

CHAPTER 340

NATURAL RESOURCES

SENATE BILL 08-226

BY SENATOR(S) Isgar, Gibbs, Groff, Kester, Penry, Renfroe, Schwartz, Shaffer, Spence, Taylor, Tochtrop, Ward, Wiens, Harvey, McElhany, and Tapia;
also REPRESENTATIVE(S) Butcher and McFadyen, Fischer, King, Buescher, Carroll T., Curry, Hodge, Labuda, McGihon, and Romanoff.

AN ACT

CONCERNING THE PROHIBITION OF AQUATIC NUISANCE SPECIES IN COLORADO, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Title 33, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 10.5
Aquatic Nuisance Species

33-10.5-101. Legislative declaration. THE GENERAL ASSEMBLY HEREBY RECOGNIZES THE DEVASTATING ECONOMIC, ENVIRONMENTAL, AND SOCIAL IMPACTS OF AQUATIC NUISANCE SPECIES ON THE AQUATIC RESOURCES AND WATER INFRASTRUCTURE OF THE STATE. THE GENERAL ASSEMBLY FURTHER RECOGNIZES THE POTENTIAL OF RECREATIONAL VESSELS TO BE A SIGNIFICANT SOURCE OF THE SPREAD OF AQUATIC NUISANCE SPECIES IN COLORADO. THEREFORE, THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT THE PURPOSES OF ENACTING THIS ARTICLE ARE TO IMPLEMENT ACTIONS TO DETECT, PREVENT, CONTAIN, CONTROL, MONITOR, AND, WHENEVER POSSIBLE, ERADICATE AQUATIC NUISANCE SPECIES FROM THE WATERS OF THE STATE AND TO PROTECT HUMAN HEALTH, SAFETY, AND WELFARE FROM AQUATIC NUISANCE SPECIES. IT IS THE INTENT OF THE GENERAL ASSEMBLY TO FOSTER AND ENCOURAGE, TO THE GREATEST EXTENT POSSIBLE, VOLUNTARY COMPLIANCE WITH THIS ARTICLE. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT PREVENTION, CONTAINMENT, AND ERADICATION OF AQUATIC NUISANCE SPECIES IN WATERS OF THE STATE IN WHICH SUCH SPECIES HAVE BEEN DETECTED OR ARE LIKELY TO BE INTRODUCED SHALL BE THE DIVISIONS' HIGHEST

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

PRIORITIES.

33-10.5-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AQUATIC NUISANCE SPECIES" MEANS EXOTIC OR NONNATIVE AQUATIC WILDLIFE OR ANY PLANT SPECIES THAT HAVE BEEN DETERMINED BY THE BOARD TO POSE A SIGNIFICANT THREAT TO THE AQUATIC RESOURCES OR WATER INFRASTRUCTURE OF THE STATE.

(2) "AUTHORIZED AGENT" MEANS ANY PERSON, EMPLOYEE, OR REPRESENTATIVE OF LOCAL, STATE, OR FEDERAL GOVERNMENT OR ANY SUBDIVISION OF THE GOVERNMENT THAT IS AUTHORIZED BY THE GOVERNMENT OR GOVERNMENTAL SUBDIVISION TO TEMPORARILY STOP, DETAIN, AND INSPECT A CONVEYANCE FOR AQUATIC NUISANCE SPECIES.

(3) "BOARD" MEANS THE BOARD OF PARKS AND OUTDOOR RECREATION IN THE DEPARTMENT OF NATURAL RESOURCES CREATED IN SECTION 33-10-103.

(4) "CONVEYANCE" MEANS A MOTOR VEHICLE, VESSEL, TRAILER, OR ANY ASSOCIATED EQUIPMENT OR CONTAINERS, INCLUDING, BUT NOT LIMITED TO, LIVE WELLS, BALLAST TANKS, AND BILGE AREAS THAT MAY CONTAIN OR CARRY AN AQUATIC NUISANCE SPECIES.

(5) "DECONTAMINATE" MEANS TO WASH, DRAIN, DRY, OR CHEMICALLY OR THERMALLY TREAT A CONVEYANCE IN ACCORDANCE WITH RULES PROMULGATED BY THE BOARD IN ORDER TO REMOVE OR DESTROY AN AQUATIC NUISANCE SPECIES.

