

1 AN ACT  
2 RELATING TO WATER; CREATING THE STRATEGIC WATER RESERVE FUND  
3 TO BE ADMINISTERED BY THE INTERSTATE STREAM COMMISSION;  
4 PROVIDING THAT THE STRATEGIC WATER RESERVE SHALL BE USED TO  
5 ASSIST IN WATER MANAGEMENT AND CONSERVATION EFFORTS DESIGNED  
6 TO SUPPORT AQUIFER RECHARGE OR REDUCE GROUND WATER DEPLETION;  
7 ALLOWING THE INTERSTATE STREAM COMMISSION TO PRIORITIZE WATER  
8 TRANSACTIONS THAT PROVIDE SUPPLEMENTARY BENEFITS IN ADDITION  
9 TO AT LEAST ONE AUTHORIZED PURPOSE; MAKING AN APPROPRIATION.

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

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

14 "STRATEGIC WATER RESERVE FUND--CREATED.--

15 A. The "strategic water reserve fund" is created  
16 in the state treasury. The fund consists of distributions,  
17 appropriations, gifts, grants, donations and income from  
18 investment of the fund. Any unexpended or unencumbered  
19 balance remaining in the fund at the end of a fiscal year  
20 shall not revert except for balances that exceed fifteen  
21 million dollars (\$15,000,000), which shall revert to the  
22 general fund at the end of the fiscal year.

23 B. The interstate stream commission shall  
24 administer the fund. Money in the fund is appropriated to  
25 the interstate stream commission for the purposes of the

1 strategic water reserve pursuant to Section 72-14-3.3  
2 NMSA 1978; provided that over any five-year period, no more  
3 than twenty-five percent of money expended shall be used for  
4 the purpose of aquifer recharge and ground water depletion  
5 reduction pursuant to Paragraph (3) of Subsection B of  
6 Section 72-14-3.3 NMSA 1978. Expenditures from the fund  
7 shall be by warrant of the secretary of finance and  
8 administration pursuant to vouchers signed by the director of  
9 the interstate stream commission or the director's authorized  
10 representative."

11 SECTION 2. Section 72-14-3.3 NMSA 1978 (being  
12 Laws 2005, Chapter 175, Section 1 and Laws 2005, Chapter 182,  
13 Section 1, as amended) is amended to read:

14 "72-14-3.3. INTERSTATE STREAM COMMISSION--ADDITIONAL  
15 POWERS--STRATEGIC WATER RESERVE.--

16 A. The interstate stream commission shall  
17 establish a strategic water reserve and may purchase or lease  
18 from willing sellers or lessors or receive through donation  
19 surface water or water rights or storage rights to compose  
20 the reserve. The commission may also purchase or lease from  
21 willing sellers or lessors or receive by donation underground  
22 water or water rights for the strategic water reserve for  
23 cessation of pumping or limited short-term stream  
24 augmentation. At no time shall the use of water or water  
25 rights held by the strategic water reserve result in an

1 increase in net depletions in any basin. The commission  
2 shall pay no more than the appraised market value to purchase  
3 or lease water or water rights and storage rights for the  
4 strategic water reserve. The commission may accept money or  
5 grants from federal or other governmental entities or other  
6 persons to purchase or lease water or water rights for the  
7 strategic water reserve, to pay administrative costs and to  
8 develop, construct, operate and maintain infrastructure for  
9 the delivery of water to the location of need. The  
10 commission shall not acquire water or water rights that are  
11 served by or owned by an acequia or community ditch  
12 established pursuant to Chapter 73, Articles 2 and 3  
13 NMSA 1978 for inclusion in the strategic water reserve.  
14 The commission shall not acquire water or water rights that  
15 are served by an irrigation district established pursuant to  
16 Chapter 73, Article 10 NMSA 1978, except through contractual  
17 arrangement with the district board of directors or as a  
18 special water users association established pursuant to  
19 Chapter 73, Article 10 NMSA 1978, but nothing in this  
20 section shall be construed to authorize the interstate  
21 stream commission to acquire water rights contrary to  
22 Section 72-1-2.4 NMSA 1978. The commission shall acquire  
23 only water rights that have sufficient seniority and  
24 consistent, historic beneficial use to effectively contribute  
25 to the purpose of the strategic water reserve. The

1 commission shall not acquire water or water rights for the  
2 strategic water reserve by condemnation and may only condemn  
3 real property when that property is needed for infrastructure  
4 related to the conveyance of water. Water in the strategic  
5 water reserve shall not be subject to forfeiture pursuant to  
6 Chapter 72 NMSA 1978. Water or water rights shall only be  
7 acquired with the explicit approval of the commission.

