

LFC Requestor: Self Assigned

**2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS**

Section I: General

Chamber: House
Number: 137

Category: Bill
Type: Introduced

Date (of THIS analysis): 1/22/25
Sponsor(s): Susan K Herrera
Short Title: STRATEGIC WATER SUPPLY ACT

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
None	None	N/A	N/A
None	None	N/A	N/A
None	None	Nonrecurring	General Fund

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
None	None	None	N/A	N/A
			N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$0	\$0	\$0	N/A	N/A

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

BILL SUMMARY

Synopsis: House Bill 137 (HB137) creates the Strategic Water Supply Program, which would provide funds for the state to safely and effectively develop treated brackish and treated produced water for some of the state's most critical water needs.

Section 1: This section of the bill contains the short title of the Strategic Water Supply Act.

Section 2: This section contains the definitions of the Strategic Water Supply Act. The definition of "brackish water" tracks with the definition of non-potable deep aquifers under NMSA 1978, § 72-12-25. This is water that is sourced from an aquifer that is deeper than 2,500 feet and has no less than 1,000 parts per million total dissolved solids (TDS). This ensures that brackish water for the Strategic Water Supply Program will not come from existing water rights and will be a new source of water to augment New Mexico's water supply needs.

Section 3: This section clarifies that the Strategic Water Supply Program applies only to brackish water as defined in the statute and produced water under the jurisdiction of the Water Quality Control Commission.

Section 4: Creates the Strategic Water Supply Program, authorizing the Energy, Minerals and Natural Resources Department (EMNRD), the Office of the State Engineer (OSE), and the New Mexico Environment Department (NMED) to enter into grants or contracts for eligible projects involving treated brackish or treated produced water

Projects seeking either grant or contract funds must (1) comply with state, federal, tribal, and local standards and permit requirements to protect public and environmental health, and (2) demonstrate how they will provide economic development in accordance with the program goals of reducing freshwater reliance or expanding water reuse opportunities. When EMNRD, OSE, or

NMED evaluates a project proposal, they must do so in accordance with the State-Tribal Consultation Act (where applicable), consult with the Economic Development Department, and evaluate how the proposals will limit greenhouse gas emissions.

Grants are only available to public entities (potentially in partnership with private entities) for treated brackish water projects and must receive OSE approval that the project will advance exploration, production, or treatment of brackish water in New Mexico.

Contracts are available more broadly and are bound by the Procurement Code with the exception that the contracts can extend for 20 years. Projects seeking contract funding must provide financial assurance to EMNRD's Oil Conservation Division and a specific, actionable and measurable community benefits plan, including a process for community engagement. All contracts must comply with New Mexico's Water Quality Act and Water Quality Control Commission regulations regarding reuse of treated produced water.

Section 5: Creates the Strategic Water Supply Program Fund. NMED is tasked with administering the fund, which is available to support Strategic Water Supply grants and contracts through EMNRD, OSE, and NMED. Agency heads from all three agencies must sign off on all expenditures from the fund and must coordinate with the Economic Development Department regarding project selections.

Section 6: Amends Section 7-1-2 of the Tax Administration Act to specify that the produced water fee imposed under the Strategic Water Supply Program would be collected and administered by the Taxation and Revenue Department.

Section 7: Authorizes taxation and revenue department staff to disclose confidential return information to the energy, minerals and natural resources department for the purpose of identifying delinquent or noncompliant with the fee requirements of the Strategic Water Supply Act.

Section 8: This section amends the Oil Conservation Division's enumeration of powers to include requiring reporting of produced water and the assessment of a fee

Section 9: This section updates the title of the Produced Water Act to reflect its codification.

Section 10: This section creates a \$.05/bbl fee on water produced from oil and gas operations, to be assessed on operators. Volumes of water used that are recycled or reused in operations are not subject to the fee. The fee is certified by the Oil Conservation Division and collected by the Taxation and Revenue Department. The Oil Conservation Division is required to promulgate rules to clarify the new water reporting procedures.

