

LFC Requester:

Austin Davidson

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 1/31/2025

Check all that apply:

Bill Number: SB37

Original Correction
Amendment Substitute

Sponsor: Sen. Elizabeth "Liz" Stefanics, Rep. Meredith A. Dixon, Rep. Matthew McQueen, Sen. Peter Wirth

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue 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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Section 1 of the bill adds a new section to NMSA 1978, Chapter 72, Article 14 thereby creating a strategic water reserve fund. The fund is a non-reverting fund – except for balances exceeding \$15,000,000, which shall revert to the general fund – and is used to further the purposes of the strategic water reserve, established at NMSA 1978, Section 72-14-3.3. The bill provides that the Interstate Stream Commission (“ISC”) administers the fund and sets limitations of the use of the fund for one of the purposes identified Section 72-14-3.3, namely, aquifer recharge and ground water depletion reduction. This purpose is a new purpose proposed in Section 2 of the bill.

Section 2 of the bill amends existing statute that established the strategic water reserve, NMSA 1978, 72-14-3.3, by creating an added purpose for the strategic water reserve, namely, aquifer recharge or the reduction of ground water depletion in order to promote stream flow or other environmental benefits.

This section also adds a new subsection of the statute that directs the ISC to consider supplemental benefits when developing river reach or ground water basin priorities for the acquisition of water or water rights and storage rights for the strategic water reserve. The bill identifies three supplemental benefits for ISC’s consideration, namely (1) supporting traditional and cultural practices, (2) habitat improvement, or (3) recreational opportunities within the affected water reach or ground water basin. Finally, the new subsection allows but does not require the ISC to prioritize transactions that meet at least one these supplemental benefits.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

The proposed legislation may establish new unstated obligations for the New Mexico Department of Justice (“NMDOJ”), as discussed below in performance implications. The additional obligations may have fiscal implications for the NMDOJ, as additional resources may

be required to meet the obligations.

SIGNIFICANT ISSUES

The bill does not define the supplemental benefits listed in Section 2 (new Paragraph (3) of Subsection (B)). Identifying what constitutes “traditional and cultural practices”, “habitat improvement” or “recreational opportunities” may present difficulties in implementing the new subsection. Alternatively, given the ISC’s rulemaking authority under current NMSA 1978, Section 73-14-3.3(I), clarification or further refinement of the bill’s supplemental benefits could be accomplished through rulemaking.

PERFORMANCE IMPLICATIONS

The existing statute at NMSA 1978, 73-14-3.3(C) requires the ISC to consult with the NMDOJ in developing river reach or ground water basin priorities for the acquisition of water or water rights and storage rights for the strategic water reserve. Although the bill does not explicitly add additional obligations on the NMDOJ, the addition of the consideration of supplemental benefits adds another layer of analysis to the determination of priorities. Such additional analysis, especially without further clarification of the supplemental benefits identified in the bill, may require additional resources from the NMDOJ.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

In Paragraph (3) of Subsection B, the bill uses the term “reserve” presumably when referring to the strategic water reserve. In the two preceding paragraphs the term “strategic water reserve” is used. For consistency and clarity, consider replacing “reserve” with “strategic water reserve” in Paragraph (3).

Similarly, unlike limiting language found in the preceding Paragraph (2), which provides that the “use of the strategic water reserve *pursuant to this paragraph* shall be limited to aquatic or obligate riparian species” (emphasis added), Paragraph (3) provides that “[s]urface water leased or purchased for the reserve shall not be converted to ground water via any methods other than natural, passive infiltration through the streambed.” Unless the limitation found in Paragraph (3) “shall not be converted to ground water via any methods other than natural, passive infiltration through the streambed” is intended to apply to all listed purposes of the strategic water reserve and not just to those purposes identified in Paragraph (3), consider adding the following italicized and underlined language: “[s]urface water leased or purchased for the reserve *pursuant to this paragraph* shall not be converted to ground water via any methods other than natural, passive infiltration through the streambed.”

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A.