

1 SENATE BILL 438

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO WATER; CREATING THE ACEQUIA AND COMMUNITY DITCH
12 INFRASTRUCTURE FUND TO BE ADMINISTERED BY THE INTERSTATE STREAM
13 COMMISSION; PROVIDING POWERS AND DUTIES AND REQUIREMENTS FOR
14 PROJECT FUNDING; MAKING AN ANNUAL DISTRIBUTION FROM THE NEW
15 MEXICO IRRIGATION WORKS CONSTRUCTION FUND; MAKING AN
16 APPROPRIATION.

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

19 SECTION 1. A new section of Chapter 72, Article 14 NMSA
20 1978 is enacted to read:

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

23 A. The "acequia and community ditch infrastructure
24 fund" is created in the state treasury and shall be
25 administered by the interstate stream commission. The fund

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

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

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

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

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

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

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

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

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

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

22 C. The interstate stream commission shall:

23 (1) develop guidelines and criteria for
24 program eligibility, applications and selection requirements;

25 (2) prioritize the provision of funding based

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1 on project readiness;

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

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

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

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

11 "72-14-23. NEW MEXICO IRRIGATION WORKS CONSTRUCTION FUND
12 CREATED--LIMITATION OF LIABILITY UNDER ACT--REPARATION OF
13 DAMAGES CAUSED IN CARRYING OUT POWERS GRANTED--AUTHORITY OF
14 COMMISSION TO RECEIVE CONTRIBUTIONS.--

15 A. There is [~~hereby~~] created a fund to be known
16 as the "New Mexico irrigation works construction fund", which
17 shall consist of the income creditable to the permanent
18 reservoirs for irrigation purposes income fund not otherwise
19 pledged under Section [~~75-34-19 New Mexico Statutes Annotated,~~
20 ~~1953 Compilation, (being Laws 1955, Chapter 266, Section 11)]~~
21 72-14-19 NMSA 1978 and all other [~~moneys which~~] money that may
22 be appropriated by the [~~state~~] legislature to [~~said~~] the
23 construction fund. [~~Such~~] The fund shall be a continuing fund
24 and shall not revert to the general fund [~~of the state~~] or to
25 any other fund [~~of the state at the end of any biennium~~].

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

5 C. The cost of investigations and construction as
6 authorized in Section [~~75-34-11 New Mexico Statutes Annotated,~~
7 ~~1953 Compilation (being Laws 1955, Chapter 266, Section 3)~~
8 72-14-11 NMSA 1978 shall be paid from [~~said~~] the New Mexico
9 irrigation works construction fund and also the cost of all
10 preliminary work on any project, and all expenses directly
11 chargeable to such project, prior to the receipt of the
12 proceeds of bonds, shall be paid from the construction fund.
13 The amount of all such expenses on account of any project [~~or~~
14 ~~projects~~] and such part of the general administrative expenses
15 of the commission and the cost of investigation [~~or~~
16 ~~investigations~~] as shall be properly chargeable, in the opinion
17 of the commission, to such project [~~or projects~~] shall be
18 reimbursed to the construction fund upon the receipt of the
19 proceeds of bonds issued for such project [~~or projects~~]. No
20 liability or obligation shall be incurred under the provisions
21 of Sections [~~75-34-9 to 75-34-27 New Mexico Statutes, 1953~~
22 ~~Compilation (being Laws 1955, Chapter 266, Sections 1 to 19)~~
23 72-14-9 through 72-14-28 NMSA 1978 beyond the extent to which
24 the money [~~shall have~~] has been provided under the authority of
25 [~~this act~~] those sections. All public and private property

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1 damaged or destroyed in carrying out the powers granted under
2 [~~this act~~] those sections shall be restored or repaired and
3 placed in [~~their~~] its original condition, as nearly as
4 practicable, or adequate compensation made therefor out of
5 funds provided by [~~this act~~] those sections.

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