

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 19-0918.01 Thomas Morris x4218

SENATE BILL 19-212

SENATE SPONSORSHIP

Rankin, Moreno, Zenzinger, Priola, Tate

HOUSE SPONSORSHIP

Esgar, Hansen

Senate Committees
Appropriations

House Committees
Appropriations

A BILL FOR AN ACT

101 **CONCERNING GENERAL FUND SUPPORT TO IMPLEMENT THE STATE**
102 **WATER PLAN, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Joint Budget Committee. Section 1 of the bill:

- ! Creates the water plan implementation grant program (program); and
- ! Specifies criteria for expenditures by the Colorado water conservation board (board) for the program.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
2nd Reading Unamended
April 4, 2019

SENATE
3rd Reading Unamended
March 28, 2019

SENATE
2nd Reading Unamended
March 27, 2019

Section 5:

- ! Appropriates \$8.3 million from the general fund to the department of natural resources (department) for use by the board to finance grants; and
- ! Appropriates \$1.7 million from the general fund to the department for use by the board for stakeholder outreach and technical analysis to develop a water resources demand management program.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add with amended**
3 **and relocated provisions** 37-60-106.3 as follows:

4 **37-60-106.3. [Formerly 37-60-106 (1)(u)] State water plan -**
5 **legislative declaration - grant program. (1) ~~(u)~~(f) State water plan.**

6 ~~TO~~ THE BOARD SHALL adopt and update, as warranted, a state water plan.
7 In exercising its authority pursuant to this ~~paragraph (u)~~ SECTION,
8 executive order D2013-005, or any analogous successor order directing
9 the board to adopt or amend a state or Colorado water plan, the board
10 shall comply with all requirements of this ~~paragraph (u)~~ SECTION.

11 ~~(H)~~(2) **Legislative declaration.** Because the constitution vests all
12 legislative power of the state in the general assembly, the general
13 assembly:

14 ~~(A)~~ (a) Finds that the primary purpose of a state water plan is to
15 determine state policy regarding the optimal conservation and
16 development of Colorado's water resources;

17 ~~(B)~~ (b) Determines that the general assembly is primarily
18 responsible for guiding the development of state water policy; and

19 ~~(C)~~ (c) Declares that enactment of this ~~paragraph (u)~~ SECTION is
20 necessary to protect the interests of the public in the state's water
21 resources and that in enacting this ~~paragraph (u)~~ SECTION, the general

1 assembly intends to engage the people of the state in a public dialogue
2 regarding optimum state water policy; affirm its delegation of
3 policy-making authority to the ~~Colorado water conservation~~ board,
4 subject to direction by the general assembly; and not interfere with, but
5 instead to promote the policies, processes, basin roundtable plans, and
6 interbasin compact negotiations conducted pursuant to the "Colorado
7 Water for the 21st Century Act", article 75 of this ~~title~~ TITLE 37, and the
8 interbasin compact charter as approved by the general assembly acting by
9 bill as specified in section 37-75-105 (2).

10 ~~(H)~~ **(3) Development of plan.** In exercising its authority pursuant
11 to this ~~paragraph (u)~~ SECTION, the board shall:

12 ~~(A)~~ (a) Develop the state water plan with the involvement of the
13 public and the basin roundtables, as created in section 37-75-104 (3)(b),
14 and provide opportunities for public comment before adopting any final
15 or significantly amended plan; AND

16 ~~(B)~~ Present the scope, fundamental approach, and basic elements
17 of the plan to the ~~water resources review committee created in section~~
18 ~~37-98-102 by August 1, 2014;~~

19 ~~(C)~~ In developing the draft plan, consider the feedback from the
20 ~~water resources review committee submitted to the board pursuant to~~
21 ~~section 37-98-103 (6)(a) by November 1, 2014;~~

22 ~~(D)~~ Present the draft plan to the water resources review committee
23 by July 1, 2015;

24 ~~(E)~~ In developing the final plan, consider the feedback from the
25 ~~water resources review committee submitted pursuant to section~~
26 ~~37-98-103 (6)(b) by November 1, 2015;~~ and

27 ~~(F)~~ (b) Notify the water resources review committee CREATED IN

1 SECTION 37-98-102 of any proposed significant amendments to the plan,
2 as determined by the board, by June 1 of any year in which the
3 amendment is proposed to be adopted; present the proposed amendment
4 to the committee by August 1 of that year; and consider the committee's
5 feedback submitted pursuant to section 37-98-103 (6)(c) by November 1
6 of that year.

7 ~~(IV)~~ (4) **Legislation.** By November 1 of each year following the
8 submission to the water resources review committee of a state water plan
9 or amendment pursuant to this ~~paragraph (u)~~ SECTION, any member of the
10 general assembly may make a request in writing to the chairperson of the
11 water resources review committee that the committee hold one or more
12 hearings to review the plan or amendment as submitted to the water
13 resources review committee. Upon receipt of the request, the chairperson
14 of the committee shall promptly schedule a hearing to conduct the review
15 and provide adequate notice to the public and the board. The committee,
16 after holding a public hearing, may recommend the introduction of a bill
17 or bills based on the results of the review. A bill recommended by the
18 committee for consideration under this ~~subparagraph (IV)~~ SUBSECTION (4)
19 does not count against the number of bills to which either the committee
20 or the members of the general assembly are limited by law or joint rule of
21 the senate and the house of representatives, and a hearing held by the
22 committee pursuant to this ~~subparagraph (IV)~~ SUBSECTION (4) does not
23 count against the number of meetings allowed by section 37-98-102
24 (1)(a).

