

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

REREVISED

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

LLS NO. 19-1006.01 Jennifer Berman x3286

SENATE BILL 19-221

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Agriculture & Natural Resources
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Appropriations

HOUSE
3rd Reading Unamended
April 29, 2019

A BILL FOR AN ACT

101 **CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION**
102 **BOARD PROJECTS, AND, IN CONNECTION THEREWITH, MAKING**
103 **AN APPROPRIATION.**

HOUSE
2nd Reading Unamended
April 27, 2019

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>.)

SENATE
3rd Reading Unamended
April 15, 2019

The bill appropriates the following amounts from the Colorado water conservation board (CWCB) construction fund (fund) to the CWCB or the division of water resources in the department of natural resources for the following projects:

! Continuation of the satellite monitoring system operation

SENATE
Amended 2nd Reading
April 12, 2019

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.

- and maintenance, \$380,000 (**section 1** of the bill);
- ! Continuation of the Colorado floodplain map modernization program, \$500,000 (**section 2**);
- ! Continuation of the weather modification permitting program, \$175,000 (**section 3**);
- ! Continuation of the Colorado Mesonet project, \$150,000 (**section 4**);
- ! Continuation of instream flow engineering support services, \$250,000 (**section 5**);
- ! Acquisition of LIDAR data, \$200,000 (**section 6**); and
- ! Technical assistance grants for beneficiaries of the federal "Colorado River Storage Project Act", \$200,000 (**section 7**);

The state treasurer will make the following transfers from the fund:

- ! Up to \$2,000,000 on July 1, 2019, to the litigation fund (**section 8**); and
- ! \$2,500,000 on June 30, 2019, to the water supply reserve fund (**section 9**).

Section 10 appropriates \$17,500,000 from the fund to the CWCB for continuing implementation of the state water plan as follows:

- ! Up to \$4,000,000 to support watershed health goals;
- ! Up to \$3,000,000 to facilitate the development of additional storage, artificial recharge into aquifers, and dredging existing reservoirs;
- ! Up to \$1,000,000 for agricultural projects;
- ! Up to \$1,000,000 for grant funding to implement long-term strategies for conservation, land use, and drought planning;
- ! Up to \$500,000 for grants for water education, outreach, and innovation efforts;
- ! Up to \$1,500,000 for environmental and recreational projects;
- ! Up to \$1,000,000 to provide continued funding for the alternative agricultural grant program; and
- ! Up to \$5,500,000 to fund updates to basin implementation plans, improve basin data collection and metrics for tracking state water plan implementation, and for use of the data for future updates of the state water plan.

Section 11 authorizes the CWCB to make loans up to \$15,150,000 from the fund for the Walker recharge project, a water supply retiming effort that uses the alluvial aquifer of the South Platte river to increase irrigation opportunities for agricultural production.

Current law:

- ! Makes money appropriated for use in Republican river matters available until June 30, 2019; **section 12** extends

- ! availability until the money is fully expended;
- ! Authorizes and directs the state treasurer to transfer \$200,000 from the from the fund to the feasibility study small grant fund; **section 13** makes this an annual obligation on July 1 of each year and increases the transfer cap to \$500,000 in order to restore the unencumbered balance in the fund up to \$500,000; and
- ! Creates the flood and drought response fund; **section 14** authorizes and directs the state treasurer to annually transfer money on July 1 of each year from the fund to the flood and drought response fund to restore the unencumbered balance in the fund to \$500,000.

Section 15 changes a continuing annual transfer established in statute of \$10 million from the severance tax perpetual base fund to the fund for implementation of the state water plan to a single transfer of \$10 million on July 1, 2019.

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

2 **SECTION 1. Continuation of the satellite monitoring system**
3 **operation and maintenance - appropriation.** (1) For the 2019-20 state
4 fiscal year, \$380,000 is appropriated to the department of natural
5 resources for use by the division of water resources. This appropriation
6 is from the Colorado water conservation board construction fund created
7 in section 37-60-121, C.R.S. To implement this section, the division of
8 water resources may use this appropriation for renovation of existing
9 gauging stations; replacement of outdated collection platforms; lysimeter
10 support, data collection, and maintenance; upgrading of transmission
11 components of the satellite monitoring system established and operated
12 pursuant to section 37-80-102 (10), C.R.S.; stream gauge flood hardening
13 projects; and data collection efforts related to flood forecasting and
14 warning.

