

1 SENATE BILL 37

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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5 and Matthew McQueen and Peter Wirth
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10 AN ACT

11 RELATING TO WATER; CREATING THE STRATEGIC WATER RESERVE FUND TO
12 BE ADMINISTERED BY THE INTERSTATE STREAM COMMISSION; PROVIDING
13 THAT THE STRATEGIC WATER RESERVE SHALL BE USED TO ASSIST IN
14 WATER MANAGEMENT AND CONSERVATION EFFORTS DESIGNED TO SUPPORT
15 AQUIFER RECHARGE OR REDUCE GROUND WATER DEPLETION; ALLOWING THE
16 INTERSTATE STREAM COMMISSION TO PRIORITIZE WATER TRANSACTIONS
17 THAT PROVIDE SUPPLEMENTARY BENEFITS IN ADDITION TO AT LEAST ONE
18 AUTHORIZED PURPOSE; MAKING AN APPROPRIATION.
19

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

21 SECTION 1. A new section of Chapter 72, Article 14 NMSA
22 1978 is enacted to read:

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

24 A. The "strategic water reserve fund" is created in
25 the state treasury. The fund consists of distributions,

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1 appropriations, gifts, grants, donations and income from
2 investment of the fund. Any unexpended or unencumbered balance
3 remaining in the fund at the end of a fiscal year shall not
4 revert except for balances that exceed fifteen million dollars
5 (\$15,000,000), which shall revert to the general fund at the
6 end of the fiscal year.

7 B. The interstate stream commission shall
8 administer the fund. Money in the fund is appropriated to the
9 interstate stream commission for the purposes of the strategic
10 water reserve pursuant to Section 72-14-3.3 NMSA 1978; provided
11 that over any five-year period, no more than twenty-five
12 percent of money expended shall be used for the purpose of
13 aquifer recharge and ground water depletion reduction pursuant
14 to Paragraph (3) of Subsection B of Section 72-14-3.3 NMSA
15 1978. Expenditures from the fund shall be by warrant of the
16 secretary of finance and administration pursuant to vouchers
17 signed by the director of the interstate stream commission or
18 the director's authorized representative."

19 SECTION 2. Section 72-14-3.3 NMSA 1978 (being Laws 2005,
20 Chapter 175, Section 1 and Laws 2005, Chapter 182, Section 1,
21 as amended) is amended to read:

22 "72-14-3.3. INTERSTATE STREAM COMMISSION--ADDITIONAL
23 POWERS--STRATEGIC WATER RESERVE.--

24 A. The interstate stream commission shall establish
25 a strategic water reserve and may purchase or lease from

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1 willing sellers or lessors or receive through donation surface
2 water or water rights or storage rights to compose the reserve.
3 The commission may also purchase or lease from willing sellers
4 or lessors or receive by donation underground water or water
5 rights for the strategic water reserve for cessation of pumping
6 or limited short-term stream augmentation. At no time shall
7 the use of water or water rights held by the strategic water
8 reserve result in an increase in net depletions in any basin.
9 The commission shall pay no more than the appraised market
10 value to purchase or lease water or water rights and storage
11 rights for the strategic water reserve. The commission may
12 accept money or grants from federal or other governmental
13 entities or other persons to purchase or lease water or water
14 rights for the strategic water reserve, to pay administrative
15 costs and to develop, construct, operate and maintain
16 infrastructure for the delivery of water to the location of
17 need. The commission shall not acquire water or water rights
18 that are served by or owned by an acequia or community ditch
19 established pursuant to Chapter 73, Articles 2 and 3 NMSA 1978
20 for inclusion in the strategic water reserve. The commission
21 shall not acquire water or water rights that are served by an
22 irrigation district established pursuant to Chapter 73, Article
23 10 NMSA 1978, except through contractual arrangement with the
24 district board of directors or as a special water users
25 association established pursuant to Chapter 73, Article 10 NMSA
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1 1978, but nothing in this section shall be construed to
2 authorize the interstate stream commission to acquire water
3 rights contrary to Section 72-1-2.4 NMSA 1978. The commission
4 shall acquire only water rights that have sufficient seniority
5 and consistent, historic beneficial use to effectively
6 contribute to the purpose of the strategic water reserve. The
7 commission shall not acquire water or water rights for the
8 strategic water reserve by condemnation and may only condemn
9 real property when that property is needed for infrastructure
10 related to the conveyance of water. Water in the strategic
11 water reserve shall not be subject to forfeiture pursuant to
12 Chapter 72 NMSA 1978. Water or water rights shall only be
13 acquired with the explicit approval of the commission.

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

16 (1) assist the state in complying with
17 interstate stream compacts and court decrees; ~~[or]~~

18 (2) assist the state and water users in water
19 management efforts for the benefit of threatened or endangered
20 species or in a program intended to avoid additional listings
21 of species. Management of water pursuant to this subsection
22 shall be done in conjunction with collaborative programs or
23 processes where they exist. Use of the strategic water reserve
24 pursuant to this paragraph shall be limited to aquatic or
25 obligate riparian species; or

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1 (3) assist the state or water users with water
2 management and water conservation efforts designed to support
3 aquifer recharge or reduce ground water depletion in order to
4 promote stream flow or other environmental benefits. Surface
5 water leased or purchased for the reserve shall not be
6 converted to ground water via any methods other than natural,
7 passive infiltration through the streambed.

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

- 19 (1) Indian nations, tribes and pueblos;
20 (2) boards of county commissioners;
21 (3) municipalities;
22 (4) special districts established pursuant to
23 Chapter 73 NMSA 1978;
24 (5) soil and water conservation districts;
25 (6) water authorities; and

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1 (7) water planning regions.

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

5 E. When establishing priorities for acquisition of
6 water or water rights and storage rights for the strategic
7 water reserve pursuant to Subsection C of this section, the
8 interstate stream commission shall consider whether the
9 acquisition will provide supplementary benefits, such as
10 supporting traditional and cultural practices, habitat
11 improvement or recreational opportunities within the affected
12 water reach or ground water basin. The interstate stream
13 commission may prioritize transactions that meet at least one
14 of these supplementary benefits, in addition to at least one of
15 the purposes described in Subsection B of this section.

16 ~~[E.]~~ F. The interstate stream commission may sell
17 or lease water or water rights from the strategic water reserve
18 at no less than the appraised market value. The commission may
19 sell water rights only if the rights are no longer necessary
20 for the purposes for which they were acquired for the reserve;
21 provided that water rights in the reserve shall not be sold to
22 the United States. Pursuant to a sale of water rights from the
23 strategic water reserve by the interstate stream commission,
24 the commission shall first make the offer of sale for the
25 original purpose of use. Proceeds of any sale are appropriated

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1 to the office of the state engineer to adjudicate water rights.
2 Proceeds of any leases are appropriated to the interstate
3 stream commission for carrying out the purposes of the
4 strategic water reserve.

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

9 ~~[G.]~~ H. Transactions with members of an irrigation
10 or conservancy district established pursuant to Chapter 73 NMSA
11 1978 shall provide for the strategic water reserve to pay the
12 annual assessment to the district that would accrue to the
13 district absent the transaction.

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

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

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

23 (2) adequate public notice in each affected
24 area for the acquisition or disposal of water rights; and

25 (3) that the office of the state engineer

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