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HOUSE BILL 186

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

INTRODUCED BY

Tomás E. Salazar and Peter Wirth

AN ACT

RELATING TO WATER; REFORMING THE GENERAL POWERS OF THE INTERSTATE STREAM COMMISSION TO INCLUDE WATER PLANNING; ENACTING THE REGIONAL WATER PLANNING ACT; PROVIDING CRITERIA AND DIRECTION FOR STATE AND REGIONAL WATER PLANNING; PROVIDING POWERS AND DUTIES; MAKING AN APPROPRIATION.

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

SECTION 1. Section 72-14-3 NMSA 1978 (being Laws 1935, Chapter 25, Section 3) is amended to read:

"72-14-3. GENERAL POWERS--INTERSTATE COMPACTS--EMPLOYEES--ATTORNEY GENERAL'S DUTIES.--[That said]

A. The interstate stream commission [~~is hereby authorized to~~] shall:

(1) negotiate compacts, [~~with other states~~] the terms of federal legislation or water-sharing agreements to

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1 settle interstate controversies or [~~looking toward~~] provide for  
2 an equitable distribution and division of waters in interstate  
3 stream systems and aquifers, subject, in all cases, to final  
4 approval by the legislature of New Mexico; [~~to~~]

5 (2) plan and implement federal programs or  
6 match appropriations made by the congress of the United States  
7 for investigations [~~looking to the development~~] or projects  
8 related to the conservation or protection of water supplies and  
9 the flows of interstate streams originating in or flowing  
10 through the state [~~of New Mexico; to investigate~~] for the  
11 people, future generations and species that depend on them;

12 (3) quantify ground water and surface water  
13 [~~supply; to~~] supplies that are legally or physically available;

14 (4) develop, [~~to~~] conserve, [~~to~~] protect and  
15 [~~to~~] do any and all other things necessary to protect, conserve  
16 and develop the waters, aquifers and stream systems of this  
17 state, interstate or otherwise; [~~to~~]

18 (5) publicly and transparently conduct state  
19 and regional water planning to plan for the state's water  
20 future; to identify the steps needed to be taken to protect and  
21 extend water supplies; and to make water usage in the state  
22 more resilient, including by:

23 (a) maximizing public involvement;

24 (b) developing or sponsoring the  
25 development and utilization of reliable water resources, water

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1 use data and scientifically appropriate fact- and science-based  
2 water models for the basis of planning;

3 (c) identifying gaps between water  
4 supply and water demand and collaboratively implementing  
5 balanced, realistic solutions to address those gaps; and

6 (d) prioritizing the implementation of  
7 approved regional water plans;

8 (6) advise the state engineer;

9 (7) institute or cause to be instituted in the  
10 name of the state [~~of New Mexico~~] any and all negotiations  
11 [~~and/or~~] or legal proceedings as in its judgment are necessary  
12 to carry out the provisions of [~~this Act; to~~] Chapter 72,  
13 Article 14 NMSA 1978;

14 (8) do all other things necessary to carry out  
15 the provisions of [~~this Act; to~~] Chapter 72, Article 14 NMSA  
16 1978;

17 (9) select and employ a director, subject to  
18 confirmation by the senate, and such attorneys, engineers and  
19 clerical help as, in its judgment, may be necessary to carry  
20 out the provisions of [~~this Act~~] Chapter 72, Article 14 NMSA  
21 1978 and to fix their compensation and expenses; [~~together~~  
22 with] and

23 (10) exercise such other powers and duties as  
24 may, from time to time, be given [~~said~~] the commission by the  
25 legislature [~~of New Mexico~~].

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1           B. The attorney general shall be the legal adviser  
2 of [~~such~~] the commission and attorneys employed [~~as above~~]  
3 shall be subject to [~~his~~] the attorney general's approval and  
4 supervision and be designated as special assistant attorneys  
5 general."