15 (2) The money appropriated in subsection (1) of this section
16 remains available for the designated purposes until it is fully expended.

1 **SECTION 2. Continuation of the Colorado floodplain map**
2 **modernization program - appropriation.** (1) For the 2019-20 state
3 fiscal year, \$500,000 is appropriated to the department of natural
4 resources for use by the Colorado water conservation board. This
5 appropriation is from the Colorado water conservation board construction
6 fund created in section 37-60-121, C.R.S. To implement this section, the
7 Colorado water conservation board may use this appropriation to continue
8 to assist with the preparation of revised and improved floodplain studies
9 and maps for communities throughout Colorado and participate in
10 federally sponsored floodplain map modernization activities.

11 (2) The money appropriated in subsection (1) of this section
12 remains available for the designated purposes until it is fully expended.

13 **SECTION 3. Continuation of the weather modification**
14 **permitting program - appropriation.** (1) For the 2019-20 state fiscal
15 year, \$175,000 is appropriated to the department of natural resources for
16 use by the Colorado water conservation board. This appropriation is from
17 the Colorado water conservation board construction fund created in
18 section 37-60-121, C.R.S. To implement this section, the Colorado water
19 conservation board may use this appropriation to continue to assist water
20 conservation districts, water conservancy districts, and other water
21 providers and their fiscal agents with the development of cloud seeding
22 programs that provide benefits to recreation, streams, and reservoirs
23 through snowpack enhancement.

24 (2) The money appropriated in subsection (1) of this section
25 remains available for the designated purposes until it is fully expended.

26 **SECTION 4. Continuation of the Colorado Mesonet project**
27 **- appropriation.** (1) For the 2019-20 state fiscal year, \$150,000 is

1 appropriated to the department of natural resources for use by the
2 Colorado water conservation board. This appropriation is from the
3 Colorado water conservation board construction fund created in section
4 37-60-121, C.R.S. To implement this section, the Colorado water
5 conservation board may use this appropriation to support the Colorado
6 Mesonet, including for the following activities: Operation, maintenance,
7 travel, communications, and database and website management for
8 temperature and precipitation stations.

9 (2) The money appropriated in subsection (1) of this section
10 remains available for the designated purposes until it is fully expended.

11 **SECTION 5. Continuation of instream flow engineering**

12 **support services - appropriation.** (1) For the 2019-20 state fiscal year,

13 \$250,000 is appropriated to the department of natural resources for use
14 by the Colorado water conservation board. This appropriation is from the
15 Colorado water conservation board construction fund created in section
16 37-60-121, C.R.S. To implement this section, the Colorado water
17 conservation board may use this appropriation to assist staff in conducting
18 technical analysis and providing expert testimony to resolve or defend
19 existing in-stream flow water rights, establish new instream flow
20 appropriations, and change the use of acquired water rights for instream
21 flow use.

22 (2) The money appropriated in subsection (1) of this section
23 remains available for the designated purposes until it is fully expended.

24 **SECTION 6. Acquisition of LIDAR data - appropriation.**

25 (1) For the 2019-20 state fiscal year, \$200,000 is appropriated to the
26 department of natural resources for use by the Colorado water
27 conservation board. This appropriation is from the Colorado water

1 conservation board construction fund created in section 37-60-121,
2 C.R.S. To implement this section, the Colorado water conservation board
3 may use this appropriation to acquire high-quality elevation data to
4 develop accurate flood hazard, debris flow, and fluvial hazard mapping.

5 (2) The money appropriated in subsection (1) of this section
6 remains available for the designated purposes until it is fully expended.

7 **SECTION 7. Technical assistance grants for Colorado River**
8 **Storage Project Act beneficiaries - appropriation.** (1) For the 2019-20
9 state fiscal year, \$200,000 is appropriated to the department of natural
10 resources for use by the Colorado water conservation board. This
11 appropriation is from the Colorado water conservation board construction
12 fund created in section 37-60-121, C.R.S. To implement this section, the
13 Colorado water conservation board may use this appropriation to provide
14 technical assistance grants to aid beneficiaries of the federal "Colorado
15 River Storage Project Act" in the state of Colorado with the aim of
16 advancing these projects through the design phase.

17 (2) The money appropriated in subsection (1) of this section
18 remains available for the designated purposes until it is fully expended.

