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SENATE BILL 341

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO WATER; CREATING THE LOWER PECOS BASIN WATER PRESERVATION DISTRICT; AUTHORIZING THE IMPOSITION OF A LOWER PECOS BASIN WATER PRESERVATION GROSS RECEIPTS TAX; IMPOSING A SURCHARGE ON CERTAIN WATER USERS; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO ISSUE REVENUE BONDS; AUTHORIZING SEVERANCE TAX BONDS; MAKING APPROPRIATIONS FOR PROJECTS TO CONSERVE WATER AND TO PROTECT AND RETIRE WATER RIGHTS IN THE BASIN.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 21 of this act may be cited as the "Lower Pecos Basin Water Preservation District Act".

Section 2. [NEW MATERIAL] FINDINGS AND PURPOSE. --

A. The legislature finds that:

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1 (1) a severe imbalance exists among water
2 right holders, New Mexico obligations under the Pecos River
3 Compact and water supply in the lower Pecos river basin of New
4 Mexico;

5 (2) the imbalance is threatening the economic
6 well-being of the state and the four counties comprising the
7 lower Pecos basin and is causing undue hardship to the state
8 and for all residents in the four counties;

9 (3) a mechanism needs to be in place to
10 protect water rights, retire water rights and conserve water
11 so that a balance will be restored between all water uses and
12 water supply in the lower Pecos river basin;

13 (4) the costs for correcting the imbalance,
14 protecting the water rights and conserving the water should be
15 borne, in part, by the persons who will most benefit;

16 (5) the creation of the special district and
17 the assessments and taxes imposed pursuant to the Lower Pecos
18 Basin Water Preservation District Act will serve a public use
19 and will promote the health, safety, prosperity, security and
20 general welfare of the inhabitants of the district and of the
21 state;

22 (6) the provisions of the Lower Pecos Basin
23 Water Preservation District Act and the actions authorized by
24 that act will be a special benefit to the residents of the
25 district; and

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1 (7) a general law cannot be made applicable
2 to the lower Pecos basin because of the number of atypical and
3 special conditions and problems associated with it.

4 B. The purpose of the Lower Pecos Basin Water
5 Preservation District Act is to create a special district in
6 which gross receipts taxes are levied to provide a funding
7 source so that the economic viability of the district and its
8 residents can be restored, protected and strengthened.

9 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the
10 Lower Pecos Basin Water Preservation District Act:

11 A. "authority" means the New Mexico finance
12 authority;

13 B. "board" means the board of directors of the
14 lower Pecos basin water preservation district;

15 C. "department" means the taxation and revenue
16 department; and

17 D. "district" means the lower Pecos basin water
18 preservation district.

19 Section 4. [NEW MATERIAL] WATER PRESERVATION DISTRICT
20 CREATED-- BOARD OF DIRECTORS-- APPOINTMENT-- DUTIES. --

21 A. The "lower Pecos basin water preservation
22 district" is created. The district is comprised of the area
23 encompassing Eddy, Chaves, Lincoln and De Baca counties,
24 except that the portion of Lincoln county that lies within an
25 incorporated municipality and outside of the Pecos river

1 drainage, as determined by the state engineer, shall be
2 excluded from the district.

3 B. The district shall be governed by a board of
4 directors consisting of:

5 (1) one member appointed by the board of
6 county commissioners of each county included in the district,
7 who shall be a resident of that county;

8 (2) one member appointed by the governing
9 body of each irrigation district, each conservancy district
10 and each artesian conservancy district wholly or partly
11 located in the lower Pecos basin water preservation district;
12 and

13 (3) the state engineer or his designee.

14 C. Members shall be appointed for terms of three
15 years, except that the initial appointed members from Lincoln
16 and De Baca counties shall be appointed for a one-year term.

17 D. A public member of the board shall be
18 reimbursed by the county or district that he represents at
19 rates provided in the Per Diem and Mileage Act and shall
20 receive no other compensation, perquisite or allowance.

