

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 438

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO WATER; CREATING THE ACEQUIA AND COMMUNITY DITCH  
INFRASTRUCTURE FUND TO BE ADMINISTERED BY THE INTERSTATE STREAM  
COMMISSION; SFC → ~~PROVIDING POWERS AND DUTIES AND REQUIREMENTS  
FOR PROJECT FUNDING;~~ ← SFC MAKING AN ANNUAL TRANSFER FROM THE NEW  
MEXICO IRRIGATION WORKS CONSTRUCTION FUND; MAKING AN  
APPROPRIATION.

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:

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"[NEW MATERIAL] ACEQUIA AND COMMUNITY DITCH  
INFRASTRUCTURE FUND--CREATED.--

A. The "acequia and community ditch infrastructure fund" is created in the state treasury and shall be administered by the interstate stream commission. The fund consists of money SFC→distributed←SFC SFC→transferred←SFC from the New Mexico irrigation works construction fund and interest accruing to the fund. Disbursements from the fund shall be made 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. Any unexpended or unencumbered balance remaining in the fund at the end of any fiscal year shall revert to the New Mexico irrigation works construction fund.

B. Money in the fund is appropriated to the interstate stream commission to provide funding for SFC→:

~~(1) seventeen and one-half percent of the total cost of work undertaken by the United States army corps of engineers pursuant to the federal Water Resources Development Act of 1986 to preserve and restore acequia or community ditch diversion structures and associated canals; provided that:~~

~~(a) an acequia or community ditch shall provide seven and one-half percent of the total cost of the work from a source other than the New Mexico irrigation works~~

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~~construction fund or the improvement of Rio Grande income fund;~~  
~~and~~

~~(b) no more than two hundred fifty thousand dollars (\$250,000) shall be allocated from the fund to any one acequia or community ditch per fiscal year;~~

~~(2) the construction, restoration, repair and protection from floods of dams, reservoirs, ditches, diversions, flumes or appurtenances of acequia and community ditches; provided that:~~

~~(a) no more than ninety percent of the project cost shall be provided from the fund and an acequia or community ditch shall provide ten percent of the project costs;~~  
~~and~~

~~(b) no more than two hundred thousand dollars (\$200,000) shall be provided from the fund to any one acequia or community ditch per fiscal year;~~

~~(3) engineering services for approved acequia or community ditch projects; provided that no more than three hundred thousand dollars (\$300,000) shall be expended from the fund for this purpose per fiscal year;~~

~~(4) emergency repairs to acequia or community ditch infrastructure; provided that no more than two hundred fifty thousand dollars (\$250,000) shall be expended from the fund for this purpose per fiscal year and no more than ten thousand dollars (\$10,000) shall be provided to any one acequia~~

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~~or community ditch for this purpose per fiscal year; and  
(5) low-interest loans for engineering,  
design, construction or rehabilitation of acequia or community  
ditch projects.~~ ←SFC

SFC → the planning, engineering design or construction of  
irrigation works of acequias or community ditches, including  
dams, reservoirs, diversions, ditches, flumes or other  
appurtenances, for the purposes of restoration, repair,  
improvement of irrigation efficiency or protection from  
floods. ←SFC

C. The interstate stream commission shall:

(1) in consultation with the acequia  
commission and the New Mexico acequia association, develop  
guidelines and criteria for program eligibility, applications  
and selection requirements;

(2) prioritize the provision of funding based  
on project readiness;

(3) review acequia or community ditch plans  
and specifications and inspect completed projects; and

(4) report biannually to the acequia  
commission on the progress of projects funded through the fund  
and the expenditure of money from the fund.

D. As used in this section, "fund" means the  
acequia and community ditch infrastructure fund."

SECTION 2. Section 72-14-23 NMSA 1978 (being Laws 1955,  
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Chapter 266, Section 15, as amended) is amended to read:

"72-14-23. NEW MEXICO IRRIGATION WORKS CONSTRUCTION FUND  
CREATED--LIMITATION OF LIABILITY UNDER ACT--REPARATION OF  
DAMAGES CAUSED IN CARRYING OUT POWERS GRANTED--AUTHORITY OF  
COMMISSION TO RECEIVE CONTRIBUTIONS.--

A. There is [~~hereby~~] created a fund to be known  
as the "New Mexico irrigation works construction fund", which  
shall consist of the income creditable to the permanent  
reservoirs for irrigation purposes income fund not otherwise  
pledged under Section [~~75-34-19 New Mexico Statutes Annotated,  
1953 Compilation, (being Laws 1955, Chapter 266, Section 11)]  
72-14-19 NMSA 1978 and all other [~~moneys which~~] money that may  
be appropriated by the [~~state~~] legislature to [~~said~~] the  
construction fund. [~~Such~~] The fund shall be a continuing fund  
and shall not revert to the general fund [~~of the state~~] or to  
any other fund [~~of the state at the end of any biennium~~].~~

B. Annually, two million five hundred thousand  
dollars (\$2,500,000) shall be transferred from the New Mexico  
irrigation works construction fund to the acequia and community  
ditch infrastructure fund.

C. The cost of investigations and construction as  
authorized in Section [~~75-34-11 New Mexico Statutes Annotated,  
1953 Compilation (being Laws 1955, Chapter 266, Section 3)]  
72-14-11 NMSA 1978 shall be paid from [~~said~~] the New Mexico  
irrigation works construction fund and also the cost of all  
preliminary work on any project, and all expenses directly~~

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chargeable to such project, prior to the receipt of the proceeds of bonds, shall be paid from the construction fund. The amount of all such expenses on account of any project [~~or projects~~] and such part of the general administrative expenses of the commission and the cost of investigation [~~or investigations~~] as shall be properly chargeable, in the opinion of the commission, to such project [~~or projects~~] shall be reimbursed to the construction fund upon the receipt of the proceeds of bonds issued for such project [~~or projects~~]. No liability or obligation shall be incurred under the provisions of Sections [~~75-34-9 to 75-34-27 New Mexico Statutes, 1953 Compilation (being Laws 1955, Chapter 266, Sections 1 to 19)~~] 72-14-9 through 72-14-28 NMSA 1978 beyond the extent to which the money [~~shall have~~] has been provided under the authority of [~~this act~~] those sections. All public and private property damaged or destroyed in carrying out the powers granted under [~~this act~~] those sections shall be restored or repaired and placed in [~~their~~] its original condition, as nearly as practicable, or adequate compensation made therefor out of funds provided by [~~this act~~] those sections.

D. The commission shall also have authority to pay the cost of such investigations and construction on any project from [~~said~~] the New Mexico irrigation works construction fund when contracts in form satisfactory to it [~~shall~~] have been

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entered into whereby title to works [~~shall~~] have been mortgaged, deeded, assigned or transferred by the owner [~~thereof~~] to the commission, and a program for reimbursement of all amounts expended, together with operation and maintenance charges, [~~shall~~] have been agreed upon. Provided that no construction contract shall be entered into without the prior approval of the state board of finance. The commission shall also have authority to receive and accept appropriations and contributions from any source of either money or property or other things of value to be held, used and applied for the purposes [~~in this act~~] provided in Sections 72-14-9 through 72-14-28 NMSA 1978."

Sf1→**SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020.**←Sf1

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