

**Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0630.01 Jennifer Berman x3286

**HOUSE BILL 16-1256**

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**HOUSE SPONSORSHIP**

**Brown**, Humphrey, Priola, Roupe, Nordberg, Windholz, Everett, Lundeen, Klingenschmitt, Thurlow, Wist, Sias, Dore, DelGrosso, Leonard, Willett, Van Winkle, Wilson, Rankin, Arndt, Becker J., Conti, Coram, Landgraf, Navarro, Saine, Singer, Vigil

**SENATE SPONSORSHIP**

**Sonnenberg**,

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**House Committees**

Agriculture, Livestock, & Natural Resources  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING A STUDY REGARDING THE CREATION OF ADDITIONAL**  
102      **WATER STORAGE IN THE SOUTH PLATTE RIVER BASIN.**

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**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://www.leg.state.co.us/billsummaries>.)*

**Section 1** of the bill requires the Colorado water conservation board (board), in collaboration with the state engineer, to conduct or commission a hydrology study of the South Platte river basin to determine, for each of the previous 20 years, the amount of water that has been delivered to Nebraska from the river in excess of the amount required under the South Platte river compact. The study must also

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

include a list of locations that have been identified as possible sites for the construction of a reservoir along the mainstem and tributaries of the South Platte river between Greeley, Colorado, and Julesburg, Colorado. For each listed location, the study must include information on the amount of water that could have been stored in a reservoir at the site, a list of any property that the federal bureau of reclamation or another government agency has purchased for construction of the site, an estimate of the cost to construct a reservoir at the site, and a cost-benefit analysis for constructing a reservoir at the site. The board, in collaboration with the state engineer, is required to provide a report summarizing the study to the committees of reference in the house of representatives and the senate that have jurisdiction over natural resources matters.

**Section 2** transfers \$250,000 from the severance tax perpetual base fund to the Colorado water conservation board construction fund on July 1, 2016.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-60-115, **add** (11)  
3 as follows:

4 **37-60-115. Water studies - rules - repeal. (11) South Platte**  
5 **river storage study - report - repeal. (a) Legislative declaration.**

6 (I) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

7 (A) COLORADO'S WATER PLAN IDENTIFIES INCREASED WATER  
8 STORAGE AS AN IMPORTANT GOAL AND SETS FORTH AN OBJECTIVE TO  
9 ATTAIN AN ADDITIONAL FOUR HUNDRED THOUSAND ACRE FEET OF WATER  
10 STORAGE IN COLORADO BY 2050; AND

11 (B) IN 2015, MORE THAN TWO MILLION ACRE FEET OF WATER THAT  
12 WERE DELIVERED TO NEBRASKA BY THE SOUTH PLATTE RIVER COULD  
13 HAVE BEEN STORED AND USED IN COLORADO.

14 (II) THE GENERAL ASSEMBLY FURTHER DETERMINES THAT WATER  
15 STORAGE PROVIDES NUMEROUS BENEFITS, INCLUDING:

16 (A) AN INCREASED ABILITY TO ADDRESS COLORADO'S PREDICTED  
17 FUTURE WATER SUPPLY-DEMAND GAP;

1 (B) PROVIDING STORAGE WATER RIGHTS THAT ALLOW FOR  
2 AQUIFER RECHARGE;

3 (C) REDUCING PRESENT AND FUTURE NEEDS TO IMPORT WATER  
4 FROM ONE WATER BASIN TO ANOTHER WATER BASIN THROUGH A  
5 TRANSBASIN DIVERSION;

6 (D) REDUCING RELIANCE ON THE PRACTICE OF BUYING  
7 AGRICULTURAL WATER AND DRYING UP THE AGRICULTURAL LAND SERVED  
8 BY THE WATER;

9 (E) RECREATIONAL BENEFITS;

10 (F) FLOOD CONTROL;

11 (G) IMPROVING INSTREAM FLOW;

12 (H) IMPROVING WATER COMPACT COMPLIANCE;

13 (I) ENHANCING COMPLIANCE WITH ENDANGERED SPECIES HABITAT  
14 REGULATIONS;

15 (J) ENHANCING MIGRATORY BIRD HABITATS;

16 (K) IMPROVING WILDLIFE HABITATS;

17 (L) INCREASED MUNICIPAL, INDUSTRIAL, ENVIRONMENTAL, AND  
18 AGRICULTURAL WATER SUPPLY; AND

19 (M) INCREASED AGRICULTURAL PRODUCTION.

20 (III) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT A  
21 STUDY SHOULD BE CONDUCTED TO IDENTIFY ALL WATER STORAGE  
22 POSSIBILITIES ALONG THE SOUTH PLATTE RIVER BASIN, INCLUDING THE  
23 CONSTRUCTION OF A RESERVOIR AND AQUIFER RECHARGE.