21 E. The board shall elect a chair and such other
22 officers as necessary to perform its duties.

23 F. The board shall meet at the call of the chair,
24 except that:

25 (1) the board shall hold its initial meeting

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1 prior to July 1, 2002; and

2 (2) the board shall meet not less than once
3 each fiscal year.

4 G. The board shall:

5 (1) review projects, proposed by the state
6 engineer, to be funded pursuant to the Lower Pecos Basin Water
7 Preservation District Act and recommend any additions,
8 deletions and other changes to the proposal;

9 (2) review the status of projects being
10 completed with expenditures of the bond proceeds; and

11 (3) advise the state engineer on the need for
12 future projects and the need for continuing the surcharge and
13 taxes imposed pursuant to the Lower Pecos Basin Water
14 Preservation District Act.

15 H. The exercise of any power or duty granted to
16 the district or board shall not duplicate or infringe upon any
17 power or duty of any irrigation district, conservancy district
18 or artesian conservancy district wholly or partly located in
19 the lower Pecos basin water preservation district.

20 Section 5. [NEW MATERIAL] LOWER PECOS BASIN WATER
21 PRESERVATION GROSS RECEIPTS TAX--IMPOSITION--ELECTION--
22 EFFECTIVE DATE--COMPLIANCE WITH GROSS RECEIPTS AND
23 COMPENSATING TAX ACT AND REQUIREMENTS OF DEPARTMENT--
24 SUBMISSION OF COPY TO DEPARTMENT.--

25 A. A majority of the board may enact a resolution

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1 imposing an excise tax on any person engaging in business in
2 the district for the privilege of engaging in business. The
3 tax shall be known as the "lower Pecos basin water
4 preservation gross receipts tax". The rate of the tax shall
5 be three-sixteenths of one percent of the gross receipts of
6 the person engaging in business.

7 B. The resolution shall not go into effect until
8 after an election is held and a simple majority of the
9 qualified electors of the district voting in the election
10 votes in favor of imposing the lower Pecos basin water
11 preservation gross receipts tax. The board shall adopt a
12 resolution calling for an election within seventy-five days of
13 the date the resolution is adopted on the question of imposing
14 the tax. The question shall be submitted to the qualified
15 electors and voted upon in a special election called for that
16 purpose by the board. A special election upon the question
17 shall be called, held, conducted and canvassed in
18 substantially the same manner as provided by law for general
19 elections. Costs of a special election shall be paid from the
20 New Mexico irrigation works construction fund and so much of
21 that fund as is needed for the election is appropriated to the
22 interstate stream commission. If the question of imposing a
23 lower Pecos basin water preservation gross receipts tax fails,
24 the board shall not again propose a lower Pecos basin water
25 preservation gross receipts tax for a period of one year after

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1 the election. A certified copy of any resolution imposing the
2 lower Pecos basin water preservation gross receipts tax shall
3 be mailed to the department within five days after the
4 resolution is adopted in any election called for that purpose.

5 C. The resolution proposing the lower Pecos basin
6 water preservation gross receipts tax shall adopt by reference
7 the same definitions and the same provisions relating to
8 exemptions and deductions as are contained in the Gross
9 Receipts and Compensating Tax Act then in effect and as it may
10 be amended from time to time.

11 D. The board, when proposing the lower Pecos basin
12 water preservation gross receipts tax, shall adopt the model
13 resolution with respect to the tax furnished to the board by
14 the department.

15 Section 6. [NEW MATERIAL] LOWER PECOS BASIN WATER
16 PRESERVATION GROSS RECEIPTS TAX--SPECIFIC EXEMPTIONS. -- The
17 lower Pecos basin water preservation gross receipts tax shall
18 not be imposed on the gross receipts arising from transporting
19 for hire persons or property by railroad, motor vehicle, air
20 transportation or any other means from one point within the
21 district to another point outside the district, nor is the tax
22 imposed on direct satellite broadcasting or on gross receipts
23 that are exempt by federal law.

