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AN ACT

RELATING TO WATER; PROVIDING FOR A STRATEGIC WATER RESERVE;
PROVIDING FOR ADDITIONAL POWERS AND DUTIES OF THE INTERSTATE
STREAM COMMISSION.

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:

"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

1 persons to purchase or lease water or water rights for the
2 strategic water reserve and to pay administrative costs. The
3 commission shall not acquire water or water rights that are
4 served by or owned by an acequia or community ditch
5 established pursuant to Chapter 73, Articles 2 and 3 NMSA
6 1978 for inclusion in the strategic water reserve. The
7 commission shall not acquire water or water rights that are
8 served by an irrigation district established pursuant to
9 Chapter 73, Article 10 NMSA 1978, except through contractual
10 arrangement with the district board of directors or as a
11 special water users association established pursuant to
12 Chapter 73, Article 10 NMSA 1978, but nothing in this section
13 shall be construed to authorize the interstate stream
14 commission to acquire water rights contrary to Section
15 72-1-2.4 NMSA 1978. The commission shall acquire only water
16 rights that have sufficient seniority and consistent,
17 historic beneficial use to effectively contribute to the
18 purpose of the strategic water reserve. The commission shall
19 not acquire water or water rights for the strategic water
20 reserve by condemnation. Water in the strategic water
21 reserve shall not be subject to forfeiture pursuant to
22 Chapter 72 NMSA 1978. Water or water rights shall only be
23 acquired with the explicit approval of the commission.

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

1 (1) assist the state in complying with
2 interstate stream compacts and court decrees; or

3 (2) assist the state and water users in
4 water management efforts for the benefit of threatened or
5 endangered species or in a program intended to avoid
6 additional listings of species. Management of water pursuant
7 to this subsection shall be done in conjunction with
8 collaborative programs or processes where they exist. Use of
9 the strategic water reserve pursuant to this paragraph shall
10 be limited to aquatic or obligate riparian species.

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

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

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

4 Nothing in this section shall modify or repeal any authority
5 currently vested in any organization described in this
6 subsection.

7 D. The interstate stream commission may sell or
8 lease water or water rights from the strategic water reserve
9 at no less than the appraised market value. The commission
10 may sell water rights only if the rights are no longer
11 necessary for the purposes for which they were acquired for
12 the reserve; provided that water rights in the reserve shall
13 not be sold to the United States. Pursuant to a sale of
14 water rights from the strategic water reserve by the
15 interstate stream commission, the commission shall first make
16 the offer of sale for the original purpose of use. Proceeds
17 of any sale are appropriated to the office of the state
18 engineer to adjudicate water rights. Proceeds of any leases
19 are appropriated to the interstate stream commission for
20 carrying out the purposes of the strategic water reserve.

21 E. Water or water rights acquired for the
22 strategic water reserve or water or water rights sold or
23 leased from the reserve shall remain in their river reach or
24 ground water basin of origin.

25 F. Transactions with members of an irrigation or

1 conservancy district established pursuant to Chapter 73 NMSA
2 1978 shall provide for the strategic water reserve to pay the
3 annual assessment to the district that would accrue to the
4 district absent the transaction.

5 G. Cumulative impacts of the strategic water
6 reserve acquisitions and uses shall not adversely affect
7 existing water users or delivery systems.

8 H. The interstate stream commission shall adopt
9 rules consistent with the terms of this section, including
10 rules to ensure:

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

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

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

18 I. The interstate stream commission shall annually
19 report to the appropriate committee of the legislature on the
20 status of the strategic water reserve." _____

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