

CHAPTER 339

NATURAL RESOURCES

SENATE BILL 08-168

BY SENATOR(S) Isgar, Johnson, Kopp, Penry, Schwartz, Taylor, and Wiens;
also REPRESENTATIVE(S) Curry, Fischer, McGihon, Rice, and Solano.

AN ACT

**CONCERNING THE SPECIES CONSERVATION TRUST FUND, AND, IN CONNECTION THEREWITH,
APPROVING THE SPECIES CONSERVATION ELIGIBILITY LIST, ADJUSTING PREVIOUSLY-APPROVED
TRANSFERS AND APPROVALS, AND MAKING APPROPRIATIONS.**

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

SECTION 1. Legislative declaration. (1) Pursuant to:

(a) Section 24-33-111 (2), Colorado Revised Statutes, the species conservation trust fund has been created in the state treasury to fund programs designed to conserve native species that have been listed as threatened or endangered under state or federal law, or are candidate species or are likely to become candidate species as determined by the United States fish and wildlife service;

(b) Section 24-33-111 (3), Colorado Revised Statutes, the executive director of the department of natural resources, after consulting with the Colorado water conservation board and its director, the wildlife commission, and the director of the division of wildlife, has prepared and delivered to the general assembly a species conservation eligibility list describing programs and associated costs that are eligible to receive funding from the species conservation trust fund; and

(c) Section 24-33-111 (3), Colorado Revised Statutes, prior to obligating funds from the species conservation trust fund, the species conservation eligibility list is subject to modification and adoption through the passage of a bill.

SECTION 2. Eligibility list - approval. (1) The general assembly deems the recommended expenditures described in the species conservation eligibility list to be in the interest of the people of the state. The moneys specified in this subsection (1) shall be available in fiscal year 2008-09 and shall remain available for the

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

designated purposes until they are fully expended:

(a) The executive director of the department of natural resources is authorized to obligate and expend seven million five hundred eighty-five thousand dollars (\$7,585,000) from the capital account of the species conservation trust fund for the following activities, programs, and species in the following amounts:

PROGRAM / SPECIES	AMOUNT
Platte River Recovery Program	\$ 7,585,000
Total capital account appropriation:	\$ 7,585,000

(b) The executive director of the department of natural resources is authorized to obligate and expend three million five hundred seventy-eight thousand eight hundred eighty-six dollars (\$3,578,886) from the operation and maintenance account of the species conservation trust fund for the following activities, programs, and species in the following amounts:

PROGRAM / SPECIES	AMOUNT
(I) Grouse Conservation Program	\$ 2,758,886
(II) Natural Areas Program	\$ 240,000
(III) Wildlife Research	\$ 60,000
(IV) Fish Conservation	\$ <u>520,000</u>
Total operation and maintenance account appropriation:	\$ 3,578,886

SECTION 3. 24-33-111 (2) (a), Colorado Revised Statutes, is amended to read:

24-33-111. Conservation of native species - fund created. (2) **Species conservation trust fund - creation.** (a) (I) There is hereby created in the state treasury the species conservation trust fund, which shall be subject to annual authorization by the general assembly to carry out the purposes of this section. There is hereby created within the species conservation trust fund the operation and maintenance account and the capital account. The moneys in the operation and maintenance account shall be for administrative and noncapital expenditures necessary for the implementation of this section. The moneys in the capital account shall be used exclusively for capital expenditures including but not limited to property acquisition and project construction. All income derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. To the maximum extent practical, only interest from the fund shall be expended for activities pursuant to this section.

