

## CHAPTER 362

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**TAXATION**


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**HOUSE BILL 17-1250**

BY REPRESENTATIVE(S) Lebsack, Becker K., Ginal, Gray, Hamner, Hooton, Kennedy, Melton, Mitsch Bush, Pettersen, Rosenthal, Salazar, Young, Duran;  
also SENATOR(S) Coram and Donovan, Fenberg, Fields, Garcia, Guzman, Kefalas, Kerr, Merrifield.

**AN ACT**

**CONCERNING THE VOLUNTARY CONTRIBUTION DESIGNATION THAT BENEFITS WILDLIFE, AND, IN CONNECTION THEREWITH, CHANGING THE NONGAME AND ENDANGERED WILDLIFE TAX CHECK-OFF TO THE COLORADO NONGAME CONSERVATION AND WILDLIFE RESTORATION TAX CHECK-OFF, PROVIDING FOR THE ALLOCATION OF MONEYS RECEIVED THROUGH THE CHECK-OFF, CREATING A GRANT PROGRAM THAT USES MONEYS CONTRIBUTED THROUGH THE CHECK-OFF TO FINANCE WILDLIFE REHABILITATION EFFORTS, AND MAKING AN APPROPRIATION.**

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

**SECTION 1.** In Colorado Revised Statutes, **amend** part 7 of article 22 of title 39 as follows:

**PART 7**  
**COLORADO NONGAME CONSERVATION AND WILDLIFE**  
**RESTORATION VOLUNTARY CONTRIBUTION**

**39-22-701. Legislative declaration.** (1) (a) The general assembly hereby declares that wildlife species ~~which~~ THAT are endangered, threatened with extinction, or not commonly pursued, killed, or consumed either for sport or profit, referred to in this part 7 as "nongame AND ENDANGERED wildlife", have need of special protection and that it is in the public interest to preserve, protect, perpetuate, and enhance nongame AND ENDANGERED wildlife resources of this state through preservation of a satisfactory environment and an ecological balance. The general assembly specifically recognizes that such nongame AND ENDANGERED wildlife includes protected wildlife, endangered and threatened wildlife, aquatic wildlife, specialized habitat wildlife, both terrestrial and aquatic types, and mollusks, crustaceans, and other invertebrates under the jurisdiction of the division of parks and wildlife.

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

(b) THE GENERAL ASSEMBLY FURTHER DECLARES THAT WILDLIFE REHABILITATION HELPS COLORADO'S GAME AND NONGAME AND ENDANGERED WILDLIFE SPECIES SURVIVE AND REPRESENTS RESPONSIBLE STEWARDSHIP FOR THE ANIMALS IN NEED OF ASSISTANCE. THE GENERAL ASSEMBLY RECOGNIZES THAT LITTLE PUBLIC OR PRIVATE FUNDING OR FORMAL SUPPORT EXISTS TO FINANCE WILDLIFE REHABILITATION, AND THEREFORE WILDLIFE REHABILITATORS PROVIDE THEIR SERVICES FREE OF CHARGE. BECAUSE THEY PERFORM A VITAL PUBLIC SERVICE, PROVIDING A METHOD BY WHICH SOME REHABILITATORS' ACTIVITIES MAY BE FUNDED OR EXPENSES DEFRAIDED IS IN THE PUBLIC INTEREST.

(2) This part 7 is enacted to provide a means by which ~~such protection~~ THE CONSERVATION AND RESTORATION OF WILDLIFE IN THE STATE may be financed through a voluntary contribution designation on state income tax return forms. The intent of the general assembly is that this program is supplemental to any funding and in no way is intended to ~~take the place of the~~ SUPPLANT funding that would otherwise be appropriated for this purpose.

**39-22-702. Voluntary contribution designation - procedure.** For income tax years commencing on or after ~~January 1, 2012~~ JANUARY 1, 2017, but prior to ~~January 1, 2017~~ JANUARY 1, 2022, THE EXECUTIVE DIRECTOR SHALL ENSURE THAT each Colorado state individual income tax return form ~~shall contain~~ CONTAINS a line whereby each individual taxpayer may designate the amount of the contribution, if any, ~~such~~ THE individual wishes to make to the ~~nongame and endangered wildlife~~ COLORADO NONGAME CONSERVATION AND WILDLIFE RESTORATION cash fund created in ~~section 39-22-703~~ SECTION 33-1-125.