6           SECTION 2. Section 72-14-3.1 NMSA 1978 (being Laws 2003,  
7 Chapter 131, Section 1 and Laws 2003, Chapter 137, Section 1)  
8 is amended to read:

9           "72-14-3.1. STATE WATER PLAN--PURPOSE--CONTENTS.--

10           A. It is the intent of the legislature that the  
11 interstate stream commission, in collaboration with the office  
12 of the state engineer and the water trust board, prepare and  
13 implement a comprehensive state water plan.

14           B. The state water plan shall address the following  
15 goals and shall be a strategic management tool for the purposes  
16 of:

17                   (1) identifying steps needed for and promoting  
18 stewardship of the state's water resources;

19                   (2) protecting and maintaining water rights  
20 and their priority status;

21                   (3) protecting the diverse customs, culture,  
22 environment and economic stability of the state;

23                   (4) protecting both the water supply and water  
24 quality;

25                   (5) [~~promoting~~] developing and facilitating

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1 the implementation of cooperative strategies, based on concern  
2 for meeting the basic needs of all New Mexicans;

3 (6) meeting the state's interstate compact  
4 obligations;

5 (7) [~~providing~~] developing and implementing a  
6 basis for prioritizing infrastructure investment; and

7 (8) providing statewide continuity of policy  
8 and management to improve the public welfare relative to ~~our~~  
9 the state's water resources.

10 C. The interstate stream commission in  
11 collaboration with the office of the state engineer and in  
12 consultation with other government agencies as appropriate,  
13 shall develop a comprehensive, coordinated, fact- and science-  
14 based state water plan that shall:

15 (1) identify and reflect the common  
16 priorities, goals and objectives that will have a positive  
17 impact on the public welfare of the state;

18 (2) establish a clear vision and policy  
19 direction for active management of the state's waters at  
20 appropriate regional and sub-regional scales based on  
21 hydrologic and legal realities with an emphasis on solving  
22 water-related problems at local and basinwide scales, including  
23 identifying and developing cooperative strategies and policies  
24 that address the gaps between water demand and the physically  
25 and legally available water supply to meet the demand;

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1 (3) include an inventory of the quantity and  
2 quality of the state's water resources, population projections  
3 and ~~[other]~~ water resource demands, historical trends and  
4 potential future trends under a range of forecast conditions  
5 that recognize climate change and aridification;

6 (4) include historical and projected future  
7 water budgets ~~[for the state and]~~ for all major river basins  
8 and aquifer systems in the state and prioritize plans to  
9 improve the reliability of those water budgets, if needed;

10 (5) develop water conservation strategies and  
11 policies to ~~[maximize]~~ stop waste of water, to encourage the  
12 efficient use of water resources and to minimize the amount of  
13 water required to satisfy beneficial ~~[use, including reuse and~~  
14 ~~recycling by conjunctive management of water resources and by~~  
15 ~~doing so to promote nonforfeiture of water rights]~~ uses;

16 (6) develop strategies to increase the  
17 longevity of ground water resources that are in decline;

18 (7) develop strategies to aid compliance with  
19 interstate stream compacts while protecting the public welfare  
20 of the state and identify federal resources to assist with  
21 implementation of those strategies;

22 ~~[+6]~~ (8) include a drought management plan  
23 designed to address drought emergencies, promote strategies for  
24 prevention of drought-related emergencies in the future and  
25 coordinate regional and local drought planning statewide;

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1                   ~~(7)~~ (9) recognize the relationship between  
2 water availability and land-use decisions;

3                   ~~(8)~~ (10) promote river riparian and  
4 watershed restoration that focuses on protecting the water  
5 supply, improving water quality and complying with federal  
6 Endangered Species Act of 1973 mandates;

7                   ~~(9)~~ (11) consider water rights transfer  
8 policies that balance the need to protect the customs, culture,  
9 environment and economic health and stability of the state's  
10 diverse communities while providing for timely and efficient  
11 transfers of water between uses to meet both short-term  
12 shortages and long-term economic development needs;

13                   ~~(10)~~ (12) promote strategies and mechanisms  
14 for achieving coordination ~~with~~ among all levels of  
15 government;

16                   ~~(11)~~ (13) integrate approved regional water  
17 plans into the state water plan as appropriate and consistent  
18 with state water plan policies and strategies;