(II) BEGINNING WITH THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2009, THE GENERAL ASSEMBLY SHALL APPROPRIATE AN AMOUNT NOT TO EXCEED FIVE HUNDRED THOUSAND DOLLARS FROM THE SPECIES CONSERVATION TRUST FUND TO THE DEPARTMENT OF NATURAL RESOURCES FOR THE PURPOSE OF ACQUIRING WATER FOR INSTREAM FLOWS. MONEYS APPROPRIATED FOR THIS PURPOSE SHALL BE USED TO PRESERVE OR IMPROVE THE NATURAL ENVIRONMENT OF SPECIES THAT HAVE BEEN LISTED AS THREATENED OR ENDANGERED UNDER STATE OR FEDERAL LAW, OR ARE CANDIDATE SPECIES OR ARE LIKELY TO BECOME CANDIDATE SPECIES. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES, IN PREPARING

THE SPECIES CONSERVATION ELIGIBILITY LIST PURSUANT TO THIS SECTION, SHALL PROVIDE A LIST OF THE SPECIFIC INSTREAM FLOW ACQUISITIONS THAT WOULD BE FINANCED PURSUANT TO THIS SUBPARAGRAPH (II). SUCH LIST SHALL INCLUDE THE SPECIES THAT WOULD BENEFIT FROM EACH PROPOSED INSTREAM FLOW ACQUISITION. PRIOR TO OBLIGATING REVENUES FROM THE FUND, THE LIST OF SPECIFIC INSTREAM FLOW ACQUISITIONS IS SUBJECT TO MODIFICATION AND ADOPTION BY THE GENERAL ASSEMBLY THROUGH PASSAGE OF A BILL.

SECTION 4. Transfer between accounts for the Platte River Three State Cooperative Agreement. (1) The authority of the executive director of the department of natural resources that was approved in House Joint Resolution 03-1012 for the Platte River Three State Cooperative Agreement / Tamarack Ranch State Wildlife Area - Full Buildout to obligate and expend from the capital account of the species conservation trust fund is reduced by nine hundred seventeen thousand dollars (\$917,000), from one million nine hundred seventy-one thousand three hundred ninety-five dollars (\$1,971,395) to one million fifty-four thousand three hundred ninety-five dollars (\$1,054,395).

(2) The authority of the executive director of the department of natural resources that was approved in House Joint Resolution 03-1012 for the Platte River Three State Cooperative Agreement Contract Support and Water Depletions Study to obligate and expend from the operation and maintenance account of the species conservation trust fund is increased by nine hundred seventeen thousand dollars (\$917,000), from ninety-five thousand dollars (\$95,000) to one million twelve thousand dollars (\$1,012,000).

(3) The state treasurer shall, on or after July 1, 2008, transfer nine hundred seventeen thousand dollars (\$917,000) from the capital account of the species conservation trust fund to the operation and maintenance account of the species conservation trust fund.

SECTION 5. The introductory portion to 39-29-109 (1) (k) (IV) and 39-29-109 (1) (l), Colorado Revised Statutes, are amended to read:

39-29-109. Severance tax trust fund - created - administration - use of moneys - definitions - repeal. (1) (k) (IV) Notwithstanding any other provision of this section, on or after July 1, ~~2007~~ 2008, if actual fiscal year 2006-07 severance tax collections exceed the March 2007 quarterly revenue forecast by legislative council staff for fiscal year 2006-07 severance tax collections, the state treasurer shall deduct from the operational account of the severance tax trust fund created in subparagraph (II) of paragraph (a) of this subsection (1) the following:

(l) (I) ~~As used in this paragraph (l), unless the context otherwise requires, "DUSEL" means a national deep underground science and engineering laboratory.~~

(II) ~~Except as otherwise set forth in subparagraph (IV) of this paragraph (l), for five state fiscal years beginning with the state fiscal year commencing July 1, 2007, the general assembly~~ ON OR AFTER THE DATES SPECIFIED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (l), THE STATE TREASURER shall appropriate TRANSFER an amount not exceeding the amounts set forth in subparagraph (III) of this paragraph (l) from the operational account of the severance tax trust fund to ~~the department of natural~~

