

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 438

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

AN ACT

RELATING TO WATER; CREATING THE ACEQUIA AND COMMUNITY DITCH  
INFRASTRUCTURE FUND TO BE ADMINISTERED BY THE INTERSTATE STREAM  
COMMISSION; PROVIDING POWERS AND DUTIES AND REQUIREMENTS FOR  
PROJECT FUNDING; 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:

"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 distributed from the New Mexico irrigation

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1 works construction fund and interest accruing to the fund.  
2 Disbursements from the fund shall be made by warrant of the  
3 secretary of finance and administration pursuant to vouchers  
4 signed by the director of the interstate stream commission or  
5 the director's authorized representative. Any unexpended or  
6 unencumbered balance remaining in the fund at the end of any  
7 fiscal year shall revert to the New Mexico irrigation works  
8 construction fund.

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

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

17 (a) an acequia or community ditch shall  
18 provide seven and one-half percent of the total cost of the  
19 work from a source other than the New Mexico irrigation works  
20 construction fund or the improvement of Rio Grande income fund;  
21 and

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

25 (2) the construction, restoration, repair and

1 protection from floods of dams, reservoirs, ditches,  
2 diversions, flumes or appurtenances of acequia and community  
3 ditches; provided that:

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

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

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

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

21 (5) low-interest loans for engineering,  
22 design, construction or rehabilitation of acequia or community  
23 ditch projects.

24 C. The interstate stream commission shall:

25 (1) in consultation with the acequia

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1 commission and the New Mexico acequia association, develop  
2 guidelines and criteria for program eligibility, applications  
3 and selection requirements;

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

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

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

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

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

15 "72-14-23. NEW MEXICO IRRIGATION WORKS CONSTRUCTION FUND  
16 CREATED--LIMITATION OF LIABILITY UNDER ACT--REPARATION OF  
17 DAMAGES CAUSED IN CARRYING OUT POWERS GRANTED--AUTHORITY OF  
18 COMMISSION TO RECEIVE CONTRIBUTIONS.--

19 A. There is [~~hereby~~] created a fund to be known  
20 as the "New Mexico irrigation works construction fund", which  
21 shall consist of the income creditable to the permanent  
22 reservoirs for irrigation purposes income fund not otherwise  
23 pledged under Section [~~75-34-19 New Mexico Statutes Annotated,~~  
24 ~~1953 Compilation, (being Laws 1955, Chapter 266, Section 11)]~~  
25 72-14-19 NMSA 1978 and all other [~~moneys which~~] money that may

1 be appropriated by the [~~state~~] legislature to [~~said~~] the  
 2 construction fund. [~~Such~~] The fund shall be a continuing fund  
 3 and shall not revert to the general fund [~~of the state~~] or to  
 4 any other fund [~~of the state at the end of any biennium~~].

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

9 C. The cost of investigations and construction as  
 10 authorized in Section [~~75-34-11 New Mexico Statutes Annotated,~~  
 11 ~~1953 Compilation (being Laws 1955, Chapter 266, Section 3)]~~  
 12 72-14-11 NMSA 1978 shall be paid from [~~said~~] the New Mexico  
 13 irrigation works construction fund and also the cost of all  
 14 preliminary work on any project, and all expenses directly  
 15 chargeable to such project, prior to the receipt of the  
 16 proceeds of bonds, shall be paid from the construction fund.  
 17 The amount of all such expenses on account of any project [~~or~~  
 18 ~~projects~~] and such part of the general administrative expenses  
 19 of the commission and the cost of investigation [~~or~~  
 20 ~~investigations~~] as shall be properly chargeable, in the opinion  
 21 of the commission, to such project [~~or projects~~] shall be  
 22 reimbursed to the construction fund upon the receipt of the  
 23 proceeds of bonds issued for such project [~~or projects~~]. No  
 24 liability or obligation shall be incurred under the provisions  
 25 of Sections [~~75-34-9 to 75-34-27 New Mexico Statutes, 1953~~

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1 ~~Compilation (being Laws 1955, Chapter 266, Sections 1 to 19)]~~  
2 72-14-9 through 72-14-28 NMSA 1978 beyond the extent to which  
3 the money [~~shall have~~] has been provided under the authority of  
4 [~~this act~~] those sections. All public and private property  
5 damaged or destroyed in carrying out the powers granted under  
6 [~~this act~~] those sections shall be restored or repaired and  
7 placed in [~~their~~] its original condition, as nearly as  
8 practicable, or adequate compensation made therefor out of  
9 funds provided by [~~this act~~] those sections.

10 D. The commission shall also have authority to pay  
11 the cost of such investigations and construction on any project  
12 from [~~said~~] the New Mexico irrigation works construction fund  
13 when contracts in form satisfactory to it [~~shall~~] have been  
14 entered into whereby title to works [~~shall~~] have been  
15 mortgaged, deeded, assigned or transferred by the owner  
16 [~~thereof~~] to the commission, and a program for reimbursement of  
17 all amounts expended, together with operation and maintenance  
18 charges, [~~shall~~] have been agreed upon. Provided that no  
19 construction contract shall be entered into without the prior  
20 approval of the state board of finance. The commission shall  
21 also have authority to receive and accept appropriations and  
22 contributions from any source of either money or property or  
23 other things of value to be held, used and applied for the  
24 purposes [~~in this act~~] provided in Sections 72-14-9 through  
25 72-14-28 NMSA 1978."