62,565	\$62,565	R	Water Supply Program Fund

Oil and Gas Severance Tax		(\$0 to \$831)	(\$0 to (\$905)	(\$0 to \$916)	(\$0 to \$949)	R	Severance Tax Bonding Fund
Oil and Gas Emergency School Tax		(\$0 to \$712)	(\$0 to \$621)	(\$0 to \$450)	(\$0 to \$300)	R	Early Childhood Trust Fund
Oil and Gas Emergency School Tax		(\$0 to \$119)	(\$0 to \$285)	(\$0 to \$466)	(\$0 to \$649)	R	Severance Tax Permanent Fund
Oil and Gas Conservation tax		(\$0 to \$42)	(\$0 to \$46)	(\$0 to \$46)	(\$0 to \$48)	R	General Fund
Conservation Tax		(\$0 to \$4)	(\$0 to \$5)	(\$0 to \$5)	(\$0 to \$5)	(\$0 to \$5)	Reclamation Fund
State Land Office Royalty Payments		\$0 to (\$2,816)	\$0 to (\$3,035)	\$0 to (\$3,079)	\$0 to (\$3,187)	R	Land Grant Permanent Fund
Federal Land Royalty Payments		\$0 to (\$2,607)	\$0 to (\$2,810)	\$0 to (\$2,851)	\$0 to (\$2,951)	R	Early Childhood Trust Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

House Agriculture, Acequias & Water Resources Committee Substitute (HAAWC) for HB 137

Summary

The HAAWC substitute bill reduces the original five-cent (\$0.05) fee on each barrel of produced water from oil and gas wells to a three-cent (\$0.03) fee per barrel. Additionally, the substitute bill introduces definitions for “deep brackish water” and “per- or polyfluoroalkyl substances.”

Section 13 of the substitute bill also adds a contingent effective date, specifying that Section 10 will take effect “on the first day of the month following the effective date of the rules promulgated by the Water Control Commission for the production of treated produced water pursuant to Paragraph (1) of Subsection I of Section 4 of the Strategic Water Supply Act.”

The substitute bill maintains the same appropriations and technical language regarding Department of Environment, Energy, Minerals, and Natural Resources Department, and the Office of the State Engineer

BILL SUMMARY

HB 137 aims to manage and enhance New Mexico's water resources through innovative strategies and programs. It establishes the Strategic Water Supply Program, which will be administered by the Department of Environment to support strategic project implementation. The program fund will enable the Energy, Minerals, and Natural Resources Department and the Office of the State Engineer to enter into contracts and award grants for projects utilizing treated brackish water or treated produced water.

The bill appropriates \$75 million from the general fund in FY26 to support the Strategic Water Supply Program. Additionally, it imposes a five-cent (\$0.05) fee on each barrel of produced water from oil and gas wells that is not reused, with the collected fees deposited into the Strategic Water Supply Program Fund.

Furthermore, the bill allocates an additional \$28.75 million from the general fund to the Board of Regents of the New Mexico Institute of Mining and Technology for aquifer monitoring, to be expended in fiscal years 2026 through 2028. Lastly, it appropriates \$4 million from the general fund to the Board of Regents of New Mexico State University for research and development of technology related to strategic water supply projects, also to be expended in fiscal years 2026 through 2028.

Key highlights:

- **Creation of the Strategic Water Supply Program:**
 - A program established to reduce reliance on fresh water and expand opportunities for water reuse.
 - Directed by the Department of Environment, the Energy, Minerals and Natural Resources Department, and the Office of the State Engineer.
- **Appropriation:**
 - A budget allocation of \$75 million is designated for the Strategic Water Supply Program fund for ongoing and future fiscal years.
- **Funding Mechanism:**
 - Introduction of a five-cent (\$0.05) fee on each barrel of produced water from oil and gas wells.
 - Collected fees are to be deposited into the Strategic Water Supply Program Fund.
- **Administrative Structure:**
 - The program fund will be administered by the Department of Environment for strategic project implementation.
 - Funds will support eligible projects involving treated brackish water or produced water.
- **Project Evaluation:**
 - Agencies will evaluate proposals based on compliance with laws, contribution to economic development, and efforts to limit greenhouse gas emissions.

- **Project Eligibility Requirements:**
 - Projects must comply with local, state, and tribal regulations and demonstrate benefits to local economies and public health.
 - Financial assurance must be provided to guarantee project longevity and compliance.
- **Drilling Regulation:**
 - Prior to drilling or recompleting wells, applicants must notify the state and demonstrate that their proposed use of water will not negatively impact existing water rights or state conservation efforts.
- **Community Engagement:**
 - A requirement for a community benefits plan, ensuring that projects provide shared benefits to affected communities.

FISCAL IMPLICATIONS

House Agriculture, Acequias & Water Resources Committee Substitute (HAAWC) for HB 137

Summary

The HAAWC substitute bill imposes a \$0.03 per barrel fee on produced water from oil and gas wells to support the Strategic Water Supply Program Fund. This fee applies to all produced water except for water used in enhanced oil recovery (EOR) or recycled/reused for other purposes.

Using the same methodology as the original bill, this analysis projects that a \$0.03 per barrel fee on produced water will generate approximately \$58.4 million in FY26, \$60.7 million in FY27, and \$62.6 million in both FY28 and FY29 for the Strategic Water Supply Program Fund. With the reduction in the fee rate, the updated revenue estimate is adjusted accordingly.

The fee is not expected to impact oil production in New Mexico as long as oil prices remain well above producers' break-even levels (\$40 per barrel). Additionally, the fee is anticipated to have little to no impact on natural gas production.

Lastly, the substitute bill maintains the same appropriations and technical language regarding Department of Environment, Energy, Minerals, and Natural Resources Department, and the Office of the State Engineer.

HB 137 appropriates a total of \$107.75 million from the general fund to the following fund and organizations:

- Strategic Water Supply Program Fund = \$75 million for fiscal year 2026 and subsequent fiscal years and is limited to brackish water projects
- Board of Regents of the New Mexico Institute of Mining and Technology = \$28.75 million for fiscal years 2026 through 2028
- Board of Regents of New Mexico State University = \$4.0 million for fiscal years 2026 through 2028

Using Rystad Energy's ShaleWell Cube data on oil and water production from New Mexico wells over the past five years, the state averaged a water-to-oil ratio of 3.46 barrels of water per barrel of oil. According to the 2024 New Mexico Strategic Feasibility Study, 98.8% of produced water

in 2023 came from wells in the Permian Basin, with 75% originating from oil wells. Since most natural gas production in the Permian occurs alongside oil production, this trend is significant. After consulting with EMNRD, the ratio was refined to exclude water used for enhanced oil recovery (EOR) and well completion. Adjusting for these factors, the revised water-to-oil ratio is 2.49 barrels of water per barrel of oil produced.

This analysis estimates the impact cost to net general fund revenues and other programs could range from none to minimal. The fiscal impact range of this analysis is detailed in the revenue table above.

SIGNIFICANT ISSUES

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

- Section 10 of HB 137 may require further clarification and definition to enable Tax & Revenue to collect and administer the new fee. DFA recommends referring to the agency's FIR.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The state of New Mexico would forgo an innovative approach to diversify its economy and reduce demand on freshwater by being at the forefront of using Advanced Market or Purchase Commitments for end users in search of water for clean energy production/storage projects, and advanced manufacturing.

AMENDMENTS