**39-22-703. Contributions credited to Colorado nongame conservation and wildlife restoration cash fund - administration - transfer - repeal.** (1) The department of revenue shall determine annually the total amount OF VOLUNTARY CONTRIBUTIONS designated pursuant to section 39-22-702 and shall report ~~such~~ THE amount to the state treasurer, who shall credit ~~such~~ THAT amount to the ~~nongame and endangered wildlife~~ COLORADO NONGAME CONSERVATION AND WILDLIFE RESTORATION cash fund ~~which is hereby established in the state treasury. The controller, upon presentation of vouchers properly drawn and signed by the director of the division of parks and wildlife or an authorized employee of the division of administration, shall issue warrants drawn on the appropriate fund. All moneys so deposited in the nongame and endangered wildlife cash fund shall remain in such fund to be used for the purposes set forth in subsection (2) of this section and shall not be deposited in or transferred to the general fund of the state of Colorado or any other fund~~ CREATED IN SECTION 33-1-125.

(2) The general assembly shall appropriate annually from the ~~nongame and endangered wildlife~~ COLORADO NONGAME CONSERVATION AND WILDLIFE RESTORATION cash fund

(a) ~~To the division of parks and wildlife of the department of natural resources, such amount as is necessary for preserving, protecting, perpetuating, and enhancing nongame and endangered wildlife in this state, including the department's administrative expenses in connection therewith;~~

~~(b)~~ to the department of revenue its costs of administering the ~~income tax refunds~~ MONEYS designated as contributions to the fund. AFTER SUBTRACTING THE APPROPRIATION TO THE DEPARTMENT, ALL DESIGNATED MONEYS IN THE FUND ARE HEREBY CONTINUOUSLY APPROPRIATED FOR THE PURPOSES OF THIS PART 7 AND SECTION 33-1-125. AT THE END OF EACH FISCAL YEAR, THE STATE TREASURER SHALL TRANSFER ALL DESIGNATED MONEYS IN THE FUND AND ALL INTEREST EARNED THROUGH THE INVESTMENT OF FUND MONEYS, AFTER SUBTRACTING THE APPROPRIATION TO THE DEPARTMENT OF REVENUE, AS SPECIFIED IN SECTION 33-1-125.

~~(c) Repealed.~~

(2) (a) THE DIVISION OF PARKS AND WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES SHALL EXPEND ANY MONEYS TRANSFERRED TO IT UNDER THIS PART 7 FOR TAX YEARS COMMENCING ON OR BEFORE JANUARY 1, 2016, IN ACCORDANCE WITH THIS PART 7, AS THIS PART 7 EXISTED PRIOR TO THE ENACTMENT OF HOUSE BILL 17-1250, ENACTED IN 2017.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JANUARY 1, 2019.

**39-22-704. Repeal of part.** This part 7 is repealed, effective ~~January 1, 2018~~ JANUARY 1, 2023, unless the voluntary contribution to the ~~nongame and endangered wildlife~~ COLORADO NONGAME CONSERVATION AND WILDLIFE RESTORATION cash fund established ~~CREATED in section 39-22-703~~ SECTION 33-1-125 is continued or reestablished by the general assembly acting by bill prior to said date.

**SECTION 2.** In Colorado Revised Statutes, **add** 33-1-125 as follows:

**33-1-125. Colorado nongame conservation and wildlife restoration cash fund - creation - disbursement of moneys - wildlife rehabilitation grant program - authority and board created - process - report - definition - repeal.**

(1) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE COLORADO NONGAME CONSERVATION AND WILDLIFE RESTORATION CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND". THE FUND CONSISTS OF VOLUNTARY CONTRIBUTIONS MADE THROUGH PART 7 OF ARTICLE 22 OF TITLE 39, LESS ANY APPROPRIATION TO THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 39-22-703, ANY MONEYS CREDITED PURSUANT TO SECTION 33-6-105 (1)(a), AND ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND AND CREDITED TO THE FUND BY THE STATE TREASURER. ALL UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR MUST REMAIN IN THE FUND AND SHALL NOT REVERT BACK TO THE GENERAL FUND OR ANY OTHER FUND OR BE USED FOR ANY PURPOSE OTHER THAN THE PURPOSES SET FORTH IN THIS SECTION. THE DIVISION SHALL EXPEND MONEYS FROM THE FUND AS SPECIFIED IN, AND FOR THE IMPLEMENTATION OF, THIS SECTION.

(b) THE MONEYS IN THE FUND MUST BE APPORTIONED AND USED AS FOLLOWS:

(I) FOR UP TO THE FIRST TWO HUNDRED FIFTY THOUSAND DOLLARS CREDITED TO THE FUND IN ANY FISCAL YEAR:

(A) NINETY PERCENT OF THE MONEYS CREDITED TO THE FUND IN ANY FISCAL

YEAR SHALL BE USED BY THE DIVISION IN PRESERVING, PROTECTING, PERPETUATING, AND ENHANCING NONGAME AND ENDANGERED WILDLIFE IN THE STATE, INCLUDING THE DIVISION'S ADMINISTRATIVE EXPENSES IN CONNECTION THEREWITH, AND FOR THE DIVISION'S COSTS IN PROVIDING STAFF SUPPORT TO THE BOARD CREATED IN SUBSECTION (3) OF THIS SECTION; AND

(B) TEN PERCENT OF THE MONEYS CREDITED TO THE FUND IN ANY FISCAL YEAR SHALL BE USED FOR GRANTS TO WILDLIFE REHABILITATORS IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION.