19                   ~~(12)~~ (14) integrate plans of water supply  
20 purveyors, including those of local governments, privately  
21 owned public utilities, associations, cooperatives, irrigation  
22 districts and acequias as appropriate and consistent with state  
23 water plan policies and strategies, as those plans are  
24 completed and submitted to the office of the state engineer;

25                   ~~(13)~~ (15) identify water-related

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1 infrastructure and management investment needs and  
2 opportunities to leverage federal and other funding; ~~and~~  
3 ~~(14)]~~ (16) promote collaboration with and  
4 strategic focusing of the research and development of the  
5 state's national laboratories and research institutions to  
6 address the state's water challenges and to bring to the state  
7 demonstration projects in desalination, conservation, watershed  
8 restoration, weather modification and other technological  
9 approaches to enhancing water supply and management;

10 ~~[D.—Recognizing that complete water rights~~  
11 ~~adjudication, measurement, well inventories and adequate~~  
12 ~~databases are essential elements of an effective water~~  
13 ~~management plan, and further recognizing that completion of~~  
14 ~~these work elements will require substantial time and resources~~  
15 ~~until such time as these elements are complete, the state water~~  
16 ~~plan shall include work plans and strategies for:~~

17 ~~(1)—completion of water rights adjudications,~~  
18 ~~with required supporting documentation, including hydrographic~~  
19 ~~surveys, aquifer mapping and aerial mapping of irrigated land;~~

20 ~~(2)—creation and completion of a comprehensive~~  
21 ~~database and an electronically accessible information system on~~  
22 ~~the state's water resources and water rights, including file~~  
23 ~~abstraction and imaging of paper files as well as information~~  
24 ~~on pending adjudications;~~

25 ~~(3)—measuring of surface and ground water uses~~

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1 ~~in the state as necessary for management of the state's water~~  
2 ~~resources; and~~

3 ~~(4) taking inventory of existing water wells~~  
4 ~~and determining appropriate disposition of unused wells.]~~

5 (17) address the accuracy, adequacy and  
6 limitations of data and models used in developing the state  
7 water plan and include a prioritized plan to improve the data  
8 and models; and

9 (18) set forth policies and strategies to  
10 effectuate the goals of the state water plan and prioritize the  
11 implementation of those policies and strategies.

12 ~~[E.]~~ D. The interstate stream commission and the  
13 office of the state engineer in accordance with the State-  
14 Tribal Collaboration Act shall consult directly with the  
15 governments of Indian nations, tribes and pueblos to formulate  
16 a statement of policy and process to guide:

17 (1) coordination or integration of the water  
18 plans of Indian nations, tribes and pueblos located wholly or  
19 partially within New Mexico with the state water plan; ~~and~~

20 (2) final adjudication or settlement of all  
21 water rights claims by Indian nations, tribes and pueblos  
22 located wholly or partially within New Mexico; and

23 (3) New Mexico's compliance with interstate  
24 stream compacts affected by water rights of Indian nations,  
25 tribes and pueblos located wholly or partially within New

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1 Mexico.

2 [~~F.~~] E. The interstate stream commission shall:

3 (1) ensure that public participation, [~~and~~]  
4 public input and transparency are integrated throughout the  
5 planning process; [~~The interstate stream commission shall~~]

6 (2) convene water planners and stakeholders  
7 from diverse constituencies to advise it and the office of the  
8 state engineer on the state water plan, including statewide  
9 policies, priorities, goals and objectives for the plan, issues  
10 of statewide concern and strategies for implementation of the  
11 plan; [~~The interstate stream commission shall also~~]

12 (3) ensure that representatives of the  
13 stakeholder groups affected by various plan components [~~will~~]  
14 participate in the development of those plan components;

15 (4) notify and invite members of the  
16 interstate stream commission and water trust board [~~shall be~~  
17 ~~notified of and are welcome~~] to participate in all aspects of  
18 the planning process; and

19 (5) ensure that meetings convened for the  
20 purpose of developing the state water plan or any component of  
21 the state water plan comply with the Open Meetings Act and that  
22 the minutes of a meeting reflect the substance of the meeting  
23 discussion, including the rationale for inclusion or exclusion  
24 in the state water plan of any policies or priorities  
25 discussed.