25 ~~(V)~~ (5) **Policy.** A state water plan, whether or not the subject of
26 a bill introduced pursuant to ~~subparagraph (IV) of this paragraph (u)~~
27 SUBSECTION (4) OF THIS SECTION, is only a policy, is not a rule, and does

1 not have the force or effect of law.

2 (6) **Water plan implementation grant program.** THE BOARD
3 MAY APPROVE GRANTS PURSUANT TO THE FOLLOWING REQUIREMENTS:

4 (a) ELIGIBLE APPLICANTS ARE LIMITED TO:

5 (I) GOVERNMENTAL ENTITIES, INCLUDING COVERED ENTITIES, AS
6 DEFINED IN SECTION 37-60-126 (1)(b), IF THE COVERED ENTITY HAS
7 ADOPTED AN APPROVED WATER CONSERVATION PLAN; MUNICIPALITIES;
8 DISTRICTS; ENTERPRISES; COUNTIES; CITIES AND COUNTIES; AND STATE
9 AGENCIES; AND

10 (II) PRIVATE ENTITIES, INCLUDING MUTUAL DITCH COMPANIES,
11 NONPROFIT CORPORATIONS, AND PARTNERSHIPS.

12 (b) ELIGIBLE PROJECTS ARE LIMITED TO:

13 (I) WATER STORAGE AND SUPPLY PROJECTS, INCLUDING PROJECTS
14 THAT FACILITATE THE DEVELOPMENT OF ADDITIONAL STORAGE,
15 ARTIFICIAL RECHARGE INTO AQUIFERS, DREDGING EXISTING RESERVOIRS
16 TO RESTORE THE RESERVOIRS' FULL DECREED STORAGE CAPACITY,
17 MULTI-BENEFICIAL USE PROJECTS, AND THOSE PROJECTS IDENTIFIED IN
18 BASIN IMPLEMENTATION PLANS TO ADDRESS THE WATER SUPPLY AND
19 DEMAND GAP;

20 (II) CONSERVATION AND LAND USE PROJECTS, INCLUDING
21 ACTIVITIES THAT IMPLEMENT LONG-TERM STRATEGIES FOR WATER
22 CONSERVATION, LAND USE, AND DROUGHT PLANNING;

23 (III) ENGAGEMENT AND INNOVATION ACTIVITIES, INCLUDING
24 ACTIVITIES THAT SUPPORT WATER EDUCATION, OUTREACH, AND
25 INNOVATION EFFORTS;

26 (IV) AGRICULTURAL PROJECTS, INCLUDING PROJECTS THAT
27 PROVIDE TECHNICAL ASSISTANCE OR IMPROVE AGRICULTURAL WATER

1 EFFICIENCY; AND

2 (V) ENVIRONMENTAL AND RECREATION PROJECTS, INCLUDING
3 PROJECTS THAT PROMOTE WATERSHED HEALTH, ENVIRONMENTAL HEALTH,
4 AND RECREATION.

5 (c) GRANT MONEY MUST AMOUNT TO NO MORE THAN FIFTY
6 PERCENT OF THE TOTAL COST OF AN INDIVIDUAL PROJECT, AND THE TOTAL
7 MONEY FROM ALL BOARD FUNDING SOURCES MUST NOT EXCEED
8 SEVENTY-FIVE PERCENT OF THE TOTAL COST OF AN INDIVIDUAL PROJECT.

9 (d) THE BOARD SHALL EVALUATE EACH ELIGIBLE PROJECT GRANT
10 APPLICATION BASED ON THE FOLLOWING CRITERIA:

11 (I) CONFORMITY WITH THE CRITERIA FOR STATE SUPPORT
12 SPECIFIED IN SECTION 9.4 OF THE STATE WATER PLAN, ENTITLED
13 "FRAMEWORK FOR A MORE EFFICIENT PERMITTING PROCESS", AS
14 AMENDED;

15 (II) ALIGNMENT WITH THE APPLICABLE BASIN IMPLEMENTATION
16 PLAN;

17 (III) THE IMPACT OF THE PROPOSED PROJECT, WITH PREFERENCE
18 GIVEN TO PROJECTS THAT HAVE MULTIPLE BENEFITS AND MULTIPLE
19 PURPOSES AND INVOLVE MULTIPLE STAKEHOLDERS; AND

20 (IV) THE ANTICIPATED PROJECT START DATE.

21 **SECTION 2. Repeal of relocated provisions in this act.** In
22 Colorado Revised Statutes, **repeal** 37-60-106 (1)(u).

