LFC Requester:	Austin Davidson

AGENCY BILL ANALYSIS

SECTION I: GENERAL INFORMATION

Check all that apply:

Original x **Amendment** ____
Correction ____ **Substitute** ____

Date 1/22/25
Bill No: HB 137

Sponsor: Rep. Susan Herrera
Short Title:

Agency Name and Code Number: EMNRD 521
Person Writing Ben Shelton, Deputy Secretary
Phone: 505-487-6648 **Email** Benjamin.shelton@emnrd.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
	$107,750	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	**$34,000**	**$68,000**	Recurring	Strategic Water Supply Fund (proposed)

(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	$153	$153	$153	$459	Recurring	Strategic Water Supply Fund (proposed)

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

HB 137 creates a new program that enables three agencies – the Office of the State Engineer (OSE), the New Mexico Environment Department (NMED), and the Energy, Minerals and Natural Resources Department (EMNRD) – to issue grants or enter into contracts to promote the treatment of brackish water, and in certain circumstances, produced water from oil and gas operations.

Grant and contracts awarded by issuing agencies are required to be supported by showings that the awarded projects will satisfy objectives such as reducing the state's reliance on other fresh water supplies, support local economic development objectives, and limit the emission of greenhouse gases, among others.

The funds the agencies award contracts and grants from is created from a new Strategic Water Supply fund that is funded by assessing a $.05/barrel fee on produced water. The fee will be assessed on producers directly on a monthly basis. The fee volumes will be certified by the Oil Conservation Division and collected by the Taxation and Revenue Department.
The bill includes conforming amendments to the tax code to enable the Taxation and Revenue Department to collect the fees and share information with EMNRD as needed. Finally, it includes a non-impairment finding requirement for certain water wells.

FISCAL IMPLICATIONS

EMNRD's Oil Conservation Division estimates that this bill would necessitate the hiring of one additional FTE classified as a Petroleum Specialist III. Mid-point compensation for this classification (including benefits) is $123,000 per year. This FTE will play a lead role in the development of the reporting and monitoring rulemaking requirement in Section 10 and be the lead staffer for certifying volumes and ensuring timely and accurate report to TRD. As the Division anticipates being able to automate this process, this staffer will generally serve as an oversight, quality control, and troubleshooting role in this reporting effort.

Additionally, the Division estimates that there may be additional IT related contractual needs in the 300s to accommodate the increased data collection and fully automate the reporting process to TRD. The Division estimates this annual requirement to be approximately $30,000/year.

Because of the ability of administering agencies to draw funds from the SWS Fund to cover administrative costs associated with the program, EMNRD does not anticipate requiring any additional recurring general funds to administer this program.

The revenue projections for the assessment of the fee are based on approximating taxable volumes of produced water from the 2023 production year (1.36 billion bbl) and applying the per bbl fee to that volume. Year over year revenues from the fee are difficult to project precisely due to fluctuations in production and the possible maturation of a recycled/reused water market, discussed more below. The FY 26 revenue is halved to reflect the commencement of collection of the fee by TRD on January 1, 2026.

SIGNIFICANT ISSUES

EMNRD's Energy Conservation and Management Division (ECAM) is generally tasked with assisting in the planning and implementation of the state's transition to zero emissions and renewable energy sources. A key element of this transition involves attracting industries that specialize in the production of key renewable energy components to New Mexico. We have seen this process begin already as the state has seen production for wind turbine towers, solar panels, and solar tracking systems either locate or expand in New Mexico. These sorts of industrial processes require water. Providing an alternate avenue for these companies to acquire the water they need to operate can take them out of competition with agriculture and residential consumers for the state's increasingly scarce freshwater supplies. Delivering companies water in this way can also provide the sort of long-term operational certainty that makes it easier to sign long term leases, delivery contracts, and attract financing. Stabilizing water supplies for the private companies that are making New Mexico's energy transition possible will help ensure the durability of that energy transition and the ability of New Mexico to continue to take advantage of its world class renewable energy resources.

Increasingly, the ability to manage and dispose of produced water is one of the primary constraints on production in Permian basin in Southeastern New Mexico. The industry currently generates over 2 billion barrels of produced water per year. The practice of recycling this water for use inside the oil field has been on the uptick in recent years but recycled or reused produced water still only accounts for approximately 60% of the water utilized in oil and gas operations. The bill proposes to authorize contracts (not grants) for produced water projects that will treat water for uses off the oilfield, as authorized by NMED pursuant to the Water Quality Act and Water Quality Control Commission regulations, some of which are currently under review by the Commission. While it's unlikely that the fund itself can sponsor enough projects to make a significant dent in the produced water takeaway issue in the Permian, it has great value as a proof of concept that can kickstart a broader produced water treatment and deployment industry in accordance with science-based regulations that protect the environment and public health.

While it may slightly impact some of the revenue projections, the presence of the fee may have a secondary effect of incentivizing reuse of produced water in oilfield operations. OCD has explored several options to attempt to shift more of the industry's water use to recycled water, and the fee may have the effect of producing some meaningful market pressure for the industry to build out additional tools to incentivize investments in water reuse infrastructure.

PERFORMANCE IMPLICATIONS

Section 4 of the bill requires that financial assurance be furnished to OCD as a part of any contract awarded under the program. OCD currently holds hundreds of financial assurances for oil and gas wells across the state.

Holding the additional financial assurances for projects authorized under the fund is unlikely to have any performance impact on the OCD staff currently charged with administering the

Division's FA program. OCD anticipates pursuing an MOA with OSE and NMED to address the administrative needs potentially involved should a financial assurance need to be forfeited.

ADMINISTRATIVE IMPLICATIONS

Section 10 of the bill requires the OCD to promulgate rules to clarify the process by which it will assess and report the volumes of water produced upon which the fee will be assessed. As a practical matter, this rulemaking process is likely to also articulate a transition process for operators to begin monitoring and reporting production more closely than is the current industry standard.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

New Mexico will not have access to a fund to incentivize the treatment and reuse of brackish and produced water. Opportunities to advance treated brackish water and treated produced water to meet economic development demands without depleting freshwater resources will move more slowly and development of these new sources of water may not be targeted to state, tribal and local economic development priorities, including efforts to further the clean energy transition in New Mexico.

AMENDMENTS

On Page 21, line 14 – insert the word "recovery" after the word "oil"

This change corrects a typo in the introduced version

On Page 21, line 7 – change "working interest owners" to "operators"

This change clarifies the regulated entity

On Page 21, line 6 – Before "until" insert "Commencing on January 1, 2026 and"
This change was requested by TRD to give them the ability to develop the administrative processes necessary to assess and collect the fee.

On Page 21, line 10-11, strike "by the oil conservation division of the energy minerals and natural resources department"

This change is a conforming amendment with the following amendments to sections C and D.

On page 21 starting at line 25 continuing to page 22, line 18 – strike subsections C and D and replace them with the following new sections C and D:

"C. The operator of an oil or gas well shall report to the taxation and revenue department and oil conservation division the monthly production volume of produced water on or before the twenty-fifth day of the second month following the month of the submission of the monthly volume report required by the Oil and Gas Act.

D. The produced water fee shall be remitted to the taxation and revenue department on or before the day of the submission of the monthly production volume of produced water required pursuant to Subsection C of this section."

This change is designed to have the collection process for the fee more closely mirror other revenues collected by TRD from oil and gas operators, and to avoid unnecessary duplication of efforts by EMNRD.