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HOUSE MEMORIAL 85

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Nathan "Nate" Cote

A MEMORIAL

REQUESTING THE NEW MEXICO LEGISLATIVE COUNCIL TO DIRECT THE APPROPRIATE INTERIM COMMITTEE TO HEAR TESTIMONY ON SECTION 72-1-9 NMSA 1978 (BEING LAWS 1985, CHAPTER 198, SECTION 1, AS AMENDED), THE FORTY-YEAR WATER PLANNING STATUTE, AND MAKE RECOMMENDATIONS FOR AMENDMENTS BY DECEMBER 1, 2013.

WHEREAS, the state's forty-year water planning statute, Section 72-1-9 NMSA 1978, was first adopted in 1985 and has since been amended five times; and

WHEREAS, this law enables "municipalities, counties, school districts, state universities, member-owned community water systems, special water users' associations and public utilities supplying water to municipalities or counties" to have a planning period not to exceed forty years without actually using their water and still retain their water rights;

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1 and

2 WHEREAS, a stated rationale for this law, when first
3 enacted, was that public utilities, and these other entities,
4 need a planning horizon of forty years to make their water
5 infrastructure design and deployment plans coherent and
6 effective without the risk of losing their water rights through
7 abandonment or forfeiture; and

8 WHEREAS, concerns about the forty-year water planning
9 period have always included a concern that this would somehow
10 allow water speculation; and

11 WHEREAS, House Bill 94, introduced during the 2013
12 session, would clarify that the forty-year exemption from
13 abandonment or forfeiture includes public utilities serving
14 residents within municipalities and counties, not just public
15 utilities selling water to municipal or county governments, and
16 this has again raised concerns of water speculation; and

17 WHEREAS, House Bill 94 was tabled in the house agriculture
18 and water resources committee with the express understanding
19 that an appropriate interim committee would be the best venue
20 for review of and a vigorous public policy debate over the
21 forty-year water planning process;

22 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
23 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the New Mexico
24 legislative council be requested to direct the appropriate
25 interim committee to hear testimony from the office of the

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1 state engineer, the public regulation commission, public
2 utilities and the New Mexico municipal league regarding the
3 effect of Section 72-1-9 NMSA 1978, whether this statute has
4 been erroneously interpreted to exclude public utilities that
5 do not sell water to municipal or county governments from
6 having a forty-year exemption from forfeiture or abandonment of
7 their water rights for a planning period and whether there is
8 any significant potential that the proposed clarification would
9 increase water speculation; and

10 BE IT FURTHER RESOLVED that the appropriate interim
11 committee also hear testimony in consideration of whether
12 Section 72-1-9 NMSA 1978 shall be amended; and

13 BE IT FURTHER RESOLVED that the appropriate interim
14 committee report its findings and proposed legislation by
15 December 1, 2013; and

16 BE IT FURTHER RESOLVED that copies of this memorial be
17 transmitted to the co-chairs of the New Mexico legislative
18 council, the state engineer and the executive director of the
19 New Mexico municipal league.