

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 2-2-06  
 LAST UPDATED 2/3/06      HB 565/aHENRC

SPONSOR Moore

SHORT TITLE Strategic Water Reserve      SB \_\_\_\_\_

ANALYST Woods

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	\$5,000.0	Non-Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the State Engineer-Interstate Stream Commission (OSE)  
 Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of HENRC Amendment

The House Energy and Natural Resources Committee amendment strikes the original language regarding the purchase of water rights from willing sellers and replaces it with a specific citation to state statutes governing the strategic water reserve. This addresses a concern with the original language expressed by OSE. The amount of the requested appropriation remains unchanged at \$5,000,000.

#### Synopsis of Original Bill

House Bill 565, making an appropriation for the strategic water reserve, seeks to appropriate \$5,000,000 from the general fund to the Interstate Stream Commission for expenditure in fiscal year 2007 to purchase water rights from willing sellers for the strategic water reserve. Any unexpended or unencumbered balance remaining at the end of fiscal year 2007 shall revert to the general fund.

## **SIGNIFICANT ISSUES**

As background, the Office of the State Engineer-Interstate Stream Commission (OSE) indicates that New Mexico's rivers are the lifeblood of the state's communities. Today those rivers are increasingly threatened by the colliding forces of drought, population growth, and the competing demands of the federal government and bordering states. The Strategic Water Reserve (SWR) was created in 2005 with strong bipartisan support to create a pool of publicly held water dedicated to meet the needs of river-dependent endangered species and fulfill New Mexico's water delivery obligations to other states. Through the SWR the OSE may purchase or lease or receive by donation, water and water rights for assisting the state and water users in complying with interstate stream compacts, court decrees, and managing threatened and endangered species. OSE further notes that this legislation seeks the continued implementation of an action item in the New Mexico State Water Plan, and that these funds will help the state meet its interstate stream obligations and implement projects for river-dependent endangered species.

## **ADMINISTRATIVE IMPLICATIONS**

OSE notes that this bill proposes the funding be used solely for the purchase of water rights from willing sellers for the SWR. The SWR, however, authorizes the various willing seller type arrangements described above to meet the purposes of the SWR. The bill should be amended to allow the funding to be used in accordance with the SWR statute.

OSE additionally notes that this bill proposes to provide funds for the acquisition of water rights in one year. Because the acquisition of water and water rights can be a difficult and time consuming process with individual transfers requiring multiple months, if not a year or more, to complete, the bill should be amended to allow expenditure of the funds over a longer period.

DFA also suggests that the appropriation period should be extended because it may take time to identify and purchase the water rights.

## **OTHER SUBSTANTIVE ISSUES**

OSE suggests that in order to assure that net depletions within a basin have not increased from implementation of the strategic water reserve, it will be necessary to ensure water uses cease on those lands where the appurtenant water rights/leases have been obtained. Further, that this effort is consistent with the State Engineer's Active Water Resource Management Initiative.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Water rights/leases would not be purchased for the Strategic Water Reserve; correspondingly, New Mexico will have fewer management alternatives. The ISC will maintain authority to accomplish the goals of the SWR but it will not have additional funding to do so.

## **AMENDMENTS**

OSE suggests the following amendment to the legislation:

On page 1, lines 14 through 20, strike Section 1 in its entirety and insert in lieu thereof:

“Section 1. APPROPRIATION.—Five million dollars (\$5,000,000) is appropriated from the general fund to the interstate stream commission for expenditure in fiscal years 2007 through 2011 to meet the purposes of the strategic water reserve as authorized by Section 72-14-3.3 NMSA 1978 (being laws 2005, chapter 175, Section 1, and Laws 2005, Chapter 182. Section 1). Any unexpended or unencumbered balance remaining at the end of fiscal year 2011 shall revert to the general fund.

BW/yr:nt