24 (b) IF THE SOUTH PLATTE BASIN AND METRO ROUNDTABLES FIRST  
25 APPROVE OF A WATER STORAGE STUDY PURSUANT TO GUIDELINES  
26 ESTABLISHED FOR GRANT AWARD DETERMINATIONS MADE IN ACCORDANCE  
27 WITH SECTION 39-29-109 (2) (c) (I), C.R.S., THE BOARD, IN

1 COLLABORATION WITH THE STATE ENGINEER, THE SOUTH PLATTE BASIN  
2 ROUNDTABLE, AND THE METRO ROUNDTABLE, SHALL DEVELOP A SCOPE OF  
3 WORK TO CONDUCT OR COMMISSION A STORAGE STUDY OF THE SOUTH  
4 PLATTE RIVER BASIN THAT:

5 (I) EVALUATES THE AMOUNT OF WATER DELIVERED IN EACH OF  
6 THE PREVIOUS TWENTY YEARS TO NEBRASKA IN EXCESS OF THE AMOUNT  
7 REQUIRED TO BE DELIVERED BY THE SOUTH PLATTE RIVER COMPACT,  
8 ARTICLE 65 OF THIS TITLE;

9 (II) EVALUATES THE AMOUNT OF WATER THAT COULD HAVE  
10 OTHERWISE BEEN STORED THROUGH CONSTRUCTION OF A RESERVOIR OR  
11 OTHER STORAGE MECHANISM IN THE LOWER SOUTH PLATTE RIVER BASIN;

12 (III) REVIEWS AND EVALUATES ALL PREVIOUSLY DEVELOPED AND  
13 CURRENTLY AVAILABLE STORAGE STUDIES, INCLUDING THE COLORADO  
14 DECISION SUPPORT SYSTEM'S DATA AND MODEL RUNS, AND ANY OTHER  
15 APPLICABLE DATA AVAILABLE ON THE SOUTH PLATTE RIVER BASIN; AND

16 (IV) DEVELOPS A LIST OF POSSIBLE SITES ALONG THE MAIN STEM  
17 AND TRIBUTARIES OF THE SOUTH PLATTE RIVER BASIN, FROM GREELEY,  
18 COLORADO, TO JULESBURG, COLORADO:

19 (A) FOR CONSTRUCTING A NEW RESERVOIR;

20 (B) OF EXISTING RESERVOIR SITES THAT COULD BE ENLARGED;

21 AND

22 (C) FOR IMPLEMENTING AN ALTERNATIVE STORAGE MECHANISM.

23 (c) FOR EACH POSSIBLE SITE IDENTIFIED PURSUANT TO  
24 SUBPARAGRAPH (IV) OF PARAGRAPH (b) OF THIS SUBSECTION (11), THE  
25 STUDY MUST INCLUDE:

26 (I) AN ESTIMATE OF THE VOLUME OF WATER THAT COULD HAVE  
27 BEEN STORED ANNUALLY; HOWEVER, THE ESTIMATE MUST INCLUDE ONLY

1 MEASURED FLOW IN THE SOUTH PLATTE RIVER EXISTING AT THE TIME OF  
2 THE STUDY AND NOT ANY FUTURE, NEWLY CREATED TRANSMOUNTAIN  
3 DIVERSIONS FROM THE SOUTHWEST, GUNNISON, COLORADO, OR YAMPA  
4 BASINS;

5 (II) A PRELIMINARY ESTIMATE OF THE COST, INCLUDING THE  
6 ESTIMATED COSTS OF OBTAINING NECESSARY PERMITS AND ACQUIRING  
7 PROPERTY, FOR THE:

8 (A) CONSTRUCTION OF A NEW RESERVOIR AT THE SITE; OR

9 (B) REHABILITATION OF AN EXISTING RESERVOIR; AND

10 (III) A COST-BENEFIT ANALYSIS FOR CONSTRUCTING A RESERVOIR  
11 OR IMPLEMENTING AN ALTERNATIVE STORAGE MECHANISM, INCLUDING  
12 CONSIDERATION OF POTENTIAL ENVIRONMENTAL, FINANCIAL, AND LEGAL  
13 CONSTRAINTS AND POTENTIAL BENEFITS, INCLUDING:

14 (A) ADDRESSING COLORADO'S PREDICTED FUTURE WATER SUPPLY  
15 GAPS;

16 (B) PROVIDING STORAGE WATER RIGHTS THAT ALLOW FOR  
17 AQUIFER RECHARGE;

18 (C) REDUCING PRESENT AND FUTURE NEEDS TO IMPORT WATER  
19 FROM ONE WATER BASIN TO ANOTHER WATER BASIN THROUGH A  
20 TRANSBASIN DIVERSION;

21 (D) REDUCING RELIANCE ON THE PRACTICE OF BUYING  
22 AGRICULTURAL WATER AND DRYING UP THE AGRICULTURAL LAND SERVED  
23 BY THE WATER;

24 (E) RECREATIONAL BENEFITS;

25 (F) FLOOD CONTROL;

26 (G) IMPROVING INSTREAM FLOW;

27 (H) IMPROVING WATER COMPACT COMPLIANCE;

1 (I) ENHANCING COMPLIANCE WITH ENDANGERED SPECIES HABITAT  
2 REGULATIONS;

3 (J) ENHANCING MIGRATORY BIRD HABITATS;

4 (K) IMPROVING WILDLIFE HABITATS;

5 (L) INCREASED MUNICIPAL, INDUSTRIAL, ENVIRONMENTAL, AND  
6 AGRICULTURAL WATER SUPPLY;

7 (M) INCREASED AGRICULTURAL PRODUCTION; AND

8 (N) ANY OTHER BENEFIT.