(6) "DIVISIONS" MEANS THE DIVISION OF PARKS AND OUTDOOR RECREATION CREATED IN SECTION 33-10-103 AND THE DIVISION OF WILDLIFE IDENTIFIED IN SECTION 33-1-103.

(7) "EQUIPMENT" MEANS AN ARTICLE, TOOL, IMPLEMENT, OR DEVICE CAPABLE OF CONTAINING OR TRANSPORTING WATER.

(8) "INSPECT" MEANS TO EXAMINE A CONVEYANCE PURSUANT TO PROCEDURES ESTABLISHED BY THE BOARD BY RULE IN ORDER TO DETERMINE WHETHER AN AQUATIC NUISANCE SPECIES IS PRESENT, AND INCLUDES EXAMINING, DRAINING, OR CHEMICALLY TREATING WATER IN THE CONVEYANCE.

(9) "QUALIFIED PEACE OFFICER" MEANS A COLORADO WILDLIFE OFFICER, SPECIAL PARKS OFFICER, OR SPECIAL WILDLIFE OFFICER; A PARKS AND RECREATION OFFICER; A PEACE OFFICER IN THE DEPARTMENT OF PUBLIC SAFETY; AND A PEACE OFFICER WITH JURISDICTION OVER ANY WATERS OF THE STATE.

33-10.5-103. Powers and duties of the divisions - annual report. (1) IN ORDER TO PREVENT, CONTROL, CONTAIN, MONITOR, AND, WHENEVER POSSIBLE, ERADICATE AQUATIC NUISANCE SPECIES FROM THE WATERS OF THE STATE, THE DIVISIONS ARE AUTHORIZED TO JOINTLY ESTABLISH, OPERATE, AND MAINTAIN AQUATIC NUISANCE SPECIES CHECK STATIONS IN ORDER TO INSPECT CONVEYANCES PURSUANT TO SECTION 33-10.5-104.

(2) UPON A REASONABLE BELIEF THAT AN AQUATIC NUISANCE SPECIES MAY BE PRESENT, THE DIVISIONS MAY:

(a) REQUIRE THE OWNER OF A CONVEYANCE TO DECONTAMINATE THE CONVEYANCE; OR

(b) DECONTAMINATE OR IMPOUND AND QUARANTINE THE CONVEYANCE PURSUANT TO SECTION 33-10.5-104.

(3) THE DIVISIONS MAY MONITOR THE WATERS OF THE STATE FOR THE PRESENCE OF AQUATIC NUISANCE SPECIES, BUT ONLY IF THE DIVISIONS HAVE RECEIVED PERMISSION TO MONITOR FROM THE PERSONS CONTROLLING ACCESS TO SUCH WATERS.

(4) THE DIVISIONS SHALL, IN COOPERATION WITH THE DEPARTMENT OF PUBLIC SAFETY, THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT, THE COLORADO TOURISM OFFICE, THE WATER CONSERVATION BOARD CREATED IN SECTION 37-60-102, C.R.S., AND THE DEPARTMENT OF AGRICULTURE, DEVELOP A STRATEGIC STATEWIDE PLAN TO PREVENT, CONTROL, MONITOR, EDUCATE PERSONS ABOUT, AND, WHENEVER POSSIBLE, ERADICATE AQUATIC NUISANCE SPECIES.

(5) BEGINNING ON JANUARY 15, 2009, AND ON OR BEFORE JANUARY 15 OF EACH YEAR THEREAFTER, THE DIVISIONS AND THE WATER CONSERVATION BOARD CREATED IN SECTION 37-60-102, C.R.S., SHALL MAKE AN ANNUAL REPORT OF THE EFFORTS IN ADDRESSING AQUATIC NUISANCE SPECIES IN COLORADO FOR THE PRECEDING CALENDAR YEAR TO THE JOINT HOUSE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCE COMMITTEE AND THE SENATE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE, OR ITS SUCCESSOR COMMITTEE. EACH SUCH REPORT SHALL SET FORTH A COMPLETE OPERATING AND FINANCIAL STATEMENT COVERING THE AQUATIC NUISANCE SPECIES OPERATIONS OF THE DIVISIONS DURING THE YEAR.

33-10.5-104. Inspection of conveyances - impoundment and quarantine.