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1           ~~[G.]~~ F. After public review and comment, the state  
2 water plan developed in conformance with this section is  
3 subject to adoption by the interstate stream commission.  
4 Following its adoption, the state water plan shall be presented  
5 to the interim legislative committee that studies water and  
6 natural resources.

7           ~~[H.]~~ G. The state water plan shall be periodically  
8 reviewed, updated and amended in response to changing  
9 conditions. At a minimum a review shall be undertaken every  
10 five years. Subsequent reviews of the state water plan shall  
11 reflect on and address the successes or failures of  
12 implementation plans and priorities established in an  
13 immediately preceding state water plan.

14           ~~[I.]~~ H. Nothing in the state water plan shall be  
15 construed to permit the granting or the condemnation of water  
16 rights.

17           ~~[J.]~~ I. Nothing in the state water plan shall be  
18 construed to determine, abridge or affect the water rights of  
19 Indian nations, tribes or pueblos."

20           **SECTION 3.** A new section of Chapter 72, Article 14 NMSA  
21 1978 is enacted to read:

22           "[NEW MATERIAL] SHORT TITLE.--Sections 3 through 12 of  
23 this act may be cited as the "Regional Water Planning Act"."

24           **SECTION 4.** Section 72-14-43 NMSA 1978 (being Laws 1987,  
25 Chapter 182, Section 1) is recompiled in the Regional Water

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1 Planning Act and is amended to read:

2 "~~[LEGISLATIVE FINDINGS--STATE APPROPRIATION OF~~  
3 ~~UNAPPROPRIATED WATER]~~ INTERSTATE STREAM COMMISSION--REGIONAL  
4 WATER PLANNING.--~~[Based upon the findings and recommendations~~  
5 ~~of the report from New Mexico state university and the~~  
6 ~~university of New Mexico on state appropriation of~~  
7 ~~unappropriated water, the legislature finds that:~~

8 A. ~~the future water needs of New Mexico can best be~~  
9 ~~met by allowing each region of the state to plan for its water~~  
10 ~~future;~~

11 B. ~~the state can assist the regions in planning~~  
12 ~~future water use by implementing a state appropriation program~~  
13 ~~to ensure an adequate supply of water for each region, as~~  
14 ~~reflected in each region's water use plan; and~~

15 C. ~~the interstate stream commission is the~~  
16 ~~appropriate agency to implement such a program]~~ The interstate  
17 stream commission shall:

18 A. determine how to best meet the future water  
19 needs of New Mexico by conducting a regional water planning  
20 program that encourages and allows each region of the state to  
21 plan for its water future;

22 B. provide professional and financial support to  
23 assist each region in the state with planning future water use  
24 and implement programs to ensure an adequate supply of water  
25 for each region, as set forth in each region's approved water

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1 plan; and

2 C. fund, facilitate, review and approve regional  
3 and sub-regional water plans and actively support  
4 implementation of recommendations that require state action."

5 SECTION 5. Section 72-14-44 NMSA 1978 (being Laws 1987,  
6 Chapter 182, Section 2) is recompiled in the Regional Water  
7 Planning Act and is amended to read:

8 "INTERSTATE STREAM COMMISSION--~~[GROUNDWATER]~~ GROUND WATER  
9 APPROPRIATION--WATER RIGHTS PURCHASE [WATER PLANNING  
10 FUNDING].--

11 A. The interstate stream commission is authorized  
12 to appropriate ~~[groundwater]~~ ground water or purchase water  
13 rights on behalf of any of the various regions of the state.

14 B. Nothing in ~~[this section]~~ the Regional Water  
15 Planning Act shall be construed as permitting the condemnation  
16 of water rights or as determining, abridging or affecting in  
17 any way the water rights of Indian nations, tribes or pueblos.