9 (d) ON OR BEFORE SEPTEMBER 30, 2016, THE BOARD, PURSUANT  
10 TO THE PROCEDURES SET FORTH IN SECTION 39-29-109 (2) (c), C.R.S.,  
11 SHALL DETERMINE WHETHER TO APPROVE OR DENY THE COMMISSION OF  
12 A WATER STORAGE STUDY PURSUANT TO THIS SUBSECTION (11).

13 (e) IF A STUDY IS AUTHORIZED PURSUANT TO PARAGRAPH (d) OF  
14 THIS SUBSECTION (11), THE BOARD, IN COLLABORATION WITH THE STATE  
15 ENGINEER, SHALL:

16 (I) COMPLETE A SCOPE OF WORK FOR THE STUDY AS  
17 EXPEDITIOUSLY AS PRACTICABLE, BUT NOT LATER THAN NOVEMBER 30,  
18 2016;

19 (II) COMPLETE THE STUDY NO LATER THAN OCTOBER 31, 2017;

20 (III) ON OR BEFORE DECEMBER 31, 2017, PROVIDE A REPORT  
21 SUMMARIZING THE STUDY TO THE COMMITTEES OF REFERENCE IN THE  
22 HOUSE OF REPRESENTATIVES AND THE SENATE WITH JURISDICTION OVER  
23 NATURAL RESOURCES.

24 (f) IF A STUDY IS AUTHORIZED PURSUANT TO PARAGRAPH (d) OF  
25 THIS SUBSECTION (11), THE BOARD SHALL IMMEDIATELY NOTIFY THE  
26 STATE TREASURER OF THE AUTHORIZATION.

27 (g) THE BOARD MAY ACCEPT AND EXPEND GIFTS, GRANTS, AND

1 DONATIONS FOR THE PURPOSES OF THIS SUBSECTION (11), BUT THE  
2 IMPLEMENTATION OF THIS SUBSECTION (11) IS NOT DEPENDENT ON THE  
3 RECEIPT OF GIFTS, GRANTS, AND DONATIONS. THE BOARD SHALL TRANSMIT  
4 ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE  
5 STATE TREASURER, WHO SHALL CREDIT THEM TO THE COLORADO WATER  
6 CONSERVATION BOARD CONSTRUCTION FUND CREATED IN SECTION  
7 37-60-121.

8 (h) THIS SUBSECTION (11) IS REPEALED, EFFECTIVE JULY 1, 2018.

9 **SECTION 2.** In Colorado Revised Statutes, 39-29-109, **amend**  
10 (2) introductory portion; and **add** (2) (c) (III) as follows:

11 **39-29-109. Severance tax trust fund - created - administration**  
12 **- distribution of money - repeal.** (2) State severance tax receipts shall  
13 be credited to the severance tax trust fund as provided in section  
14 39-29-108. Except as otherwise set forth in section 39-29-109.5, all  
15 income derived from the deposit and investment of the ~~moneys~~ MONEY  
16 in the fund shall be credited to the fund. At the end of any fiscal year, all  
17 unexpended and unencumbered ~~moneys~~ MONEY in the fund ~~remain~~  
18 ~~therein~~ REMAINS IN THE FUND and shall not be credited or transferred to  
19 the general fund or any other fund. All ~~moneys~~ MONEY in the fund ~~are~~ IS  
20 subject to appropriation by the general assembly for the following  
21 purposes:

22 (c) **The water supply reserve fund.** (III) IF THE BOARD NOTIFIES  
23 THE STATE TREASURER THAT A WATER STORAGE STUDY HAS BEEN  
24 AUTHORIZED PURSUANT TO SECTION 37-60-115 (11), C.R.S., ON OCTOBER  
25 15, 2016, THE STATE TREASURER SHALL TRANSFER TWO HUNDRED FIFTY  
26 THOUSAND DOLLARS FROM THE FUND TO THE COLORADO WATER  
27 CONSERVATION BOARD CONSTRUCTION FUND, CREATED IN SECTION

1 37-60-121 (1) (a), C.R.S., FOR USE BY THE COLORADO WATER  
2 CONSERVATION BOARD, CREATED IN SECTION 37-60-102, C.R.S., TO  
3 IMPLEMENT THE SOUTH PLATTE RIVER WATER STORAGE STUDY PURSUANT  
4 TO SECTION 37-60-115 (11), C.R.S.

5 **SECTION 3. Safety clause.** The general assembly hereby finds,  
6 determines, and declares that this act is necessary for the immediate  
7 preservation of the public peace, health, and safety.