(1) (a) EVERY QUALIFIED PEACE OFFICER IS AUTHORIZED TO ENFORCE THIS ARTICLE; EXCEPT THAT SUCH OFFICER SHALL HAVE A REASONABLE BELIEF THAT A CONVEYANCE MAY CONTAIN AN AQUATIC NUISANCE SPECIES BEFORE THE OFFICER ORDERS THE CONVEYANCE DECONTAMINATED OR IMPOUNDED AND QUARANTINED.

(b) EVERY QUALIFIED PEACE OFFICER IS AUTHORIZED TO STOP AND INSPECT FOR THE PRESENCE OF AQUATIC NUISANCE SPECIES A CONVEYANCE:

(I) PRIOR TO A VESSEL BEING LAUNCHED ONTO WATERS OF THE STATE;

(II) PRIOR TO DEPARTING FROM THE WATERS OF THE STATE OR A VESSEL STAGING AREA;

(III) THAT IS VISIBLY TRANSPORTING ANY AQUATIC PLANT MATERIAL; AND

(IV) UPON A REASONABLE BELIEF THAT AN AQUATIC NUISANCE SPECIES MAY BE PRESENT.

(2) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, A QUALIFIED PEACE

OFFICER MAY IMPOUND AND QUARANTINE A CONVEYANCE IF:

(a) THE QUALIFIED PEACE OFFICER FINDS OR REASONABLY BELIEVES THAT AN AQUATIC NUISANCE SPECIES MAY BE PRESENT AFTER CONDUCTING AN INSPECTION AUTHORIZED BY THIS ARTICLE;

(b) THE PERSON TRANSPORTING THE CONVEYANCE REFUSES TO SUBMIT TO AN INSPECTION AUTHORIZED BY THIS ARTICLE FOR THE PRESENCE OF AN AQUATIC NUISANCE SPECIES; OR

(c) THE PERSON TRANSPORTING THE CONVEYANCE REFUSES TO COMPLY WITH AN ORDER AUTHORIZED BY THIS ARTICLE TO DECONTAMINATE THE CONVEYANCE.

(3) THE IMPOUNDMENT AND QUARANTINE OF A CONVEYANCE MAY CONTINUE FOR THE REASONABLE PERIOD NECESSARY TO INSPECT AND DECONTAMINATE THE CONVEYANCE AND ENSURE THAT THE AQUATIC NUISANCE SPECIES HAS BEEN COMPLETELY ERADICATED FROM THE CONVEYANCE AND IS NO LONGER LIVING.

(4) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, NO MOTOR VEHICLE THAT IS DRAWING A CONVEYANCE SHALL BE IMPOUNDED OR QUARANTINED PURSUANT TO THIS ARTICLE; HOWEVER, THE CONVEYANCE BEING DRAWN IS STILL SUBJECT TO IMPOUNDMENT AND QUARANTINE UNDER THIS SECTION.

(5) AN AUTHORIZED AGENT SHALL HAVE THE AUTHORITY TO STOP, DETAIN, AND INSPECT A CONVEYANCE FOR THE PRESENCE OF AN AQUATIC NUISANCE SPECIES; HOWEVER, UNLESS THE AUTHORIZED AGENT IS A QUALIFIED PEACE OFFICER, THE AUTHORIZED AGENT HAS NO AUTHORITY TO IMPOUND AND QUARANTINE OR ORDER A CONVEYANCE DECONTAMINATED.

33-10.5-105. Prohibition of aquatic nuisance species - penalties. (1) NO PERSON SHALL:

(a) POSSESS, IMPORT, EXPORT, SHIP, OR TRANSPORT AN AQUATIC NUISANCE SPECIES;

(b) RELEASE, PLACE, PLANT, OR CAUSE TO BE RELEASED, PLACED, OR PLANTED INTO THE WATERS OF THE STATE AN AQUATIC NUISANCE SPECIES; OR

(c) REFUSE TO COMPLY WITH A PROPER ORDER ISSUED UNDER THIS ARTICLE.