24 Section 7. [NEW MATERIAL] LOWER PECOS BASIN WATER
25 PRESERVATION GROSS RECEIPTS TAX--COLLECTION BY DEPARTMENT--

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1 TRANSFER OF PROCEEDS-- DEDUCTION. --

2 A. The department shall collect the lower Pecos
3 basin water preservation gross receipts tax in the same manner
4 and at the same time as it collects the state gross receipts
5 tax.

6 B. The department may deduct an amount not to
7 exceed three percent of the lower Pecos basin water
8 preservation gross receipts tax as a charge for the
9 administrative costs of collection.

10 C. The department shall transfer to the lower
11 Pecos basin water preservation bonding fund the amount
12 collected from the lower Pecos basin water preservation gross
13 receipts tax, less any disbursement for administrative charges
14 made pursuant to Subsection B of this section, tax credits,
15 refunds and the payment of interest applicable to the tax.
16 The transfer to the fund shall be made within the month
17 following the month in which the tax is collected.

18 Section 8. [NEW MATERIAL] LOWER PECOS BASIN WATER
19 PRESERVATION GROSS RECEIPTS TAX-- ADMINISTRATION AND
20 ENFORCEMENT OF ACT. --

21 A. The department shall interpret the provisions
22 of the Lower Pecos Basin Water Preservation District Act with
23 respect to the lower Pecos basin water preservation gross
24 receipts tax imposed under that act.

25 B. The department shall administer and enforce the

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1 collection of the lower Pecos basin water preservation gross
2 receipts tax, and the Tax Administration Act applies to the
3 administration and enforcement of the lower Pecos basin water
4 preservation gross receipts tax.

5 Section 9. [NEW MATERIAL] LOWER PECOS BASIN WATER
6 PRESERVATION GROSS RECEIPTS TAX--TERMINATION.--The lower Pecos
7 basin water preservation gross receipts tax shall terminate on
8 the July 1 or January 1 occurring after three months from the
9 date that the department is notified that the authority has
10 made a determination pursuant to Section 11 of the Lower Pecos
11 Basin Water Preservation District Act that future expenditures
12 from the lower Pecos basin water preservation bonding fund are
13 not needed.

14 Section 10. [NEW MATERIAL] AUTHORITY MAY ISSUE LOWER
15 PECOS BASIN WATER PRESERVATION REVENUE BONDS--APPROPRIATION OF
16 PROCEEDS.--The authority is authorized to issue and sell
17 revenue bonds, known as "lower Pecos basin water preservation
18 revenue bonds", payable solely from the lower Pecos basin
19 water preservation bonding fund, in compliance with the Lower
20 Pecos Basin Water Preservation District Act for the purpose of
21 funding projects pursuant to Section 20 of the Lower Pecos
22 Basin Water Preservation District Act when the interstate
23 stream commission certifies the need for the issuance of the
24 bonds. The authority shall schedule the issuance and sale of
25 the bonds in the most expeditious and economical manner

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1 possible upon a finding by the authority that the projects can
2 proceed within a reasonable time. The authority shall further
3 take the appropriate steps necessary to comply with the
4 Internal Revenue Code of 1986, as amended. Proceeds from the
5 sale of the bonds are appropriated to the interstate stream
6 commission for expenditure in fiscal year 2003 and subsequent
7 fiscal years for the purpose of completing projects pursuant
8 to Section 20 of the Lower Pecos Basin Water Preservation
9 District Act.

10 Section 11. [NEW MATERIAL] LOWER PECOS BASIN WATER
11 PRESERVATION BONDING FUND CREATED--MONEY IN THE FUND
12 PLEDGED. --

13 A. The "lower Pecos basin water preservation
14 bonding fund" is created as a special fund within the
15 authority. The fund shall be administered by the authority as
16 a special account. The fund shall consist of money
17 appropriated to the fund and gross receipts tax revenues
18 distributed to the fund by law. Earnings of the fund shall be
19 credited to the fund. Balances in the fund at the end of any
20 fiscal year shall remain in the fund, except as provided in
21 this section.

