

HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 186

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

DISCUSSION DRAFT

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. INTERSTATE STREAM COMMISSION--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]~~ 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 ground waters, subject, in all cases, to
4 final approval by the legislature of New Mexico; ~~[to]~~

5 (2) plan and implement state programs or match
6 appropriations made by the congress of the United States for
7 federal investigations ~~[looking to the development]~~ or programs
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 and physically
14 available;

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

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

24 (6) advise the state engineer;

25 (7) institute or cause to be instituted in the

1 name of the state [~~of New Mexico~~] any and all negotiations
 2 [~~and/or~~] or legal proceedings as in its judgment are necessary
 3 to carry out the provisions of [~~this Act; to~~] Chapter 72,
 4 Article 14 NMSA 1978;

5 (8) do all other things necessary to carry out
 6 the provisions of [~~this Act; to~~] Chapter 72, Article 14 NMSA
 7 1978;

8 (9) employ such attorneys, engineers, water
 9 professionals and clerical help as, in its judgment, may be
 10 necessary to carry out the provisions of [~~this Act~~] Chapter 72,
 11 Article 14 NMSA 1978 and to fix their compensation and
 12 expenses; [~~together with~~] and

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

16 B. The attorney general shall be the legal adviser
 17 of [~~such~~] the commission and attorneys employed [~~as above~~]
 18 shall be subject to [~~his~~] the attorney general's approval and
 19 supervision and be designated as special assistant attorneys
 20 general."

21 **SECTION 2.** Section 72-14-3.1 NMSA 1978 (being Laws 2003,
 22 Chapter 131, Section 1 and Laws 2003, Chapter 137, Section 1)
 23 is amended to read:

24 "72-14-3.1. STATE WATER PLAN--PURPOSE--CONTENTS.--

25 A. It is the intent of the legislature that the

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1 interstate stream commission, in collaboration with the office
2 of the state engineer and the water trust board, prepare and
3 implement a comprehensive state water plan.

4 B. The state water plan shall address the following
5 goals and shall be a strategic management tool for the purposes
6 of:

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

9 (2) protecting and maintaining water rights
10 and their priority status;

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

13 (4) protecting both the water supply and water
14 quality;

15 (5) [~~promoting~~] developing and facilitating
16 the implementation of cooperative strategies, based on concern
17 for meeting the basic needs of all New Mexicans;

18 (6) meeting the state's interstate compact
19 obligations;

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

22 (8) providing statewide continuity of policy
23 and management to improve the public welfare relative to [~~our~~]
24 the state's water resources.

25 C. The interstate stream commission in

1 collaboration with the office of the state engineer and in
 2 consultation with other government agencies as appropriate,
 3 shall develop a comprehensive, coordinated, fact- and science-
 4 based state water plan that shall:

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

8 (2) establish a clear vision and policy
 9 direction for active management of the state's waters at
 10 appropriate regional and sub-regional scales based on
 11 hydrologic and legal realities with an emphasis on solving
 12 water-related problems at local and basinwide scales, including
 13 identifying and developing cooperative strategies and policies
 14 that address the gaps between water demand and the physically
 15 and legally available water supply to meet the demand;

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

21 (4) include historical and projected future
 22 water budgets [~~for the state and~~] for all major river basins
 23 and ~~[aquifer]~~ ground water systems in the state and prioritize
 24 plans to improve the reliability of those water budgets, if
 25 needed;

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1 (5) develop water conservation strategies and
2 policies to ~~[maximize]~~ stop waste of water, to encourage the
3 efficient use of water resources and to minimize the amount of
4 water required to satisfy beneficial ~~[use, including reuse and~~
5 ~~recycling by conjunctive management of water resources and by~~
6 ~~doing so to promote nonforfeiture of water rights]~~ uses;

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

9 (7) develop strategies to aid compliance with
10 interstate stream compacts while protecting the public welfare
11 of the state and identify federal resources to assist with
12 implementation of those strategies;

13 ~~[(6)]~~ (8) include a drought management plan
14 designed to address drought emergencies, promote strategies for
15 prevention of drought-related emergencies in the future and
16 coordinate regional and local drought planning statewide;

17 ~~[(7)]~~ (9) recognize the relationship between
18 water availability and land-use decisions;