(2) A PERSON WHO KNOWINGLY OR WILLFULLY VIOLATES SUBSECTION (1) OF THIS SECTION:

(a) FOR A FIRST OFFENSE, IS GUILTY OF A CLASS 2 PETTY OFFENSE, AS DEFINED BY SECTION 18-1.3-503, C.R.S., AND, UPON CONVICTION, SHALL BE SUBJECT TO A FINE OF ONE HUNDRED FIFTY DOLLARS AND SHALL BE ISSUED A WARNING OF THE INCREASED PENALTIES FOR SUBSEQUENT VIOLATIONS FROM THE DIVISIONS;

(b) FOR A SECOND OFFENSE, IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION, SHALL BE FINED ONE THOUSAND DOLLARS; AND

(c) FOR A THIRD AND ANY SUBSEQUENT OFFENSE, COMMITS A CLASS 2 MISDEMEANOR AND, UPON CONVICTION, SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

33-10.5-106. Duty to report. A PERSON WHO KNOWS THAT AN AQUATIC NUISANCE SPECIES IS PRESENT AT A SPECIFIC LOCATION SHALL IMMEDIATELY REPORT SUCH KNOWLEDGE AND ALL PERTINENT INFORMATION TO THE DIVISIONS.

33-10.5-107. Board to promulgate rules. (1) THE BOARD IS AUTHORIZED TO PROMULGATE RULES PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., AS NECESSARY TO PREVENT, CONTROL, CONTAIN, MONITOR, AND, WHENEVER POSSIBLE, ERADICATE AQUATIC NUISANCE SPECIES. IN PROMULGATING SUCH RULES, THE BOARD SHALL CONSULT WITH THE COMMISSION AND ANY AFFECTED STATE, FEDERAL, AND TRIBAL GOVERNMENTAL ENTITIES AND SUBDIVISIONS THEREOF, INCLUDING, BUT NOT LIMITED TO, SPECIAL DISTRICTS, WATER CONSERVANCY DISTRICTS, AND WATER SUPPLY AGENCIES.

(2) THE BOARD SHALL PROMULGATE RULES TO ADMINISTER AND ENFORCE THIS ARTICLE. SUCH RULES SHALL INCLUDE, BUT NOT BE LIMITED TO:

(a) PROCEDURES FOR THE INSPECTION OF CONVEYANCES FOR THE PRESENCE OF AQUATIC NUISANCE SPECIES;

(b) PROCEDURES FOR THE IMPOUNDMENT AND QUARANTINE OF CONVEYANCES PURSUANT TO SECTION 33-10.5-104, INCLUDING NOTIFICATION OF THE LOCATION AND CONTACT INFORMATION TO OWNERS OF IMPOUNDED CONVEYANCES;

(c) PROCEDURES FOR THE DECONTAMINATION OF CONVEYANCES AND DESTRUCTION OF AQUATIC NUISANCE SPECIES REMOVED FROM CONVEYANCES;

(d) METHODS TO ESTABLISH PROOF THAT A CONVEYANCE HAS BEEN DECONTAMINATED;

(e) PROCESSES FOR THE FACILITATION OF THE REPORTING REQUIRED BY SECTION 33-10.5-106; AND

(f) POLICIES FOR THE MONITORING AND IDENTIFICATION OF THE WATERS OF THE STATE OR GEOGRAPHIC AREAS THAT ARE OR MAY BE INFESTED WITH AQUATIC NUISANCE SPECIES.

33-10.5-108. Division of parks and outdoor recreation aquatic nuisance species fund - creation - division of wildlife aquatic nuisance species fund - creation. (1) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE DIVISION OF PARKS AND OUTDOOR RECREATION AQUATIC NUISANCE SPECIES FUND, WHICH SHALL BE ADMINISTERED BY THE DIVISION OF PARKS AND OUTDOOR RECREATION IN THE DEPARTMENT OF NATURAL RESOURCES AND SHALL CONSIST OF ALL MONEYS TRANSFERRED BY THE TREASURER AS SPECIFIED IN SECTION 39-29-109 (10), C.R.S. ALL MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE DIVISION OF PARKS AND OUTDOOR RECREATION FOR THE PURPOSE OF IMPLEMENTING THE PROVISIONS OF THIS ARTICLE. ALL MONEYS IN THE FUND AT THE END OF EACH FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL

FUND OR ANY OTHER FUND.

(b) IN THE USE OF SUCH MONEYS, PRIORITY SHALL BE GIVEN TO CONTAINMENT AND ERADICATION OF AQUATIC NUISANCE SPECIES IN THE WATERS OF THE STATE IN WHICH SUCH SPECIES HAVE BEEN DETECTED AND PREVENTION OF THE INTRODUCTION OF NUISANCE SPECIES IN AREAS DETERMINED TO BE MOST VULNERABLE TO SUCH AN INTRODUCTION.