22 B. Money in the lower Pecos basin water
23 preservation bonding fund is pledged for the payment of
24 principal and interest on all lower Pecos basin water
25 preservation revenue bonds issued pursuant to the Lower Pecos

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1 Basin Water Preservation District Act. Money in the fund is
2 appropriated to the authority for the purpose of paying debt
3 service, including redemption premiums, on the lower Pecos
4 basin water preservation revenue bonds and the expenses
5 incurred in the issuance, payment and administration of the
6 bonds.

7 C. On the last day of January and July of each
8 year, the authority shall estimate the amount needed to make
9 debt service and other payments during the next twelve months
10 from the lower Pecos basin water preservation bonding fund on
11 the lower Pecos basin water preservation revenue bonds issued
12 pursuant to the Lower Pecos Basin Water Preservation District
13 Act plus the amount that may be needed for any required
14 reserves. The authority shall transfer to the Pecos River
15 Compact compliance fund any balance in the lower Pecos basin
16 water preservation bonding fund above the estimated amounts.

17 D. Upon a determination by the interstate stream
18 commission pursuant to Section 21 of the Lower Pecos Basin
19 Water Preservation District Act that expenditures from the
20 proceeds of lower Pecos basin water preservation revenue bonds
21 are no longer needed and upon the certification by the
22 authority that all lower Pecos basin water preservation
23 revenue bonds issued pursuant to the Lower Pecos Basin Water
24 Preservation District Act have been retired, that no
25 additional obligations of the lower Pecos basin water

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1 preservation bonding fund exist and that no additional
2 expenditures from the fund are necessary, the interstate
3 stream commission shall notify, in writing, the board, the
4 board of county commissioners of each county within the
5 district and the department. Upon the termination and final
6 distribution of revenues from the lower Pecos basin water
7 preservation gross receipts tax imposed pursuant to the Lower
8 Pecos Basin Water Preservation District Act, the lower Pecos
9 basin water preservation bonding fund shall be dissolved and
10 any remaining balance in the fund shall be transferred to the
11 Pecos River Compact compliance fund.

12 E. The lower Pecos basin water preservation
13 revenue bonds issued pursuant to the Lower Pecos Basin Water
14 Preservation District Act shall be payable solely from the
15 lower Pecos basin water preservation bonding fund or, with the
16 approval of the bondholders, such other special funds as may
17 be provided by law and do not create an obligation or
18 indebtedness of the state or any of its political subdivisions
19 within the meaning of any constitutional provision. No breach
20 of any contractual obligation incurred pursuant to that act
21 shall impose a pecuniary liability or a charge upon the
22 general credit or taxing power of the state or its political
23 subdivisions, and the bonds are not general obligations for
24 which the state's or its political subdivisions' full faith
25 and credit are pledged.

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1 F. The state does hereby pledge that the lower
2 Pecos basin water preservation bonding fund shall be used only
3 for the purposes specified in this section and pledged first
4 to pay the debt service on the lower Pecos basin water
5 preservation revenue bonds issued pursuant to the Lower Pecos
6 Basin Water Preservation District Act. The state further
7 pledges that any law imposing or authorizing a tax, the
8 revenue from which is pledged to retire the lower Pecos basin
9 water preservation revenue bonds or any law authorizing the
10 distribution of taxes or other revenues to the lower Pecos
11 basin water preservation bonding fund or authorizing
12 expenditures from the fund shall not be amended or repealed or
13 otherwise modified so as to impair the bonds to which the
14 lower Pecos basin water preservation bonding fund is dedicated
15 as provided in this section.

16 Section 12. [NEW MATERIAL] AUTHORITY TO REFUND BONDS. --
17 The authority may issue and sell at public or private sale
18 lower Pecos basin water preservation revenue bonds to refund
19 outstanding lower Pecos basin water preservation revenue bonds
20 by exchange, immediate or prospective redemption, cancellation
21 or escrow, including the escrow of debt service funds
22 accumulated for payment of outstanding bonds, or any
23 combination thereof when, in its opinion, such action will be
24 beneficial to the state.