~~resources for the purpose of paying the state's share of the costs related to the construction and operation of a DUSEL facility that will house a visitors' center, educational resources, and administrative offices related to the DUSEL~~ THE SPECIES CONSERVATION TRUST FUND CREATED IN SECTION 24-33-111, C.R.S., AND SUCH MONEYS SHALL BE SUBJECT TO APPROPRIATION FOR PURPOSES SPECIFIED IN SECTION 24-33-111, C.R.S. IN ADDITION, THE GENERAL ASSEMBLY SHALL APPROPRIATE AND THE STATE TREASURER SHALL TRANSFER MONEYS PURSUANT TO THIS PARAGRAPH (I) FOR A GIVEN STATE FISCAL YEAR ONLY IF, BASED ON THE PRECEDING MARCH REVENUE FORECAST FROM THE LEGISLATIVE COUNCIL, THERE WILL BE SUFFICIENT REVENUE IN THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND AFTER ALL THE APPROPRIATIONS AUTHORIZED OR REQUIRED BY LAW AS OF THE MARCH REVENUE FORECAST TO MEET THE YEAR-END BALANCE FOR THE GIVEN STATE FISCAL YEAR THAT IS REQUIRED PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (c) OF THIS SUBSECTION (1) AND REQUIRED PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (f) OF SUBSECTION (1.5) OF THIS SECTION.

(III) The ~~appropriations~~ TRANSFERS required pursuant to subparagraph (II) of this paragraph (I) are as follows:

- (A) ~~One million dollars for the state fiscal year commencing July 1, 2007;~~
- (B) ~~Five~~ SIX million dollars for the state fiscal year commencing July 1, 2008;
- (C) Five million dollars for the state fiscal year commencing July 1, 2009;
- (D) Five million dollars for the state fiscal year commencing July 1, 2010; and
- (E) Four million dollars for the state fiscal year commencing July 1, 2011.

(IV) ~~If the national science foundation has not awarded the DUSEL to the Henderson mine near Empire by the end of any fiscal year specified in subparagraph (II) of this paragraph (I), the state treasurer shall transfer the moneys that were appropriated pursuant to this paragraph (I) for such fiscal year by July 1 of the succeeding fiscal year to the species conservation trust fund created in section 24-33-111, C.R.S., and such moneys shall be subject to appropriation for purposes specified in section 24-33-111, C.R.S. In addition, the general assembly shall appropriate and the state treasurer shall transfer moneys pursuant to this paragraph (I) for a given state fiscal year only if, based on the preceding March revenue forecast from the legislative council, there will be sufficient revenue in the operational account of the severance tax trust fund after all the appropriations authorized or required by law as of the March revenue forecast to meet the year end balance for the given state fiscal year that is required pursuant to subparagraph (II) of paragraph (c) of subsection (1) of this section and required pursuant to subparagraph (I) of paragraph (f) of subsection (1.5) of this section.~~

(V) The appropriations pursuant to this paragraph (I) shall be exempt from the requirements of subparagraph (II) of paragraph (c) of subsection (1) of this section:

SECTION 6. 39-29-109.3 (2) (d) (I) (A) and (2) (e) (I) (A), Colorado Revised Statutes, as enacted by House Bill 08-1398, enacted at the Second Regular Session of the Sixty-sixth General Assembly, are amended to read:

39-29-109.3. Operational account of the severance tax trust fund - repeal.

(2) Subject to the requirements of subsections (3) and (4) of this section, if the general assembly chooses not to spend up to one hundred percent of the moneys in the operational account as specified in subsection (1) of this section, the state treasurer shall transfer the following:

(d) To the capital account of the species conservation trust fund created in section 24-33-111 (2) (a), C.R.S., the following amounts:

(I) (A) For the state fiscal year commencing July 1, 2008, ~~six million~~ EIGHT MILLION SIX HUNDRED THIRTY-ONE THOUSAND NINE HUNDRED FORTY-THREE dollars.

(e) To the operation and maintenance account of the species conservation trust fund created in section 24-33-111 (2) (a), C.R.S., the following amounts:

(I) (A) For the state fiscal year commencing July 1, 2008, ~~one million~~ FOUR MILLION SIX HUNDRED THIRTY-ONE THOUSAND NINE HUNDRED FORTY-THREE dollars.

SECTION 7. Effective date. (1) This act shall take effect upon passage; except that:

(a) Section 5 of this act shall not take effect if House Bill 08-1398 is enacted at the Second Regular Session of the Sixty-sixth General Assembly and becomes law;

(b) Section 6 of this act shall take effect only if House Bill 08-1398 is enacted at the Second Regular Session of the Sixty-sixth General Assembly and becomes law.

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

Approved: May 29, 2008