19 ~~[(8)]~~ (10) promote river riparian and
20 watershed restoration that focuses on protecting the water
21 supply, improving water quality and complying with federal
22 Endangered Species Act of 1973 mandates;

23 ~~[(9)]~~ (11) consider water rights transfer
24 policies that balance the need to protect the customs, culture,
25 environment and economic health and stability of the state's

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1 diverse communities while providing for timely and efficient
2 transfers of water between uses to meet both short-term
3 shortages and long-term economic development needs;

4 ~~(10)~~ (12) promote strategies and mechanisms
5 for achieving coordination ~~[with]~~ among all levels of
6 government;

7 ~~(11)~~ (13) integrate approved regional water
8 plans into the state water plan as appropriate and consistent
9 with state water plan policies and strategies;

10 ~~(12)~~ (14) integrate plans of water supply
11 purveyors, including those of local governments, privately
12 owned public utilities, associations, cooperatives, irrigation
13 districts and acequias as appropriate and consistent with state
14 water plan policies and strategies, as those plans are
15 completed and submitted to the office of the state engineer;

16 ~~(13)~~ (15) identify water-related
17 infrastructure and management investment needs and
18 opportunities to leverage federal and other funding; ~~[and~~

19 ~~(14)~~ (16) promote collaboration with and
20 strategic focusing of the research and development of the
21 state's national laboratories and research institutions to
22 address the state's water challenges and to bring to the state
23 demonstration projects in desalination, conservation, watershed
24 restoration, weather modification and other technological
25 approaches to enhancing water supply and management;

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1 ~~[D. Recognizing that complete water rights~~
2 ~~adjudication, measurement, well inventories and adequate~~
3 ~~databases are essential elements of an effective water~~
4 ~~management plan, and further recognizing that completion of~~
5 ~~these work elements will require substantial time and resources~~
6 ~~until such time as these elements are complete, the state water~~
7 ~~plan shall include work plans and strategies for:~~

8 ~~(1) completion of water rights adjudications,~~
9 ~~with required supporting documentation, including hydrographic~~
10 ~~surveys, aquifer mapping and aerial mapping of irrigated land;~~

11 ~~(2) creation and completion of a comprehensive~~
12 ~~database and an electronically accessible information system on~~
13 ~~the state's water resources and water rights, including file~~
14 ~~abstraction and imaging of paper files as well as information~~
15 ~~on pending adjudications;~~

16 ~~(3) measuring of surface and ground water uses~~
17 ~~in the state as necessary for management of the state's water~~
18 ~~resources; and~~

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

21 (17) address the accuracy, adequacy and
22 limitations of data and models used in developing the state
23 water plan and include a prioritized plan to improve the data
24 and models; and

25 (18) set forth policies and strategies to

1 effectuate the goals of the state water plan and prioritize the
 2 implementation of those policies and strategies.

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

8 (1) participation of Indian nations, tribes
 9 and pueblos, as they desire, in the regional water planning
 10 process;

11 ~~[(1)]~~ (2) coordination or integration of the
 12 water plans of Indian nations, tribes and pueblos located
 13 wholly or partially within New Mexico with the state water
 14 plan; ~~[and~~

15 ~~(2)]~~ (3) final adjudication or settlement of
 16 all water rights claims by Indian nations, tribes and pueblos
 17 located wholly or partially within New Mexico; and

18 (4) New Mexico's compliance with interstate
 19 stream compacts, recognizing that the compacts shall not affect
 20 or impair the water rights of Indian nations, tribes and
 21 pueblos located wholly or partially within New Mexico.

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

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

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

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

10 (4) notify and invite members of the
11 interstate stream commission and water trust board [~~shall be~~
12 ~~notified of and are welcome~~] to participate in all aspects of
13 the planning process; and

14 (5) ensure that meetings involving a member of
15 the interstate stream commission convened for the purpose of
16 developing the state water plan or any component of the state
17 water plan comply with the Open Meetings Act and that the
18 minutes of a meeting reflect the substance of the meeting
19 discussion, including the rationale for inclusion or exclusion
20 in the state water plan of any policies or priorities
21 discussed.

22 [G.] F. After public review and comment, the state
23 water plan developed in conformance with this section is
24 subject to adoption by the interstate stream commission.
25 Following its adoption, the state water plan shall be presented

1 to the interim legislative committee that studies water and
2 natural resources.