(2) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE DIVISION OF WILDLIFE AQUATIC NUISANCE SPECIES FUND, WHICH SHALL BE ADMINISTERED BY THE DIVISION OF WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES AND SHALL CONSIST OF ALL MONEYS TRANSFERRED BY THE TREASURER AS SPECIFIED IN SECTIONS 33-1-112 AND 39-29-109 (10), C.R.S. ALL MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE DIVISION OF WILDLIFE FOR THE PURPOSE OF IMPLEMENTING THE PROVISIONS OF THIS ARTICLE. ALL MONEYS IN THE FUND AT THE END OF EACH FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

(b) IN THE USE OF SUCH MONEYS, PRIORITY SHALL BE GIVEN TO CONTAINMENT AND ERADICATION OF AQUATIC NUISANCE SPECIES IN THE WATERS OF THE STATE IN WHICH SUCH SPECIES HAVE BEEN DETECTED AND PREVENTION OF THE INTRODUCTION OF NUISANCE SPECIES IN AREAS DETERMINED TO BE MOST VULNERABLE TO SUCH AN INTRODUCTION.

SECTION 2. 33-1-112 (1), Colorado Revised Statutes, is amended to read:

33-1-112. Funds and cost accounting - repeal. (1) (a) Except as provided in subsections (7) and (8) of this section, sections 33-1-112.5 and 33-6-105, and in part 7 of article 22 of title 39, C.R.S., all moneys received from wildlife license fees, and all moneys from all other wildlife sources, and all interest earned on such moneys shall be deposited in the state treasury and credited to the wildlife cash fund, which fund is hereby created, and such moneys shall be utilized for expenditures authorized or contemplated by and not inconsistent with the provisions of articles 1 to 6 of this title for wildlife activities and functions and for the financing of impact assistance grants pursuant to part 3 of article 25 of title 30, C.R.S. All moneys so deposited in the wildlife cash fund shall remain in such fund to be used for the purposes set forth in the provisions of articles 1 to 6 of this title and shall not be deposited in or transferred to the general fund of the state of Colorado or any other fund.

(b) FOR THE FISCAL YEAR COMMENCING JULY 1, 2008, THERE SHALL BE TRANSFERRED ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS FROM THE WILDLIFE CASH FUND TO THE DIVISION OF WILDLIFE AQUATIC NUISANCE SPECIES FUND, CREATED IN SECTION 33-10.5-108.

SECTION 3. 33-6-114, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

33-6-114. Transportation, importation, exportation, and release of wildlife. (5) THIS SECTION SHALL NOT APPLY TO AQUATIC NUISANCE SPECIES, WHICH SHALL BE GOVERNED BY ARTICLE 10.5 OF THIS TITLE.

SECTION 4. 33-6-114.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

33-6-114.5. Native and nonnative fish - possession, transportation, importation, exportation, and release - penalties. (8) THIS SECTION SHALL NOT APPLY TO AQUATIC NUISANCE SPECIES, WHICH SHALL BE GOVERNED BY ARTICLE 10.5 OF THIS TITLE.

SECTION 5. 39-29-109, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-29-109. Severance tax trust fund - created - administration - use of moneys - definitions - repeal. (10) (a) (I) SUBJECT TO THE END BALANCE REQUIREMENT OF PARAGRAPH (f) OF SUBSECTION (1.5) OF THIS SECTION AND THE MAINTENANCE OF A TWO-YEAR RESERVE PURSUANT TO SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (III) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION, FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2008, THE STATE TREASURER SHALL TRANSFER FIVE MILLION NINE HUNDRED FIFTY-SIX THOUSAND SIX HUNDRED THIRTY-SIX DOLLARS OF THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND AS FOLLOWS:

(A) TO THE DIVISION OF PARKS AND OUTDOOR RECREATION AQUATIC NUISANCE SPECIES FUND CREATED IN SECTION 33-10.5-108 (1), C.R.S., THREE MILLION TWO HUNDRED EIGHTY-NINE THOUSAND THREE HUNDRED NINETY-TWO DOLLARS FOR THE PURPOSE STATED THEREIN;

(B) TO THE DIVISION OF WILDLIFE AQUATIC NUISANCE SPECIES FUND CREATED IN SECTION 33-10.5-108 (2), C.R.S., TWO MILLION SIX HUNDRED SIXTY-SEVEN THOUSAND TWO HUNDRED FORTY-FOUR DOLLARS FOR THE PURPOSE STATED THEREIN.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 1, 2010.