25 Section 13. [NEW MATERIAL] LOWER PECOS BASIN WATER

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1 **PRESERVATION REVENUE BONDS-- FORM - EXECUTION. --**

2 A. The authority, except as otherwise specifically
3 provided in the Lower Pecos Basin Water Preservation District
4 Act, shall determine at its discretion the terms, covenants
5 and conditions of lower Pecos basin water preservation revenue
6 bonds, including, but not limited to, date of issue,
7 denominations, maturities, rate or rates of interest, call
8 features, call premiums, registration, refundability and other
9 covenants covering the general and technical aspects of the
10 issuance of the bonds.

11 B. Lower Pecos basin water preservation revenue
12 bonds shall be in such form as the authority may determine,
13 and successive issues shall be identified by alphabetical,
14 numerical or other proper series designation.

15 C. Lower Pecos basin water preservation revenue
16 bonds shall be signed and attested by the secretary of the
17 authority and shall be executed with the facsimile signature
18 of the chairman of the authority and the facsimile seal of the
19 authority, except for bonds issued in book entry or similar
20 form without the delivery of physical securities. Any
21 interest coupons attached to the bonds shall bear the
22 facsimile signature of the secretary of the authority, which
23 officer, by the execution of the bonds, shall adopt as his own
24 signature the facsimile thereof appearing on the coupons.

25 Except for bonds issued in book entry or similar form without

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1 the delivery of physical securities, the Uniform Facsimile
2 Signature of Public Officials Act shall apply, and the
3 authority shall determine the manual signature to be affixed
4 on the bonds.

5 Section 14. [NEW MATERIAL] PROCEDURE FOR SALE OF
6 BONDS. --

7 A. Lower Pecos basin water preservation revenue
8 bonds shall be sold by the authority at such times and in such
9 manner as the authority may elect, consistent with the need of
10 the interstates stream commission, either at private sale for
11 a negotiated price or to the highest bidder at public sale for
12 cash at not less than par and accrued interest.

13 B. In connection with any public sale of lower
14 Pecos basin water preservation revenue bonds, the authority
15 shall publish a notice of the time and place of sale in a
16 newspaper of general circulation in the state and also in a
17 recognized financial journal outside the state. Such
18 publication shall be made once each week for two consecutive
19 weeks prior to the date fixed for such sale, the last
20 publication to be two business days prior to the date of sale.
21 Such notice shall specify the amount, denomination, maturity
22 and description of the bonds to be offered for sale and the
23 place, day and hour at which sealed bids therefor shall be
24 received. All bids, except that of the state, shall be
25 accompanied by a deposit of two percent of the principal

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1 amount of the bonds. Deposits of unsuccessful bidders shall
2 be returned upon rejection of the bid. At the time and place
3 specified in such notice, the authority shall open the bids in
4 public and shall award the bonds, or any part thereof, to the
5 bidder or bidders offering the best price. The authority may
6 reject any or all bids and readvertise.

7 C. The authority may sell a lower Pecos basin
8 water preservation revenue bond issue, or any part thereof, to
9 the state or to one or more investment bankers or
10 institutional investors at private sale.

11 Section 15. [NEW MATERIAL] LOWER PECOS BASIN WATER
12 PRESERVATION DISTRICT ACT IS FULL AUTHORITY FOR ISSUANCE OF
13 BONDS-- BONDS ARE LEGAL INVESTMENTS. --

14 A. The Lower Pecos Basin Water Preservation
15 District Act shall, without reference to any other act of the
16 legislature, be full authority for the issuance and sale of
17 lower Pecos basin water preservation revenue bonds, which
18 bonds shall have all the qualities of investment securities
19 under the Uniform Commercial Code and shall not be invalid for
20 any irregularity or defect or be contestable in the hands of
21 bona fide purchasers or holders thereof for value.

22 B. Lower Pecos basin water preservation revenue
23 bonds are legal investments for any person or board charged
24 with the investment of any public funds and are acceptable as
25 security for any deposit of public money.