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

10 ~~[I.]~~ H. Nothing in the state water plan shall be
11 construed to permit the granting or the condemnation of water
12 rights.

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

16 **SECTION 3.** A new section of Chapter 72, Article 14 NMSA
17 1978 is enacted to read:

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

20 **SECTION 4.** Section 72-14-43 NMSA 1978 (being Laws 1987,
21 Chapter 182, Section 1) is recompiled in the Regional Water
22 Planning Act and is amended to read:

23 "~~[LEGISLATIVE FINDINGS--STATE APPROPRIATION OF~~
24 ~~UNAPPROPRIATED WATER]~~ INTERSTATE STREAM COMMISSION--REGIONAL
25 WATER PLANNING PROGRAM.--~~[Based upon the findings and~~

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1 ~~recommendations of the report from New Mexico state university~~
2 ~~and the university of New Mexico on state appropriation of~~
3 ~~unappropriated water, the legislature finds that:~~

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

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

11 ~~C. the interstate stream commission is the~~
12 ~~appropriate agency to implement such a program] The interstate~~
13 ~~stream commission shall:~~

14 A. determine how to best meet the future water
15 needs of New Mexico by conducting a regional water planning
16 program that encourages and allows each region of the state to
17 plan for its water future;

18 B. provide professional and financial support to
19 assist each region in the state with planning future water use
20 and implement programs to ensure an adequate supply of water
21 for each region, as set forth in each region's approved water
22 plan; and

23 C. fund, facilitate, review and approve regional
24 and sub-regional water plans and actively support
25 implementation of recommendations that require state action."

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

4 "INTERSTATE STREAM COMMISSION--~~[GROUNDWATER]~~ GROUND WATER
5 APPROPRIATION--WATER RIGHTS PURCHASE [~~WATER PLANNING~~
6 ~~FUNDING~~].--

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

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

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

21 ~~(1) identification of the region requesting~~
22 ~~planning funds and why it is hydrologically and politically an~~
23 ~~appropriate applicant;~~

24 ~~(2) use of an appropriate planning process,~~
25 ~~including opportunities for participation by those Indian~~

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1 ~~tribes located within the various regions of the state;~~

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

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

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

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

10 ~~(7) identification of sources other than the~~
11 ~~interstate stream commission for funding of the proposed~~
12 ~~regional planning process.~~

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

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

21 ~~F. No funds shall be granted under this act to any~~
22 ~~party or parties that are not within a water planning region.~~
23 ~~Whether a proposal for funding falls within a water planning~~
24 ~~region shall be determined on a case-by-case basis by the~~
25 ~~interstate stream commission after consultation with the state~~

1 ~~engineer and consideration of the following:~~

2 ~~(1) whether the source of water and the~~
3 ~~potential place of use of the water are located within the same~~
4 ~~hydrologic basin; and~~

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

10 SECTION 6. 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 REGIONS--SOLICITATION OF PROPOSALS FOR PLANNING.--

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

22 B. The interstate stream commission shall:

23 (1) support and integrate public involvement
24 in water planning;

25 (2) develop or sponsor the development and

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

4 (3) identify gaps between water supply and
5 water demand and collaboratively implement balanced, realistic
6 solutions to address those gaps; and

7 (4) prioritize the implementation of approved
8 regional water plans.

9 C. The interstate stream commission shall create
10 water planning regions by adjusting the regional water planning
11 boundaries that exist as of July 1, 2019 to create no more than
12 sixteen water planning regions that together make up the
13 entirety of the state and that individually include the
14 entirety of:

15 (1) a distinct geographic area in which
16 depletions of water resources affect the state's compliance
17 with interstate stream compacts or United States supreme court
18 decrees that apportion water among states; or

19 (2) one or more geologically distinct ground
20 water resources or ground water systems within the state's
21 boundaries, except for the Ogallala aquifer.

22 D. The interstate stream commission shall solicit
23 proposals from approved regional and sub-regional water
24 planning entities within each water planning region to receive
25 state funding to prepare a plan to address regional or sub-

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1 regional water resource problems or issues identified by:

- 2 (1) the regional water planning entity;
- 3 (2) a sub-regional group with interests in a
- 4 hydrologically distinct water source;
- 5 (3) the interstate stream commission; or
- 6 (4) another state agency with jurisdiction
- 7 over natural resources."