18 ~~[G. The interstate stream commission is authorized~~  
19 ~~to make grants or loans of funds for the purpose of regional~~  
20 ~~water planning. Prior to approval of any proposal by a region~~  
21 ~~for planning funds under this section, the commission shall~~  
22 ~~develop criteria for evaluating such proposals. These criteria~~  
23 ~~at a minimum shall provide for:~~

24 ~~(1) identification of the region requesting~~  
25 ~~planning funds and why it is hydrologically and politically an~~

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1 appropriate applicant;

2 (2) ~~use of an appropriate planning process,~~  
3 ~~including opportunities for participation by those Indian~~  
4 ~~tribes located within the various regions of the state;~~

5 (3) ~~reasonable proposed costs and timetables~~  
6 ~~for completion of the planning process;~~

7 (4) ~~appropriate provisions for notice, review~~  
8 ~~and comment where applicable;~~

9 (5) ~~adequate review of potential conflict with~~  
10 ~~laws relating to impact on existing water rights;~~

11 (6) ~~adequate review of water conservation and~~  
12 ~~the effect on the public welfare; and~~

13 (7) ~~identification of sources other than the~~  
14 ~~interstate stream commission for funding of the proposed~~  
15 ~~regional planning process.~~

16 D. ~~A water planning region eligible for funding~~  
17 ~~under this section is an area within the state that contains~~  
18 ~~sufficient hydrological and political interests in common to~~  
19 ~~make water planning feasible. The state as a whole shall not~~  
20 ~~be considered a water planning region for purposes of this~~  
21 ~~section.~~

22 E. ~~No entity shall be made a part of a proposal for~~  
23 ~~planning funds under this section without its consent.~~

24 F. ~~No funds shall be granted under this act to any~~  
25 ~~party or parties that are not within a water planning region.~~

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1 ~~Whether a proposal for funding falls within a water planning~~  
2 ~~region shall be determined on a case-by-case basis by the~~  
3 ~~interstate stream commission after consultation with the state~~  
4 ~~engineer and consideration of the following:~~

5 ~~(1) whether the source of water and the~~  
6 ~~potential place of use of the water are located within the same~~  
7 ~~hydrologic basin; and~~

8 ~~(2) if there is more than one party and the~~  
9 ~~parties are requesting funds on a joint basis, whether the~~  
10 ~~parties have demonstrated political and economic interests in~~  
11 ~~common by entering into a binding intergovernmental agreement~~  
12 ~~for carrying out the planning process.]"~~

13 SECTION 6. A new section of Chapter 72, Article 14 NMSA  
14 1978 is enacted to read:

15 "[NEW MATERIAL] REGIONAL WATER PLANNING PROGRAM--WATER  
16 PLANNING REGIONS--SOLICITATION OF PROPOSALS.--

17 A. There is created a "regional water planning  
18 program", the purpose of which is to develop regional and sub-  
19 regional water plans that identify the actions needed to be  
20 taken at regional and sub-regional levels to provide a reliable  
21 water supply for current and future users and to preserve a  
22 water supply for future generations of New Mexicans. The  
23 interstate stream commission shall be the coordinating agency  
24 for the regional water planning program.

25 B. The interstate stream commission shall create

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1 water planning regions by adjusting the regional water planning  
2 boundaries that exist as of July 1, 2019 to create no more than  
3 ten water planning regions that together make up the entirety  
4 of the state and that individually include the entirety of:

5 (1) a distinct geographic area in which  
6 depletions of water resources affect the state's compliance  
7 with interstate stream compacts or United States supreme court  
8 decrees that apportion water among states; and

9 (2) geologically distinct ground water  
10 resources or aquifer systems within the state's boundaries,  
11 except for the Ogallala aquifer.

12 C. The interstate stream commission shall solicit  
13 proposals from approved regional and sub-regional water  
14 planning entities within each water planning region to receive  
15 state funding to prepare a plan to address regional or sub-  
16 regional water resource problems or issues identified by:

17 (1) the regional water planning entity;  
18 (2) a sub-regional group with interests in a  
19 hydrologically distinct water source;  
20 (3) the interstate stream commission; or  
21 (4) another state agency with jurisdiction  
22 over natural resources."