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1 Section 16. [NEW MATERIAL] SUIT MAY BE BROUGHT TO COMPEL
2 PERFORMANCE. --Any holder of lower Pecos basin water
3 preservation revenue bonds or any person or officer being a
4 party in interest may sue to enforce and compel the
5 performance of the provisions of the Lower Pecos Basin Water
6 Preservation District Act.

7 Section 17. [NEW MATERIAL] BONDS TAX EXEMPT. --All lower
8 Pecos basin water preservation revenue bonds shall be exempt
9 from taxation by the state or any of its political
10 subdivisions.

11 Section 18. [NEW MATERIAL] PECOS RIVER COMPACT
12 COMPLIANCE FUND-- CONTINUING APPROPRIATION. --

13 A. The "Pecos River Compact compliance fund" is
14 created in the state treasury. The fund shall consist of
15 money transferred to the fund from the lower Pecos basin water
16 preservation bonding fund, revenue from the surcharge imposed
17 pursuant to Section 19 of the Lower Pecos Basin Water
18 Preservation District Act and appropriations made to the fund.
19 Earnings of the fund shall be credited to the fund, and
20 balances in the fund shall not revert or be transferred to any
21 other fund. Except as provided in Subsection B of this
22 section, the fund is appropriated to the interstate stream
23 commission for the purpose of carrying out the provisions of
24 the Lower Pecos Basin Water Preservation District Act.

25 B. One million five hundred thousand dollars

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1 (\$1,500,000) is appropriated from the Pecos River Compact
2 compliance fund each fiscal year from fiscal year 2003 through
3 fiscal year 2012 to the interstate stream commission for the
4 purpose of contracting with the board of regents of New Mexico
5 state university to conduct a program upland watershed
6 restoration, alien phreatophyte removal with native vegetation
7 reestablishment and other water salvage activities in the
8 lower Pecos river basin. Any unexpended or unencumbered
9 balance remaining at the end of each fiscal year shall revert
10 to the Pecos River Compact compliance fund.

11 Section 19. [NEW MATERIAL] SURCHARGE--ADDITIONAL NET
12 DEPLETIONS--PECOS RIVER.--

13 A. At any time after January 1, 2003, the state
14 engineer may impose and collect an annual surcharge on
15 additional net depletions of Pecos River system irrigation
16 water in the Pecos river surface water drainage downstream of
17 Summer dam. The surcharge shall not exceed two hundred
18 dollars (\$200) per acre-foot of the additional net depletions.
19 Revenue from the surcharge shall be deposited in the Pecos
20 River Compact compliance fund.

21 B. As used in this section, "additional net
22 depletions" means the depletions, above those taken in
23 calendar year 1990, that:

24 (1) do not result from normal reservoir and
25 irrigation district operations incidental to the exercise of

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1 valid water rights; and

2 (2) are not approved as a conservation
3 measure by the interstate steam commission or authorized by a
4 permit from the state engineer.

5 Section 20. [NEW MATERIAL] INTERSTATE STREAM
6 COMMISSION--EXPENDITURES FOR PROJECTS--SALE OF WATER RIGHTS.--

7 A. The interstate stream commission, after
8 consultation with the board, the authority and the state board
9 of finance, shall determine the need for projects and how
10 funding for the projects shall be allocated between proceeds
11 from severance tax bonds, proceeds from lower Pecos basin
12 water preservation revenue bonds or appropriations from the
13 Pecos River Compact compliance fund. Expenditure of the
14 proceeds and appropriations shall be made only within the
15 Pecos river basin downstream from the Summer dam for projects
16 that:

17 (1) protect water rights, retire water rights
18 or include other measures designed to correct the imbalances
19 among water right holders, New Mexico obligations under the
20 Pecos River Compact and water supply of the lower Pecos river
21 basin; or

22 (2) are designed for water conservation,
23 including restoration of native vegetation and other water
24 supply enhancement measures.