8 SECTION 7. A new section of Chapter 72, Article 14 NMSA
9 1978 is enacted to read:

10 "[NEW MATERIAL] REGIONAL WATER PLANNING PROGRAM--WATER
11 PLANNING REGIONS AND SUB-REGIONAL ENTITIES--REQUIREMENTS.--

12 A. The interstate stream commission shall establish
13 minimum requirements for approved regional and sub-regional
14 water planning entities, including a determination by the
15 commission that an entity reflects the diversity of the
16 interests within the region or sub-region and that the entity
17 is capable, with or without state support, of developing a
18 regional water plan or addressing a distinct regional or sub-
19 regional water issue.

20 B. The interstate stream commission shall assist
21 stakeholders within a water planning region to organize a water
22 planning entity and prepare a regional water plan for a region:

- 23 (1) in which water use is subject to
- 24 interstate stream compact limitations that are or may be
- 25 problematic within four years of the enactment of the Regional

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1 Water Planning Act;

2 (2) that is utilizing ground water resources
3 with a remaining lifetime at or less than one hundred years; or

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

6 C. The interstate stream commission shall:

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

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

18 D. Locales or sub-regions within a water planning
19 region that have a hydrologically distinct water source may
20 self-organize a sub-regional entity to address problems that
21 are distinct to the locale or sub-region. A sub-regional
22 entity:

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

25 (2) shall be recognized by regional water

1 planning entities that shall give public consideration to the
2 sub-regional entity's proposals and work products; and

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

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

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

11 E. Approved regional and sub-regional water
12 planning entities within the same water planning region whose
13 water planning proposals are accepted for funding by the
14 interstate stream commission shall:

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

17 (2) develop shared strategies for achieving
18 common objectives; and

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

23 F. The interstate stream commission may provide
24 nominal funding to approved regional or sub-regional water
25 planning entities for the preparation of proposals for state

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1 funding to prepare regional or sub-regional water plans."

2 SECTION 8. A new section of Chapter 72, Article 14 NMSA
3 1978 is enacted to read:

4 "[NEW MATERIAL] REGIONAL WATER PLANNING PROGRAM--
5 PROPOSALS--EVALUATION CRITERIA.--The interstate stream
6 commission shall evaluate proposals for state funding of
7 regional or sub-regional water planning against criteria
8 detailed in the commission's solicitation of proposals that
9 shall include, at minimum, consideration of:

10 A. the adequacy of the planning process to meet the
11 objectives of the Regional Water Planning Act;

12 B. regular opportunities for public participation;

13 C. reasonable proposed costs and timetables for
14 completion of the planning deliverables;

15 D. appropriate provisions for notice, review and
16 comment where applicable;

17 E. an adequate review of potential conflict with
18 laws relating to existing water rights;

19 F. an adequate review of water conservation and the
20 effect on the public welfare;

21 G. identification of sources other than the
22 interstate stream commission for funding of the proposal;

23 H. the importance and urgency of water resources
24 issues proposed to be addressed;

25 I. the adequacy of existing water resources data

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underscoring material = new
~~[bracketed material] = delete~~

1 and models to support fact- and science-based water resources
2 planning;

3 J. the public welfare of the state; and

4 K. the degree to which state funding of the
5 proposal will result in a regional water plan, or will result
6 in completion of a distinct element of a regional water plan,
7 that if implemented would:

8 (1) eliminate or reduce the gaps between the
9 water demand within, or projected to occur within, a region or
10 a sub-region and the water supply for the region or a sub-
11 region that is, or is projected to be, physically and legally
12 available over the long term;

13 (2) solve other water resources problems
14 within the region; or

15 (3) resolve conflicts between the water use or
16 plans of water supply entities within the region and the
17 sustainable or long-term water supply available."