23 SECTION 7. A new section of Chapter 72, Article 14 NMSA  
24 1978 is enacted to read:

25 "[NEW MATERIAL] REGIONAL WATER PLANNING PROGRAM--WATER

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1 PLANNING REGIONS AND SUB-REGIONS--REQUIREMENTS.--

2 A. The interstate stream commission shall establish  
3 minimum requirements for approved regional and sub-regional  
4 water planning entities, including a determination by the  
5 commission that an entity reflects the diversity of the  
6 interests within the region or sub-region and that the entity  
7 is capable, with or without state support, of developing a  
8 regional water plan or addressing a distinct regional or sub-  
9 regional water issue.

10 B. The interstate stream commission shall assist  
11 stakeholders within a water planning region to organize a water  
12 planning entity and prepare a regional water plan for a region:

13 (1) in which water use is subject to  
14 interstate stream compact limitations that are or may be  
15 problematic within four years of the enactment of the Regional  
16 Water Planning Act;

17 (2) that is utilizing aquifers with a  
18 remaining lifetime at or less than one hundred years; or

19 (3) that organizes to apply to the interstate  
20 stream commission to fund a revised regional water plan.

21 C. Locales or sub-regions within a water planning  
22 region that have a hydrologically distinct water source may  
23 self-organize a sub-regional entity to address problems that  
24 are distinct to the locale or sub-region. A sub-regional  
25 entity:

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1 (1) shall meet the interstate stream  
2 commission's criteria for sub-regional water planning entities;

3 (2) shall be recognized by regional water  
4 planning entities that shall give public consideration to the  
5 sub-regional entity's proposals and work products; and

6 (3) is eligible to receive state funding to  
7 implement a work plan:

8 (a) contained in a regional water plan  
9 approved by the interstate stream commission; or

10 (b) submitted as part of a proposal to  
11 the interstate stream commission to address a gap between the  
12 supply and demand for the locale's or sub-region's  
13 hydrologically distinct source of water.

14 D. Approved regional and sub-regional water  
15 planning entities within the same water planning region whose  
16 water planning proposals are accepted for funding by the  
17 interstate stream commission shall:

18 (1) coordinate their planning efforts to  
19 promote cooperation and resolve conflicts through negotiation;

20 (2) develop shared strategies for achieving  
21 common objectives; and

22 (3) monitor implementation of the completed  
23 regional water plan and its effectiveness in reducing gaps  
24 between supply and demand and in resolving intra-regional  
25 conflicts.

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1           E. The interstate stream commission may provide  
2 nominal funding to approved regional or sub-regional water  
3 planning entities for the preparation of proposals for state  
4 funding to prepare regional or sub-regional water plans."

5           SECTION 8. A new section of Chapter 72, Article 14 NMSA  
6 1978 is enacted to read:

7           "[NEW MATERIAL] REGIONAL WATER PLANNING PROGRAM--  
8 PROPOSALS--CRITERIA.--

9           A. The interstate stream commission shall evaluate  
10 proposals for state funding of regional or sub-regional water  
11 planning against criteria detailed in the commission's  
12 solicitation of proposals that shall include, at minimum,  
13 consideration of:

14                   (1) use of an approved ongoing planning  
15 process, including regular opportunities for public  
16 participation by stakeholders, including Indian nations, tribes  
17 or pueblos located within a water planning region;

18                   (2) reasonable proposed costs and timetables  
19 for completion of the planning deliverables;

20                   (3) appropriate provisions for notice, review  
21 and comment where applicable;

22                   (4) an adequate review of potential conflict  
23 with laws relating to existing water rights;

24                   (5) an adequate review of water conservation  
25 and the effect on the public welfare; and

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1 (6) identification of sources other than the  
2 interstate stream commission for funding of the proposed  
3 planning process.