19 **SECTION 8. Restoration of litigation fund cash balance -**
20 **transfer.** On July 1, 2019, the state treasurer shall transfer the sum of
21 \$2,000,000, or so much thereof as may be necessary to restore the balance
22 of the litigation fund to \$2,000,000, from the unreserved cash in the
23 Colorado water conservation board construction fund created in section
24 37-60-121, C.R.S., to the litigation fund created in section 37-60-121
25 (2.5), C.R.S., to assist in addressing legal issues associated with compact
26 compliance or any other litigation activities as specified under section
27 37-60-121, C.R.S.

1 **SECTION 9. Water supply reserve fund - transfer.** On June
2 30, 2019, the state treasurer shall transfer the sum of \$2,500,000 from the
3 unreserved cash in the Colorado water conservation board construction
4 fund created in section 37-60-121, C.R.S., to the water supply reserve
5 fund created in section 39-29-109 (2)(c), C.R.S.

6 **SECTION 10. Continuation of the Colorado water plan -**
7 **appropriation.** (1) For the 2019-20 state fiscal year, \$17,500,000 is
8 appropriated to the department of natural resources for use by the
9 Colorado water conservation board. This appropriation is from the
10 unreserved cash in the Colorado water conservation board construction
11 fund created in section 37-60-121, C.R.S. To implement this section, the
12 Colorado water conservation board may use this appropriation to finance
13 grant-making, studies, programs, or projects that assist in implementing
14 the state water plan adopted pursuant to section 37-60-106.3, C.R.S.,
15 including the following:

16 (a) Up to \$4,000,000 to provide planning and engineering studies,
17 including implementation measures, to address technical needs for
18 watershed restoration and flood mitigation projects throughout the state,
19 aquatic habitat protection, flexible operations for multiple uses,
20 restoration work, quantification of environmental flow needs, and
21 monitoring efforts to support watershed health goals outlined in the
22 Colorado water plan;

23 (b) Up to \$3,000,000 to facilitate the development of additional
24 storage, artificial recharge into aquifers, and dredging existing reservoirs
25 to restore the reservoirs' full decreed storage capacity for multi-beneficial
26 projects and those projects identified in basin implementation plans to
27 address the water supply and demand gap;

1 (c) Up to \$1,000,000 to provide technical assistance, project, or
2 program funding for agricultural projects;

3 (d) Up to \$1,000,000 for grant funding to implement long-term
4 strategies for conservation, land use, and drought planning;

5 (e) Up to \$500,000 for grants for water education, outreach, and
6 innovation efforts;

7 (f) Up to \$1,500,000 for environmental and recreational projects;

8 (g) Up to \$1,000,000 to provide continued funding for the
9 alternative agricultural grant program as developed under SB07-122,
10 enacted in 2007; and

11 (h) Up to \$5,500,000 to fund updates to basin implementation
12 plans for each of the nine basin roundtables, improve basin data
13 collection and metrics for tracking state water plan implementation, and
14 for use of the data for future updates to the state water plan.

15 (2) The money appropriated in subsection (1) of this section
16 remains available for the designated purposes until it is fully expended.

17 **SECTION 11. Walker recharge project - authorization.**

18 (1) The Colorado water conservation board is authorized to make loans
19 of up to \$15,150,000 from the Colorado water conservation board
20 construction fund for the Walker recharge project, a water supply
21 retiming effort that uses the alluvial aquifer of the South Platte river to
22 increase irrigation opportunities for agricultural production. The
23 following loans are authorized:

24 (a) Up to \$2,272,500 to the central Colorado water conservancy
25 district;

26 (b) Up to \$3,030,000 to the well augmentation subdistrict of the
27 central Colorado water conservancy district; and

1 (c) Up to \$9,847,500 to the groundwater management subdistrict
2 of the central Colorado water conservancy district.

3 (2) The money authorized in subsection (1) of this section remains
4 available for the designated purposes until it is fully expended.

5 (3) The Colorado water conservation board may make loans for
6 the project specified in subsection (1) of this section from money that is
7 or may become available to the Colorado water conservation board
8 construction fund. The total amount of the loans will be in the amount
9 listed in subsection (1) of this section plus or minus the amount, if any,
10 as may be justified by reason of ordinary fluctuations in construction
11 costs as indicated by the engineering cost indices applicable to the types
12 of construction required for the project or as may be justified by reason
13 of changes in the plans for the project due to differing or unforeseen site
14 conditions, errors or omissions in the plans and specifications, changes
15 instituted by regulatory agencies, or changes in material quantities beyond
16 contract limits.