8 B. Water and water rights in the strategic water  
9 reserve shall be used to:

10 (1) assist the state in complying with  
11 interstate stream compacts and court decrees;

12 (2) assist the state and water users in  
13 water management efforts for the benefit of threatened or  
14 endangered species or in a program intended to avoid  
15 additional listings of species. Management of water pursuant  
16 to this subsection shall be done in conjunction with  
17 collaborative programs or processes where they exist. Use of  
18 the strategic water reserve pursuant to this paragraph shall  
19 be limited to aquatic or obligate riparian species; or

20 (3) assist the state or water users with  
21 water management and water conservation efforts designed to  
22 support aquifer recharge or reduce ground water depletion, in  
23 order to promote stream flow or other environmental benefits.  
24 Surface water leased or purchased for the purpose of this  
25 paragraph shall not be converted to ground water via any

1 methods other than natural, passive infiltration through the  
2 streambed.

3 C. The interstate stream commission shall develop  
4 river reach or ground water basin priorities for the  
5 acquisition of water or water rights and storage rights for  
6 the strategic water reserve in consultation with the  
7 New Mexico interstate stream compact commissioners, the  
8 office of the state engineer and the state department of  
9 justice. For each river reach or ground water basin,  
10 additional prioritization shall be developed in coordination  
11 with the governing bodies of the following organizations  
12 within the affected river reach or ground water basin:

- 13 (1) Indian nations, tribes and pueblos;
- 14 (2) boards of county commissioners;
- 15 (3) municipalities;
- 16 (4) special districts established pursuant  
17 to Chapter 73 NMSA 1978;
- 18 (5) soil and water conservation districts;
- 19 (6) water authorities; and
- 20 (7) water planning regions.

21 D. Nothing in this section shall modify or repeal  
22 any authority currently vested in any organization described  
23 in Subsection C of this section.

24 E. When establishing priorities for acquisition of  
25 water or water rights and storage rights for the strategic

1 water reserve pursuant to Subsection C of this section,  
2 the interstate stream commission shall consider potential  
3 supplementary benefits, such as supporting traditional and  
4 cultural practices, habitat improvement or recreational  
5 opportunities within the affected water reach or ground water  
6 basin. The interstate stream commission may prioritize  
7 transactions that meet at least one of these supplementary  
8 benefits, in addition to at least one of the purposes  
9 described in Subsection B of this section.

10 F. The interstate stream commission may sell or  
11 lease water or water rights from the strategic water reserve  
12 at no less than the appraised market value. The commission  
13 may sell water rights only if the rights are no longer  
14 necessary for the purposes for which they were acquired for  
15 the reserve; provided that water rights in the reserve shall  
16 not be sold to the United States. Pursuant to a sale of  
17 water rights from the strategic water reserve by the  
18 interstate stream commission, the commission shall first make  
19 the offer of sale for the original purpose of use. Proceeds  
20 of any sale are appropriated to the office of the state  
21 engineer to adjudicate water rights. Proceeds of any leases  
22 are appropriated to the interstate stream commission for  
23 carrying out the purposes of the strategic water reserve.

24 G. Water or water rights acquired for the  
25 strategic water reserve or water or water rights sold or

1 leased from the reserve shall remain in their river reach or  
2 ground water basin of origin.

3 H. Transactions with members of an irrigation or  
4 conservancy district established pursuant to Chapter 73  
5 NMSA 1978 shall provide for the strategic water reserve to  
6 pay the annual assessment to the district that would accrue  
7 to the district absent the transaction.

8 I. Cumulative impacts of the strategic water  
9 reserve acquisitions and uses shall not adversely affect  
10 existing water users or delivery systems.

11 J. The interstate stream commission shall adopt  
12 rules consistent with the terms of this section, including  
13 rules to ensure:

14 (1) that water and water rights acquired for  
15 the strategic water reserve are used only for the purposes of  
16 the reserve;

17 (2) adequate public notice in each affected  
18 area for the acquisition or disposal of water rights; and

19 (3) that the office of the state engineer  
20 transfer procedures shall be followed.

21 K. The interstate stream commission shall annually  
22 report to the appropriate committee of the legislature on the  
23 status of the strategic water reserve."