4 B. Water planning proposals shall be prioritized  
5 for funding by the interstate stream commission based on  
6 criteria that shall include the:

7 (1) importance and urgency of water resources  
8 issues proposed to be addressed;

9 (2) adequacy of existing water resources data  
10 and models to support fact- and science-based water resources  
11 planning;

12 (3) public welfare of the state; and

13 (4) degree to which state funding of the  
14 proposal will result in a regional water plan, or will result  
15 in completion of a distinct element of a regional water plan,  
16 that if implemented would:

17 (a) eliminate or reduce the gaps between  
18 the water demand within, or projected to occur within, a region  
19 or a sub-region and the water supply for the region or a sub-  
20 region that is, or is projected to be, physically and legally  
21 available over the long term;

22 (b) solve other water resources problems  
23 within the region; or

24 (c) resolve conflicts between the water  
25 use or plans of water supply entities within the region and the

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1 sustainable or long-term water supply available."

2 SECTION 9. A new section of Chapter 72, Article 14 NMSA  
3 1978 is enacted to read:

4 "[NEW MATERIAL] REGIONAL WATER PLANNING PROGRAM--NO  
5 RESPONSIVE PROPOSALS--INTERSTATE STREAM COMMISSION DUTY TO  
6 PREPARE PLAN.--

7 A. If the interstate stream commission solicits a  
8 regional water planning proposal to address imbalances between  
9 the water uses and the sustainable water supply of a region or  
10 other water resources problems, and if no responsive proposal  
11 is received and the interstate stream commission determines  
12 that the public welfare of the state may be negatively affected  
13 by those imbalances, the interstate stream commission may  
14 undertake regional water planning activities in that region to  
15 publicly address the imbalances.

16 B. If the interstate stream commission undertakes  
17 regional water planning activities in a region pursuant to this  
18 section, the interstate stream commission:

19 (1) shall conduct multiple public meetings  
20 within the water planning region to present and hear public  
21 comment regarding:

22 (a) the need for the state to prepare  
23 the water plan for the region;

24 (b) the topics the water plan will  
25 address;

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1 (c) the work plan, schedule and budget  
2 for completion of the water plan; and

3 (d) a draft regional water plan;

4 (2) shall provide substantive, public,  
5 quarterly progress reports until the plan is completed;

6 (3) shall post on the interstate stream  
7 commission's website substantive responses to substantive  
8 public comments received by the interstate stream commission,  
9 orally or in writing, regarding the interstate stream  
10 commission's regional water planning activities; and

11 (4) may include recommendations in the  
12 regional water plan that would require future agreement or  
13 voluntary actions, including participation in water banks or  
14 expedited marketing and leasing."

15 SECTION 10. A new section of Chapter 72, Article 14 NMSA  
16 1978 is enacted to read:

17 "[NEW MATERIAL] REGIONAL WATER PLANNING PROGRAM--REGIONAL  
18 WATER PLAN--CONTENTS--INTERSTATE STREAM COMMISSION APPROVAL--  
19 DATA AND MODELS.--

20 A. A regional water plan shall contain:

21 (1) a summary of the region's historical water  
22 budget as determined by the state based on the region's water  
23 use, its renewable water supplies and the amount of water  
24 diverted and consumptively used from nonrenewable supplies;

25 (2) historical water budgets for

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1 hydrologically distinct locales within the region where water  
2 supplies are in decline;

3 (3) an evaluation of future potential outcomes  
4 associated with no changes in water administration practices  
5 and the projected effects of climate change on both water  
6 supply and water demand;

7 (4) prioritized recommendations for actions to  
8 reduce the gaps in water supply and demand, taking into account  
9 changes in climate and weather;

10 (5) prioritized recommendations for actions to  
11 protect and ensure the efficient use of the regional water  
12 supplies and to make the region's water uses more resilient;

13 (6) prioritized recommendations to improve  
14 water resources investigations, monitoring, data and simulation  
15 models to reduce uncertainty associated with water budget  
16 projections and water supply plans of the water supply entities  
17 within the region; and

18 (7) a plan to measure and monitor  
19 implementation of each water planning recommendation.

20 B. Regional water plans for the lower Rio Grande  
21 region, downstream of Elephant Butte dam to the state's border  
22 with Texas, and the middle Rio Grande region, between Elephant  
23 Butte dam and the Otowi gage, shall also include statutory or  
24 voluntary measures that, if implemented, would limit annual  
25 consumptive use of water pursuant to state water rights to the

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1 supply that is physically available and does not exceed the  
2 water supply legally apportioned by the Rio Grande Compact or a  
3 decree of the United States supreme court. The water plans  
4 shall include provisions for water banking transactions that  
5 may be promptly approved and implemented between senior water  
6 rights owners and water rights owners whose rights may not be  
7 in priority in a given year.