23 **SECTION 3.** In Colorado Revised Statutes, 37-98-103, **amend**
24 (6)(c), (6)(d)(II), and (7); and **repeal** (6)(a) and (6)(b) as follows:

25 **37-98-103. Annual recommendations - bill limitation -**
26 **deadlines for introduction - repeal.** (6) (a) ~~When the Colorado water~~
27 ~~conservation board submits the scope, fundamental approach, and basic~~

1 ~~elements of a draft state water plan to the committee as specified in~~
2 ~~section 37-60-106 (1)(u)(III)(B), the committee shall hold at least one~~
3 ~~public hearing on the scope, fundamental approach, and basic elements~~
4 ~~of the draft plan in each geographic region associated with the basin~~
5 ~~roundtables, as created in section 37-75-104 (3)(b), for the purpose of~~
6 ~~receiving the public's feedback. The committee shall provide a summary~~
7 ~~of the public's feedback, as well as the committee's own feedback, to the~~
8 ~~board by November 1, 2014.~~

9 (b) ~~When the Colorado water conservation board submits a draft~~
10 ~~state water plan to the committee as specified in section 37-60-106~~
11 ~~(1)(u)(III)(D), the committee shall hold at least one public hearing on the~~
12 ~~draft plan in each geographic region associated with the basin roundtables~~
13 ~~for the purpose of receiving the public's feedback. The committee shall~~
14 ~~provide a summary of the public's feedback, as well as the committee's~~
15 ~~own feedback, to the board by November 1, 2015.~~

16 (c) When the Colorado water conservation board submits a
17 significant amendment to the state water plan to the committee as
18 specified in section 37-60-106 ~~(1)(u)(III)(F)~~ 37-60-106.3 (3)(b), the
19 committee may hold at least one public hearing on the amendment in each
20 geographic region associated with the basin roundtables for the purpose
21 of receiving the public's feedback. If the committee holds the hearings,
22 the committee shall provide a summary of the public's feedback, as well
23 as the committee's own feedback, to the board by November 1 of the year
24 in which the hearings are held.

25 (d) Hearings held pursuant to this subsection (6):

26 (II) May be held before the Colorado water conservation board
27 submits the documents specified in section 37-60-106 ~~(1)(u)(III)(B)~~ or

1 ~~(1)(u)(H)(D)~~ 37-60-106.3 (3)(b) if deemed appropriate by the chair of the
2 committee.

3 (7) No later than November 1, 2017, and no later than every five
4 years thereafter, the committee shall prepare a list of specific topics that
5 it deems necessary to be addressed in the state water plan, as updated or
6 amended pursuant to section ~~37-60-106(1)(u)~~ 37-60-106.3. The Colorado
7 water conservation board shall provide its recommendations, including
8 suggestions for potential legislation, for the committee's consideration
9 within eight months after receipt of the list of specific topics.

10 **SECTION 4.** In Colorado Revised Statutes, 39-29-109, **amend**
11 (2)(a)(XVI) as follows:

12 **39-29-109. Severance tax trust fund - created - administration**
13 **- distribution of money - repeal.** (2) State severance tax receipts shall
14 be credited to the severance tax trust fund as provided in section
15 39-29-108. Except as otherwise set forth in section 39-29-109.5, all
16 income derived from the deposit and investment of the money in the fund
17 shall be credited to the fund. At the end of any fiscal year, all unexpended
18 and unencumbered money in the fund remains in the fund and shall not
19 be credited or transferred to the general fund or any other fund. All
20 money in the fund is subject to appropriation by the general assembly for
21 the following purposes:

22 (a) **The severance tax perpetual base fund.**
23 (XVI) Notwithstanding any provision of this subsection (2)(a) to the
24 contrary, on July 1, 2017, and each year thereafter on July 1, the state
25 treasurer shall transfer ten million dollars from the fund to the Colorado
26 water conservation board construction fund, created in section 37-60-121
27 (1)(a), for use by the Colorado water conservation board, created in

1 section 37-60-102, for the board to fund studies, programs, or projects
2 that assist in implementing the state water plan adopted pursuant to
3 section ~~37-60-106 (1)(u)~~ 37-60-106.3.

4 **SECTION 5. Appropriation.** (1) (a) For the 2019-20 state fiscal
5 year, \$8,300,000 is appropriated to the department of natural resources
6 for use by the Colorado water conservation board. This appropriation is
7 from the general fund. To implement this section, the Colorado water
8 conservation board may use this appropriation to finance grant-making
9 pursuant to section 37-60-106.3 (6), C.R.S.

10 (b) The money appropriated in subsection (1)(a) of this section
11 remains available for expenditure until the completion of the projects
12 financed by the grants or the close of the 2021-22 state fiscal year,
13 whichever comes first.

14 (2) For the 2019-20 state fiscal year, \$1,700,000 is appropriated
15 to the department of natural resources for use by the Colorado water
16 conservation board. This appropriation is from the general fund. To
17 implement this section, the Colorado water conservation board may use
18 this appropriation for stakeholder outreach and technical analysis to
19 develop a water resources demand management program.

20 **SECTION 6. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.