(b) SUBJECT TO THE END BALANCE REQUIREMENT OF PARAGRAPH (f) OF SUBSECTION (1.5) OF THIS SECTION AND THE MAINTENANCE OF A TWO-YEAR RESERVE PURSUANT TO SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (III) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION, FOR THE FISCAL YEAR COMMENCING JULY 1, 2009, AND EVERY FISCAL YEAR THEREAFTER, THE STATE TREASURER SHALL TRANSFER FOUR MILLION SIX THOUSAND FIVE DOLLARS FROM THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND AS FOLLOWS:

(I) TO THE DIVISION OF PARKS AND OUTDOOR RECREATION AQUATIC NUISANCE SPECIES FUND CREATED IN SECTION 33-10.5-108 (1), C.R.S., TWO MILLION SEVEN HUNDRED ONE THOUSAND FOUR HUNDRED SIXTY-ONE DOLLARS FOR THE PURPOSE STATED THEREIN;

(II) TO THE DIVISION OF WILDLIFE AQUATIC NUISANCE SPECIES FUND CREATED IN SECTION 33-10.5-108 (2), C.R.S., ONE MILLION THREE HUNDRED FOUR THOUSAND FIVE HUNDRED FORTY-FOUR DOLLARS FOR THE PURPOSE STATED THEREIN.

SECTION 6. 39-29-109 (1) (k) (V), Colorado Revised Statutes, is amended to

read:

39-29-109. Severance tax trust fund - created - administration - use of moneys - definitions - repeal. (1) (k) (V) Subject to the maintenance of a two-year reserve pursuant to sub-subparagraph (A) of subparagraph (III) of paragraph (c) of this subsection (1), on or after July 1, 2008, 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):

(A) ~~One million~~ SIX HUNDRED TWENTY-FIVE THOUSAND dollars and transfer such sum to the capital account of the species conservation trust fund created in section 24-33-111 (2) (a), C.R.S.;

(B) ~~One million~~ SIX HUNDRED TWENTY-FIVE THOUSAND dollars and transfer such sum to the operations and maintenance account of the species conservation trust fund created in section 24-33-111 (2) (a), C.R.S.

SECTION 7. 33-10.5-108, Colorado Revised Statutes, as enacted by section 1 of Senate Bill 08-226, enacted at the Second Regular Session of the Sixty-sixth General Assembly, is amended to read:

33-10.5-108. Division of parks and outdoor recreation aquatic nuisance species fund - creation - division of wildlife aquatic nuisance species fund - creation. (1) (a) There is hereby created in the state treasury the division of parks and outdoor recreation aquatic nuisance species fund, which shall be administered by the division of parks and outdoor recreation in the department of natural resources and shall consist of all moneys transferred by the treasurer as specified in ~~section 39-29-109 (10)~~ SECTION 39-29-109.3 (2) (i), C.R.S. All moneys in the fund are continuously appropriated to the division of parks and outdoor recreation for the purpose of implementing the provisions of this article. All moneys in the fund at the end of each fiscal year shall remain in the fund and shall not revert to the general fund or any other fund.

(b) In the use of such moneys, priority shall be given to containment and eradication of aquatic nuisance species in the waters of the state in which such species have been detected and prevention of the introduction of aquatic nuisance species in areas determined to be most vulnerable to such an introduction.

(2) (a) There is hereby created in the state treasury the division of wildlife aquatic nuisance species fund, which shall be administered by the division of wildlife in the department of natural resources and shall consist of all moneys transferred by the treasurer as specified in ~~section 39-29-109 (10)~~ SECTIONS 33-1-112 AND 39-29-109.3 (2) (i), C.R.S. All moneys in the fund are continuously appropriated to the division of wildlife for the purpose of implementing the provisions of this article. All moneys in the fund at the end of each fiscal year shall remain in the fund and shall not revert to the general fund or any other fund.