18 SECTION 9. A new section of Chapter 72, Article 14 NMSA
19 1978 is enacted to read:

20 "[NEW MATERIAL] REGIONAL WATER PLANNING PROGRAM--IN CASE
21 OF NO RESPONSIVE PROPOSALS--INTERSTATE STREAM COMMISSION DUTY
22 TO PREPARE REGIONAL PLAN.--

23 A. If the interstate stream commission solicits a
24 regional water planning proposal to address imbalances between
25 the water uses and the sustainable water supply of a region or

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1 other water resources problems, and if no responsive proposal
2 is received and the interstate stream commission determines
3 that the public welfare of the state may be negatively affected
4 by those imbalances, the interstate stream commission may
5 undertake regional water planning activities in that region to
6 publicly address the imbalances.

7 B. If the interstate stream commission undertakes
8 regional water planning activities in a region pursuant to this
9 section, the interstate stream commission:

10 (1) shall conduct multiple public meetings
11 within the water planning region to present and hear public
12 comment regarding:

13 (a) the need for the state to prepare
14 the water plan for the region;

15 (b) the topics the water plan will
16 address;

17 (c) the work plan, schedule and budget
18 for completion of the water plan; and

19 (d) a draft regional water plan;
20 (2) shall provide substantive, public,
21 quarterly progress reports until the plan is completed;

22 (3) shall post on the interstate stream
23 commission's website substantive responses to substantive
24 public comments received by the interstate stream commission,
25 orally or in writing, regarding the interstate stream

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1 commission's regional water planning activities; and

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

6 SECTION 10. A new section of Chapter 72, Article 14 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] REGIONAL WATER PLANNING PROGRAM--REGIONAL
9 WATER PLAN--CONTENTS--INTERSTATE STREAM COMMISSION APPROVAL.--

10 A. A regional water plan shall contain:

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

15 (2) historical water budgets for
16 hydrologically distinct locales within the region where water
17 supplies are in decline;

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

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

25 (5) prioritized recommendations for actions to

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1 protect and ensure the efficient use of the regional water
2 supplies and to make the region's water uses more resilient;

3 (6) prioritized recommendations to improve
4 water resources investigations, monitoring, data and simulation
5 models to reduce uncertainty associated with water budget
6 projections and water supply plans of the water supply entities
7 within the region; and

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

10 B. Regional water plans for the lower Rio Grande
11 region, downstream of Elephant Butte dam to the state's border
12 with Texas, and the middle Rio Grande region, between Elephant
13 Butte dam and the Otowi gage, shall also include statutory or
14 voluntary measures that, if implemented, would limit annual
15 consumptive use of water pursuant to state water rights to the
16 supply that is physically available and does not exceed the
17 water supply legally apportioned by the Rio Grande Compact or a
18 decree of the United States supreme court. The water plans
19 shall include provisions for water banking transactions that
20 may be promptly approved and implemented between senior water
21 rights owners and water rights owners whose rights may not be
22 in priority in a given year.

23 C. Regional water plans shall be submitted to the
24 interstate stream commission for approval. The interstate
25 stream commission shall:

.213350.2

1 (1) review regional water plans for compliance
 2 with its criteria and guidelines and shall prepare a detailed
 3 written evaluation of each submitted draft regional water plan
 4 addressing each recommendation contained in the regional water
 5 plan;

6 (2) meet with each regional water planning
 7 entity to review the commission's evaluation of the water plan
 8 and to approve, disapprove or approve with exceptions the
 9 regional water plan for incorporation into the state water
 10 plan. A regional water plan recommendation shall be
 11 disapproved if the recommendation is contrary to the law, does
 12 not have an adequate scientific basis or is counter to the
 13 public welfare of the state; and

14 (3) implement or assist water planning regions
 15 with implementing approved regional water planning
 16 recommendations."

17 SECTION 11. A new section of Chapter 72, Article 14 NMSA
 18 1978 is enacted to read:

19 "[NEW MATERIAL] REGIONAL WATER PLANNING PROGRAM--
 20 MEETINGS--OPEN MEETINGS ACT.--

21 A. A meeting convened by a regional or sub-regional
 22 water planning entity and any meeting involving a member of the
 23 interstate stream commission for the purpose of developing a
 24 regional or sub-regional water plan or any component of a
 25 regional or sub-regional water plan shall be subject to the

.213350.2

1 Open Meetings Act.

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

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

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

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

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

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

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

18 B. The interstate stream commission shall:

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

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

.213350.2

1 (3) allow members of the water planning
2 advisory committee who are elected officials of a planning
3 region to place items on the agenda for meetings of the
4 advisory committee.

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

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

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