25 B. If, at any time, the interstate stream

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1 commission determines that the total water rights purchased
2 with bond revenues or appropriations pursuant to this section
3 are in excess of those water rights permanently needed for
4 compliance with New Mexico's obligations under the Pecos River
5 Compact, then the commission shall offer the excess water
6 rights for sale to the private sector. By rule, the
7 commission shall establish procedures for the sale, and any
8 revenue received as a result of the sale shall be deposited in
9 the Pecos River Compact compliance fund.

10 Section 21. [NEW MATERIAL] DETERMINATION OF SUFFICIENT
11 EXPENDITURES--NOTIFICATION.--The interstate stream commission,
12 after consulting with the board, may determine that the water
13 rights within the lower Pecos river basin are no longer out of
14 balance, that no further water conservation projects are
15 needed within the district, that no further expenditures are
16 needed from the proceeds of lower Pecos basin water
17 preservation revenue bonds and that no additional revenue is
18 needed in the Pecos River Compact compliance fund. Upon such
19 a determination, the commission shall notify the authority
20 pursuant to Section 11 of the Lower Pecos Basin Water
21 Preservation District Act.

22 Section 22. AUTHORIZATION FOR SEVERANCE TAX BONDS--
23 APPROPRIATION OF PROCEEDS FOR PROJECTS.--

24 A. The state board of finance may issue and sell
25 severance tax bonds in fiscal years 2003 through 2005 in

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1 compliance with the Severance Tax Bonding Act in an amount not
2 exceeding a total of twenty-four million dollars (\$24,000,000)
3 when the interstate stream commission certifies the need for
4 the issuance of the bonds; provided that no more than eight
5 million dollars (\$8,000,000) may be issued in any one fiscal
6 year. The state board of finance shall schedule the issuance
7 and sale of the bonds in the most expeditious and economical
8 manner possible upon a finding by the board that the projects
9 have been sufficiently developed to justify the issuance and
10 that the projects can proceed to contract within a reasonable
11 time. The state board of finance shall further take the
12 appropriate steps necessary to comply with the federal
13 Internal Revenue Code of 1986, as amended. The proceeds from
14 the sale of the bonds are appropriated to the interstate
15 stream commission for the purpose of financing projects
16 pursuant to the provisions of the Lower Pecos Basin Water
17 Preservation District Act. Any unexpended or unencumbered
18 balance remaining at the end of fiscal year 2007 shall revert
19 to the severance tax bonding fund. If the interstate stream
20 commission has not certified the need for the issuance of the
21 bonds by the end of fiscal year 2004, the authorization
22 provided in this section shall expire.

23 B. No certification shall be made by the
24 interstate stream commission pursuant to Subsection A of this
25 section unless:

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1 (1) the commission has entered into contracts
2 with the governing body of the Carlsbad irrigation district
3 and with the governing body of the Pecos valley artesian
4 conservancy district that specify the actions to be taken or
5 avoided by each party to ensure that the expenditure of the
6 bond proceeds by the interstate stream commission will be
7 effective toward compliance with New Mexico's obligations
8 under the Pecos River Compact; and

9 (2) the board of directors of the lower Pecos
10 basin water preservation district has proposed, and the people
11 residing in the district have adopted, a lower Pecos basin
12 water preservation gross receipts tax pursuant to the
13 provisions of the Lower Pecos Basin Water Preservation
14 District Act.

15 Section 23. A new section of the Tax Administration Act
16 is enacted to read:

17 "[NEW MATERIAL] DISTRIBUTION--LOWER PECOS BASIN WATER
18 PRESERVATION GROSS RECEIPTS TAX.--A distribution pursuant to
19 Section 7-1-6.1 NMSA 1978 shall be made to the lower Pecos
20 basin water preservation bonding fund in the amount equal to
21 the net receipts attributable to the lower Pecos basin water
22 preservation gross receipts tax imposed by the Lower Pecos
23 Basin Water Preservation District Act."

24 Section 24. SEVERABILITY.--If any part of application of
25 the Lower Pecos Basin Water Preservation District Act is held

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invalid, the remainder or its application to other situations
or persons shall not be affected.