

SENATE BILL 37

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO WATER; CREATING THE STRATEGIC WATER RESERVE FUND TO BE ADMINISTERED BY THE INTERSTATE STREAM COMMISSION; PROVIDING THAT THE STRATEGIC WATER RESERVE SHALL BE USED TO ASSIST IN WATER MANAGEMENT AND CONSERVATION EFFORTS DESIGNED TO SUPPORT AQUIFER RECHARGE OR REDUCE GROUND WATER DEPLETION; ALLOWING THE INTERSTATE STREAM COMMISSION TO PRIORITIZE WATER TRANSACTIONS THAT PROVIDE SUPPLEMENTARY BENEFITS IN ADDITION TO AT LEAST ONE AUTHORIZED PURPOSE; MAKING AN APPROPRIATION.

.229819.1AIC February 12, 2025 (9:51am)

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 72, Article 14 NMSA 1978 is enacted to read:

"[NEW MATERIAL] STRATEGIC WATER RESERVE FUND--CREATED.--

A. The "strategic water reserve fund" is created in the state treasury. The fund consists of distributions, appropriations, gifts, grants, donations and income from investment of the fund. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall not revert except for balances that exceed fifteen million dollars (\$15,000,000), which shall revert to the general fund at the end of the fiscal year.

B. The interstate stream commission shall administer the fund. Money in the fund is appropriated to the interstate stream commission for the purposes of the strategic water reserve pursuant to Section 72-14-3.3 NMSA 1978; provided that over any five-year period, no more than twenty-five percent of money expended shall be used for the purpose of aquifer recharge and ground water depletion reduction pursuant to Paragraph (3) of Subsection B of Section 72-14-3.3 NMSA 1978. Expenditures from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the interstate stream commission or the director's authorized representative."

SECTION 2. Section 72-14-3.3 NMSA 1978 (being Laws 2005, Chapter 175, Section 1 and Laws 2005, Chapter 182, Section 1,

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as amended) is amended to read:

"72-14-3.3. INTERSTATE STREAM COMMISSION--ADDITIONAL POWERS--STRATEGIC WATER RESERVE.--

A. The interstate stream commission shall establish a strategic water reserve and may purchase or lease from willing sellers or lessors or receive through donation surface water or water rights or storage rights to compose the reserve. The commission may also purchase or lease from willing sellers or lessors or receive by donation underground water or water rights for the strategic water reserve for cessation of pumping or limited short-term stream augmentation. At no time shall the use of water or water rights held by the strategic water reserve result in an increase in net depletions in any basin. The commission shall pay no more than the appraised market value to purchase or lease water or water rights and storage rights for the strategic water reserve. The commission may accept money or grants from federal or other governmental entities or other persons to purchase or lease water or water rights for the strategic water reserve, to pay administrative costs and to develop, construct, operate and maintain infrastructure for the delivery of water to the location of need. The commission shall not acquire water or water rights that are served by or owned by an acequia or community ditch established pursuant to Chapter 73, Articles 2 and 3 NMSA 1978 for inclusion in the strategic water reserve. The commission shall not acquire water or water rights that are served by an

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irrigation district established pursuant to Chapter 73, Article 10 NMSA 1978, except through contractual arrangement with the district board of directors or as a special water users association established pursuant to Chapter 73, Article 10 NMSA 1978, but nothing in this section shall be construed to authorize the interstate stream commission to acquire water rights contrary to Section 72-1-2.4 NMSA 1978. The commission shall acquire only water rights that have sufficient seniority and consistent, historic beneficial use to effectively contribute to the purpose of the strategic water reserve. The commission shall not acquire water or water rights for the strategic water reserve by condemnation and may only condemn real property when that property is needed for infrastructure related to the conveyance of water. Water in the strategic water reserve shall not be subject to forfeiture pursuant to Chapter 72 NMSA 1978. Water or water rights shall only be acquired with the explicit approval of the commission.

B. Water and water rights in the strategic water reserve shall be used to:

(1) assist the state in complying with interstate stream compacts and court decrees; [☐]

(2) assist the state and water users in water management efforts for the benefit of threatened or endangered species or in a program intended to avoid additional listings of species. Management of water pursuant to this subsection shall be done in conjunction with collaborative programs or

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processes where they exist. Use of the strategic water reserve pursuant to this paragraph shall be limited to aquatic or obligate riparian species; or

(3) assist the state or water users with water management and water conservation efforts designed to support aquifer recharge or reduce ground water depletion SCONC→,←SCONC in order to promote stream flow or other environmental benefits. Surface water leased or purchased for the SCONC→~~reserve~~←SCONC SCONC→purpose of this paragraph←SCONC shall not be converted to ground water via any methods other than natural, passive infiltration through the streambed.

C. The interstate stream commission shall develop river reach or ground water basin priorities for the acquisition of water or water rights and storage rights for the strategic water reserve in consultation with the New Mexico interstate stream compact commissioners, the office of the state engineer and the ~~[attorney general's office]~~ state department of justice. For each river reach or ground water basin, additional prioritization shall be developed in coordination with the governing bodies of the following organizations within the affected river reach or ground water basin:

- (1) Indian nations, tribes and pueblos;
- (2) boards of county commissioners;
- (3) municipalities;
- (4) special districts established pursuant to

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Chapter 73 NMSA 1978;

- (5) soil and water conservation districts;
- (6) water authorities; and
- (7) water planning regions.

D. Nothing in this section shall modify or repeal any authority currently vested in any organization described in Subsection C of this section.

E. When establishing priorities for acquisition of water or water rights and storage rights for the strategic water reserve pursuant to Subsection C of this section, the interstate stream commission shall consider ~~whether the acquisition will provide~~ SCONC → ~~whether the acquisition will provide~~ ← SCONC SCONC → potential ← SCONC supplementary benefits, such as supporting traditional and cultural practices, habitat improvement or recreational opportunities within the affected water reach or ground water basin. The interstate stream commission may prioritize transactions that meet at least one of these supplementary benefits, in addition to at least one of the purposes described in Subsection B of this section.

[E.] F. The interstate stream commission may sell or lease water or water rights from the strategic water reserve at no less than the appraised market value. The commission may sell water rights only if the rights are no longer necessary for the purposes for which they were acquired for the reserve; provided that water rights in the reserve shall not be sold to the United States. Pursuant to a sale of water rights from the

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strategic water reserve by the interstate stream commission, the commission shall first make the offer of sale for the original purpose of use. Proceeds of any sale are appropriated to the office of the state engineer to adjudicate water rights. Proceeds of any leases are appropriated to the interstate stream commission for carrying out the purposes of the strategic water reserve.

[F.] G. Water or water rights acquired for the strategic water reserve or water or water rights sold or leased from the reserve shall remain in their river reach or ground water basin of origin.

[G.] H. Transactions with members of an irrigation or conservancy district established pursuant to Chapter 73 NMSA 1978 shall provide for the strategic water reserve to pay the annual assessment to the district that would accrue to the district absent the transaction.

[H.] I. Cumulative impacts of the strategic water reserve acquisitions and uses shall not adversely affect existing water users or delivery systems.

[I.] J. The interstate stream commission shall adopt rules consistent with the terms of this section, including rules to ensure:

(1) that water and water rights acquired for the strategic water reserve are used only for the purposes of the reserve;

(2) adequate public notice in each affected

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area for the acquisition or disposal of water rights; and

(3) that the office of the state engineer transfer procedures shall be followed.

[J.] K. The interstate stream commission shall annually report to the appropriate committee of the legislature on the status of the strategic water reserve."