Section 11: This section amends the Water Code to make clear that, for applications to drill wells to appropriate water from non-potable deep aquifers (which is defined as brackish water under the Strategic Water Supply Program) will be reviewed by the Office of the State Engineer to ensure that the use of water stated in the notice will not impair existing water rights, be contrary to the conservation of water within the state or be detrimental to the public welfare of the state. The Office of the State Engineer already conducts such a review for these applications, but this provision will ensure that that review is enshrined in law.

Section 12: This section contains the appropriations for the Strategic Water Supply Program. It contains a \$75 million appropriation for the Strategic Water Supply Program Fund, a \$28,750,000 appropriation for New Mexico Tech to perform aquifer monitoring and improved ground water characterization in FY26 through FY28, and a \$4 million appropriation for NMSU for innovation, research, monitoring, support and development of technology associated with potential projects for a Strategic Water Supply Program grant or contract in FY26 through FY28.

FISCAL IMPLICATIONS

HB137 appropriates a total of \$107.75 million from the General Fund, including \$75 million to the SWS Program Fund to support SWS projects, \$28.75 million to the New Mexico Institute of Mining and Technology for aquifer monitoring and improved ground water characterization, and \$4 million to New Mexico State University for innovation, research, monitoring, support, and development of technology associated with potential projects for a SWS grant or contract.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

Developing alternative water sources to preserve freshwater resources is important for New Mexico as the state experiences a continued decline in surface water and groundwater supplies. NM is projected to see a 16 – 28% lower flow in the state’s major rivers over the next 50 years, resulting in lower groundwater supply, with an annual demand for water expected to increase by 143 million gallons between 2010 and 2060 (New Mexico Strategic Water Feasibility Study, 2024).

With the second largest oil and gas industry in the country, NM production is predicted to rise from current levels of around 700 million barrels per year to reach a peak of around 800 million barrels per year around 2030. With this trend, the amount of produced water generated by oil and gas extractions has increased 2.4 times since 2017, currently at a rate of about 2 billion barrels of produced water per year. Produced water in our state is currently managed by injection for disposal, injected for enhanced oil recovery, reuse for drilling and hydraulic fracturing, or placed in pits for evaporation (New Mexico Strategic Water Feasibility Study, 2024).

The proposed Strategic Water Supply Program and Strategic Water Supply Program Fund aims to spur investment in creation of advanced technologies to treat produced and brackish water to offset the decrease in available freshwater. Some of these technologies, outlined in the New Mexico Strategic Water Supply Feasibility Study created for the NM Environment Department in November 2024, are more aligned with New Mexico’s development goals to support clean energy and advanced manufacturing industries. This will help transition our state to different energy sources like green hydrogen production and make use of waste streams in place of freshwater.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

Yes No

If yes, describe how.

- Is this proposal related to the NMDOH Strategic Plan? Yes No

Goal 1: We expand equitable access to services for all New Mexicans

Goal 2: We ensure safety in New Mexico healthcare environments

Goal 3: We improve health status for all New Mexicans

Goal 4: We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

This would likely primarily be an issue in the two areas of the state that produce oil and gas: the Permian Basin (Lea, Eddy, Chaves, and Roosevelt Counties in the southeast) and the San Juan Basin (San Juan, Rio Arriba, Sandoval, and McKinley Counties in the northwest) although all residents will be impacted.

9. HEALTH IMPACT(S)

Water is critical to our health. According to New Mexico's 50-year Water Action Plan, the state will have approximately 25% less water available in rivers and aquifers over the next 50 years (<https://www.nm.gov/wp-content/uploads/2024/01/New-Mexico-50-Year-WaterAction-Plan.pdf>). The proposed Strategic Water Supply Act, Program and Fund will help address identified issues and priorities in the 50-year Water Action Plan, thus ensuring enough water for the state in the future.

10. ALTERNATIVES

There are currently no other mechanisms to accomplish what the bill proposes.

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If HB137 is not enacted, then the Strategic Water Supply Act, Program, and Fund will not be created.

12. AMENDMENTS

None.