(II) FOR ANY MONEYS OVER THE INITIAL TWO HUNDRED FIFTY THOUSAND DOLLARS CREDITED TO THE FUND IN ANY FISCAL YEAR:

(A) SEVENTY-FIVE PERCENT OF THOSE ADDITIONAL MONEYS SHALL BE USED BY THE DIVISION IN PRESERVING, PROTECTING, PERPETUATING, AND ENHANCING NONGAME AND ENDANGERED WILDLIFE IN THE STATE, INCLUDING THE DIVISION'S ADMINISTRATIVE EXPENSES IN CONNECTION THEREWITH, AND FOR THE DIVISION'S COSTS IN PROVIDING STAFF SUPPORT TO THE BOARD CREATED IN SUBSECTION (3) OF THIS SECTION; AND

(B) TWENTY-FIVE PERCENT OF THOSE ADDITIONAL MONEYS SHALL BE USED FOR GRANTS TO WILDLIFE REHABILITATORS IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION.

(2) THERE IS HEREBY CREATED THE COLORADO NONGAME CONSERVATION AND WILDLIFE RESTORATION CASH FUND AUTHORITY, REFERRED TO IN THIS SECTION AS THE "AUTHORITY". THE AUTHORITY IS NOT AN AGENCY OF STATE GOVERNMENT AND IS NOT SUBJECT TO ADMINISTRATIVE DIRECTION BY ANY STATE AGENCY EXCEPT AS PROVIDED IN THIS SECTION.

(3) (a) (I) THE POWERS OF THE AUTHORITY ARE VESTED IN A BOARD OF DIRECTORS, REFERRED TO IN THIS SECTION AS THE "BOARD". THE BOARD CONSISTS OF THE FOLLOWING SEVEN MEMBERS, EACH OF WHOM IS APPOINTED BY THE DIRECTOR PURSUANT TO AN APPLICATION PROCESS:

(A) TWO REPRESENTATIVES FROM PRIVATE-SECTOR COLORADO WILDLIFE REHABILITATION ORGANIZATIONS;

(B) ONE REPRESENTATIVE OF THE COLORADO FEDERATION OF ANIMAL WELFARE AGENCIES OR ITS SUCCESSOR ORGANIZATION;

(C) ONE EMPLOYEE OF THE DIVISION;

(D) ONE WILDLIFE BIOLOGIST EMPLOYED BY A STATE INSTITUTION OF HIGHER EDUCATION OR BY A NONSTATE ENTITY;

(E) ONE MEMBER OF A RECOGNIZED WILDLIFE CONSERVATION ORGANIZATION WITH LOCAL AND NATIONAL AFFILIATES WHOSE MISSION FOCUSES ON CONSERVATION AND RESTORATION OF NATURAL ECOSYSTEMS AND ON HABITAT PROTECTION FOR BIODIVERSITY, AND WHOSE MEMBERSHIP ENJOYS SIGNIFICANTLY NONCONSUMPTIVE USES OF WILDLIFE; AND

(F) ONE MEMBER OF THE GENERAL PUBLIC WITH AN INTEREST IN NONCONSUMPTIVE USES OF WILDLIFE OR WILDLIFE REHABILITATION.

(II) THE DIRECTOR SHALL ESTABLISH A PROCESS THROUGH WHICH APPLICATIONS FOR APPOINTMENTS TO THE BOARD ARE DEVELOPED, RECEIVED, AND EVALUATED.

(b) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(b)(II) OF THIS SECTION, APPOINTMENTS TO THE BOARD ARE FOR THREE-YEAR TERMS. EACH MEMBER SERVES AT THE PLEASURE OF THE DIRECTOR AND CONTINUES IN OFFICE UNTIL THE MEMBER'S SUCCESSOR IS APPOINTED AND QUALIFIED. THE DIRECTOR SHALL MAKE THE INITIAL APPOINTMENTS TO THE BOARD NO LATER THAN SEPTEMBER 1, 2017.

(II)(A) THREE OF THE SEVEN INITIAL APPOINTMENTS UNDER SUBSECTION (3)(a)(I) OF THIS SECTION ARE FOR A TERM OF TWO YEARS. THE DIRECTOR SHALL SPECIFY WHICH OF THE APPOINTEES SERVE A TWO-YEAR TERM WHEN HE OR SHE MAKES THE INITIAL APPOINTMENTS. AFTER THE INITIAL TWO-YEAR TERMS, SUBSEQUENT APPOINTEES TO THOSE POSITIONS SERVE THREE-YEAR TERMS.