(b) In the use of such moneys, priority shall be given to containment and eradication of aquatic nuisance species in the waters of the state in which such species have been detected and prevention of the introduction of aquatic nuisance species in areas determined to be most vulnerable to such an introduction.

SECTION 8. 39-29-109.3 (2), Colorado Revised Statutes, as enacted by House Bill 08-1398, enacted at the Second Regular Session of the Sixty-sixth General Assembly, is amended BY THE ADDITION OF A NEW PARAGRAPH 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:

(i) FOR THE MITIGATION OF AQUATIC NUISANCE SPECIES AS SPECIFIED IN ARTICLE 10.5 OF TITLE 33, C.R.S.:

(I) (A) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2008, FIVE MILLION NINE HUNDRED FIFTY-SIX THOUSAND SIX HUNDRED THIRTY-SIX DOLLARS AS FOLLOWS: THREE MILLION TWO HUNDRED EIGHTY-NINE THOUSAND THREE HUNDRED NINETY-TWO DOLLARS TO THE DIVISION OF PARKS AND OUTDOOR RECREATION AQUATIC NUISANCE SPECIES FUND CREATED IN SECTION 33-10.5-108 (1), C.R.S.; AND TWO MILLION SIX HUNDRED SIXTY-SEVEN THOUSAND TWO HUNDRED FORTY-FOUR DOLLARS TO THE DIVISION OF WILDLIFE AQUATIC NUISANCE SPECIES FUND CREATED IN SECTION 33-10.5-108 (2), C.R.S.

(B) THIS SUBPARAGRAPH (I) IS REPEALED, JULY 1, 2010.

(II) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2009, AND EVERY STATE FISCAL YEAR THEREAFTER, FOUR MILLION SIX THOUSAND FIVE DOLLARS AS FOLLOWS: TWO MILLION SEVEN HUNDRED ONE THOUSAND FOUR HUNDRED SIXTY-ONE DOLLARS TO THE DIVISION OF PARKS AND OUTDOOR RECREATION AQUATIC NUISANCE SPECIES FUND CREATED IN SECTION 33-10.5-108 (1), C.R.S.; AND ONE MILLION THREE HUNDRED FOUR THOUSAND FIVE HUNDRED FORTY-FOUR DOLLARS TO THE DIVISION OF WILDLIFE AQUATIC NUISANCE SPECIES FUND CREATED IN SECTION 33-10.5-108 (2), C.R.S.

SECTION 9. Section 39-29-109.3 (2) (d) (I) (A) and (2) (e) (I) (A), Colorado Revised Statutes, as enacted by House Bill 08-1398 and amended by Senate Bill 08-168, 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, eight million ~~six hundred thirty-one~~ TWO HUNDRED FIFTY-SIX thousand nine hundred ~~and~~ 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, four million ~~six hundred thirty-one~~ TWO HUNDRED FIFTY-SIX thousand nine hundred forty-three dollars.

SECTION 10. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of parks and outdoor recreation aquatic nuisance species fund created in section 33-10.5-108 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of natural resources, for allocation to the division of parks and outdoor recreation, for the fiscal year beginning July 1, 2008, the sum of three million two hundred eighty-nine thousand three hundred ninety-two dollars (\$3,289,392) and 7.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of wildlife aquatic nuisance species fund created in section 33-10.5-108 (2), Colorado Revised Statutes, not otherwise appropriated, to the department of natural resources, for allocation to the division of wildlife, for the fiscal year beginning July 1, 2008, the sum of three million nine hundred seventeen thousand two hundred forty-four dollars (\$3,917,244), or so much thereof as may be necessary, for the implementation of this act.

(3) Any moneys earmarked from the operational account of the severance tax trust fund to the species conservation trust fund that have been declined for purposes of funding the appropriations necessary for the implementation of this act shall be used for mitigating the effects of any aquatic nuisance species on any threatened and endangered species protected by the species conservation trust fund.

SECTION 11. Effective date. (1) This act shall take effect upon passage; except that:

(a) Sections 5 and 6 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) Sections 7 and 8 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;

(c) Section 9 of this act shall take effect only if both House Bill 08-1398 and Senate Bill 08-168 are enacted at the Second Regular Session of the Sixty-sixth General Assembly and both become law.

SECTION 12. 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