

LFC Requester:

Laird Graeser

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://agencyanalysis.nmlegis.gov) and email to billanalysis@dfa.nm.gov*****(Analysis must be uploaded as a PDF)*****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** February 27, 2025 *Check all that apply:***Bill Number:** HB 137AAS/HENRC Original ☐ Correction ☐
Amendment ☐ Substitute ☒**Sponsor:** Rep. Susan K. Herrera **Agency Name and Code Number:** Office of the State Engineer 550**Person Writing Analysis:** Nat Chakeres**Short Title:** Strategic Water Supply Act **Phone:** (505) 231-4459 **Email:** Nathaniel.chakeres@se.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
	\$107, 750	Nonrecurring	General fund

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Bill 137 would create the Strategic Water Supply Program, which would provide funds for the state to safely and effectively develop treated brackish 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 in the committee substitute of "brackish water" tracks with the definition of underground waters in 72-12-1 but specifies it must include no less than 1,000 parts per million total dissolved solids (TDS). The definition confirms that brackish water does not include produced water. All provisions in the original bill relating to produced water were deleted by the HENRC committee substitute.

Section 3: Creates the Strategic Water Supply Program, authorizing 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 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 OSE or NMED evaluates a project proposal, they must do so in accordance with the State-Tribal Consultation Act, consult with the Economic Development Department, and evaluate how the proposals will limit greenhouse gas emissions.

Grants are only available to public entities 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 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.

Section 4: 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 OSE, and NMED. Agency heads from both agencies must sign off on all expenditures from the fund and must coordinate with the Economic Development Department regarding project selections.

Section 5: This section would amend Section 72-12-26 of the Water Code to make clear that, applications to drill wells from aquifers locations below 2,500 feet and with tds higher than 1000 ppm 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 the provisions are codified.

Section 6: This section was deleted through the amendment adopted in HAFC. The original bill contained \$75 million appropriation for the Strategic Water Supply Program Fund, \$28.75 million for New Mexico Tech to perform aquifer monitoring and improved ground water characterization in FY26 through FY28, and \$4 million 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

None

SIGNIFICANT ISSUES

The OSE, NMISC, NMED, along with other agencies and higher education institutions, are actively carrying out the administration's 50-Year Water Action Plan, which provides a roadmap for actions to ensure that New Mexico prepares a future with up to 25% less water given the realities of climate change.

At the same time, there are numerous economic development opportunities that need access to water. For example, renewable energy projects and cutting-edge manufacturing facilities need assurance that they will have reliable water supplies. In order to meet these opportunities, securing additional water supplies is critical. Brackish water is an additional source of supply and putting it to use will protect existing fresh water sources and ensuring that New Mexico's communities do not miss out on economic development opportunities even in the face of reduced water supplies. The bill also contains an appropriation for aquifer characterization for New Mexico Tech. As set forth in Action B3 of the 50-Year Water Action Plan, fully characterizing our aquifers is an absolutely critical component to support the SWS program.

Finally, the bill contains an amendment to the Water Code to ensure that development of brackish water from deep brackish aquifers would 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.. This is consistent with the current practice of the OSE, but the bill would secure those protections in statute.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The House Appropriations and Finance Committee Substitute for House Bill 2 includes: (1) \$40 million for SWS projects; (2) \$19 million for the New Mexico Institute of Mining and Technology for aquifer mapping; and (3) \$4 million for New Mexico State University for research, innovation, and support related to potential SWS projects.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

NMED and OSE are working with the bill sponsors to prepare a House floor amendment that clarifies the public involvement processes associated with permits and regulatory requirements for SWS projects and adds new authority that provides the opportunity for the public to object of protest State Engineer determinations related to brackish water wells deeper than 2500 feet below the surface for SWS projects.