17 **SECTION 12.** In Session Laws of Colorado 2018, **amend** section
18 18 (2) of chapter 336, (SB18-218), as follows:

19 Section 18. **Republican river matters - appropriation.** (2) The
20 money appropriated in subsection (1) of this section remains available for
21 the designated purposes ~~through June 30, 2019~~ UNTIL IT IS FULLY
22 EXPENDED.

23 **SECTION 13.** In Colorado Revised Statutes, 37-60-122.7,
24 **amend** (5)(b) as follows:

25 **37-60-122.7. Feasibility study small grant fund - creation.**
26 (5) (b) ON JULY 1, 2019, AND ON EACH JULY 1 THEREAFTER, IN ADDITION
27 TO ANY REMAINING BALANCE IN THE FUND AT THE END OF THE FISCAL

1 YEAR, the state treasurer is hereby authorized and directed to ANNUALLY
2 transfer ~~two~~ UP TO FIVE hundred thousand dollars from the Colorado
3 water conservation board construction fund to the feasibility study small
4 grant fund TO RESTORE THE UNENCUMBERED BALANCE IN THE FEASIBILITY
5 STUDY SMALL GRANT FUND TO FIVE HUNDRED THOUSAND DOLLARS. The
6 ~~moneys~~ MONEY in the feasibility study small grant fund ~~are~~ IS hereby
7 continuously appropriated to the board for grants in compliance with this
8 subsection (5). All interest derived from the investment of ~~moneys~~
9 MONEY in the feasibility study small grant fund shall be credited to the
10 Colorado water conservation board construction fund. Any balance
11 remaining in the feasibility study small grant fund at the end of any fiscal
12 year shall remain in the fund and shall not revert to the Colorado water
13 conservation board construction fund.

14 **SECTION 14.** In Colorado Revised Statutes, 37-60-123.2,
15 **amend** (1) as follows:

16 **37-60-123.2. Flood and drought response fund - created.**

17 (1) There is hereby created in the state treasury the flood and drought
18 response fund, referred to in this section as the "response fund". ON JULY
19 1, 2019, AND ON EACH JULY 1 THEREAFTER, IN ADDITION TO ANY
20 REMAINING BALANCE IN THE RESPONSE FUND AT THE END OF THE FISCAL
21 YEAR, THE STATE TREASURER IS HEREBY AUTHORIZED AND DIRECTED TO
22 ANNUALLY TRANSFER UP TO FIVE HUNDRED THOUSAND DOLLARS FROM
23 THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND TO
24 THE RESPONSE FUND TO RESTORE THE UNENCUMBERED BALANCE IN THE
25 RESPONSE FUND TO FIVE HUNDRED THOUSAND DOLLARS. The board is
26 authorized to provide funding for flood and drought preparedness and for
27 response and recovery activities following flood or drought events and

1 disasters. The ~~moneys~~ MONEY in the response fund ~~are~~ IS hereby
2 continuously appropriated to the board for flood and drought response
3 purposes, including the immediate availability of funds for aerial
4 photography of flooded areas, flood and drought documentation and
5 identification of specific hazards, evaluations and revisions of floodplain
6 designations and drought-prone areas, flood and drought forecasting and
7 preparation, and development of disaster and recovery mitigation plans.
8 The state treasurer shall credit all interest derived from the investment of
9 ~~moneys~~ MONEY in the response fund to the Colorado water conservation
10 board construction fund. Any balance remaining in the response fund at
11 the end of any fiscal year remains in the fund.

12 **SECTION 15.** In Colorado Revised Statutes, 39-29-109, **amend**
13 (2)(a)(XVI) as follows:

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

24 (a) **The severance tax perpetual base fund.** (XVI)
25 (A) Notwithstanding any provision of this subsection (2)(a) to the
26 contrary, on July 1, ~~2017, and each year thereafter on July 1, 2019,~~ the
27 state treasurer shall transfer ten million dollars from the fund to the

1 Colorado water conservation board construction fund, created in section
2 37-60-121 (1)(a), for use by the Colorado water conservation board,
3 created in section 37-60-102, for the board to fund studies, programs, or
4 projects that assist in implementing the state water plan adopted pursuant
5 to section ~~37-60-106 (1)(u)~~ 37-60-106.3.

6 (B) THIS SUBSECTION (2)(a)(XVI) IS REPEALED, EFFECTIVE
7 SEPTEMBER 1, 2020.

8 **SECTION 16. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.