8 C. Regional water plans shall be submitted to the  
9 interstate stream commission for approval. The interstate  
10 stream commission shall:

11 (1) review regional water plans for compliance  
12 with its criteria and guidelines and shall prepare a detailed  
13 written evaluation of each submitted draft regional water plan  
14 addressing each recommendation contained in the regional water  
15 plan;

16 (2) meet with each regional water planning  
17 entity to review the commission's evaluation of the water plan  
18 and to approve, disapprove or approve with exceptions the  
19 regional water plan for incorporation into the state water  
20 plan. A regional water plan recommendation shall be  
21 disapproved if the recommendation is contrary to the law, does  
22 not have an adequate scientific basis or is counter to the  
23 public welfare of the state; and

24 (3) implement or assist water planning regions  
25 with implementing approved regional water planning

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1 recommendations.

2 D. The interstate stream commission shall:

3 (1) provide to approved regional and sub-  
4 regional water planning entities the data, water resources  
5 models, water resources simulation results and water budgets  
6 for the water resources within the region and shall include an  
7 explanation or interpretation of any uncertainty in the data or  
8 models; and

9 (2) evaluate the quality and limitations of  
10 existing data and models that comprise the factual or  
11 scientific basis of the water budget of the water resources  
12 within each region and provide this information to the regional  
13 and sub-regional water planning entities, as applicable."

14 SECTION 11. A new section of Chapter 72, Article 14 NMSA  
15 1978 is enacted to read:

16 "[NEW MATERIAL] REGIONAL WATER PLANNING PROGRAM--  
17 MEETINGS--OPEN MEETINGS ACT.--

18 A. A meeting convened for the purpose of developing  
19 a regional or sub-regional water plan or any component of a  
20 regional or sub-regional water plan shall be subject to the  
21 Open Meetings Act, and the minutes of a meeting shall reflect  
22 the substance of the meeting discussion, including the  
23 rationale for inclusion or exclusion in the regional or  
24 sub-regional water plan of any policies or priorities  
25 discussed.

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1           B. At a minimum, the interstate stream commission  
2 shall convene public meetings of stakeholders to:

3                   (1) address the tasks to be addressed in  
4 funded proposals;

5                   (2) present the interstate stream commission's  
6 evaluation of regional water plans or phases of the water plans  
7 submitted to the commission for approval; and

8                   (3) implement the recommendations contained in  
9 approved regional water plans."

10           SECTION 12. A new section of Chapter 72, Article 14 NMSA  
11 1978 is enacted to read:

12           "[NEW MATERIAL] REGIONAL WATER PLANNING PROGRAM--WATER  
13 PLANNING ADVISORY COMMITTEE.--

14           A. The interstate stream commission shall convene a  
15 "water planning advisory committee" composed of representatives  
16 from each water planning region.

17           B. The interstate stream commission shall:

18                   (1) convene public meetings of the water  
19 planning advisory committee at least twice a year to seek  
20 advice and comments regarding the interstate stream  
21 commission's water planning programs and progress;

22                   (2) seek the advice of the water planning  
23 advisory committee prior to finalizing its annual water  
24 planning appropriation request; and

25                   (3) allow members of the water planning

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1 advisory committee who are elected officials of a planning  
2 region to place items on the agenda for meetings of the  
3 advisory committee.

4 C. Public members of the water planning advisory  
5 committee are entitled to receive per diem and mileage pursuant  
6 to the Per Diem and Mileage Act."

7 SECTION 13. APPROPRIATION.--Ten million dollars  
8 (\$10,000,000) is appropriated from the general fund to the  
9 interstate stream commission for expenditure in fiscal years  
10 2020 through 2024 for state and regional water planning. Any  
11 unexpended or unencumbered balance remaining at the end of  
12 fiscal year 2024 shall revert to the general fund.