(B) THIS SUBSECTION (3)(b)(II) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2019.

(c) ON THE EXPIRATION OF THE TERM OF A MEMBER OF THE BOARD, THE DIRECTOR SHALL EITHER REAPPOINT THAT MEMBER OR APPOINT THAT MEMBER'S SUCCESSOR FOR A TERM OF THREE YEARS; EXCEPT THAT, IN THE CASE OF A VACANCY, THE DIRECTOR'S APPOINTEE SERVES FOR THE REMAINDER OF THE UNEXPIRED TERM. A PERSON SHALL NOT SERVE MORE THAN SIX YEARS ON THE BOARD.

(d) MEMBERS OF THE BOARD SERVE WITHOUT COMPENSATION FOR ANY SERVICE PROVIDED TO THE AUTHORITY. MEMBERS DO NOT RECEIVE ANY REIMBURSEMENT FROM THE BOARD FOR ANY EXPENSES INCURRED FULFILLING THEIR RESPONSIBILITIES PURSUANT TO THIS SECTION.

(e) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(e)(II) OF THIS SECTION, THE AUTHORITY, CREATED PURSUANT TO SUBSECTION (2) OF THIS SECTION, SHALL NOT BE FUNDED BY OR THROUGH ANY STATE AGENCY.

(II) THE DIVISION SHALL PROVIDE STAFF SUPPORT TO THE BOARD FOR THE PURPOSES OF IMPLEMENTING THIS SECTION.

(III) THE BOARD SHALL DEVELOP, ADOPT, AND IMPLEMENT GUIDELINES AND PRACTICES FOR ITS OWN OPERATION AND FOR RECEIVING AND EVALUATING APPLICATIONS FOR GRANT MONEYS FROM THE FUND IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION, INCLUDING PRACTICES TO DETECT AND AVOID BOARD MEMBER CONFLICTS OF INTEREST; THE TIMING OF THE APPLICATION SUBMISSIONS AND GRANT DISBURSEMENT, WHICH TIMING MUST TAKE INTO ACCOUNT THE UNIQUE SEASONAL DEMANDS PRESENTED BY WILDLIFE REHABILITATION EFFORTS; AND CRITERIA TO SCORE OR OTHERWISE ASSESS GRANT APPLICATIONS. NOTHING IN THIS SECTION AUTHORIZES THE BOARD TO PROMULGATE RULES TO IMPLEMENT THIS SECTION.

(4) (a) (I) THE DIVISION SHALL EXPEND MONEYS FROM THE FUND, PURSUANT TO RECOMMENDATIONS MADE BY THE BOARD, FOR THE PURPOSE OF MAKING GRANTS TO

WILDLIFE REHABILITATORS IN ORDER TO FACILITATE WILDLIFE REHABILITATION IN COLORADO.

(II) AS USED IN THIS SECTION:

(A) "WILDLIFE REHABILITATION" MEANS THE PROCESS OF PROVIDING AID TO INJURED, ORPHANED, DISPLACED, OR DISTRESSED WILDLIFE ANIMALS IN SUCH A WAY THAT THEY MAY SURVIVE WHEN RELEASED TO THEIR NATIVE HABITATS. THE TERM INCLUDES ACTIVITIES SUCH AS PROVIDING DIRECT MEDICAL AND OTHER CARE TO WILDLIFE, ARRANGING SUITABLE RELEASE SITES, ANTICIPATING AND HELPING TO PREVENT PROBLEMS WITH WILDLIFE, OPERATIONAL OR CAPITAL EXPENSES, AND HUMANELY RESOLVING HUMAN-WILDLIFE CONFLICTS.

(B) "WILDLIFE REHABILITATOR" MEANS A PERSON LICENSED AS A WILDLIFE REHABILITATOR BY THE DIVISION.

(b) NOTHING IN THIS SECTION REQUIRES A WILDLIFE REHABILITATOR TO PROVIDE MATCHING FUNDS OR TO BE A REGISTERED NONPROFIT ORGANIZATION PURSUANT TO SECTION 501 (c)(3) OF THE INTERNAL REVENUE CODE AS A CONDITION TO APPLYING FOR OR RECEIVING GRANT MONEYS.

(c) GRANTS ARE AWARDED FROM THE FUND IN ACCORDANCE WITH A GRANT APPROVAL PROCESS DEVELOPED BY THE BOARD. A MEMBER OF THE BOARD SHALL NOT VOTE ON ANY GRANT APPLICATION IN WHICH THE MEMBER IS INTERESTED.

(d) GRANTS AWARDED FROM THE FUND MUST BE IN AMOUNTS FROM ONE THOUSAND DOLLARS TO THIRTY THOUSAND DOLLARS; EXCEPT THAT, FOR ANY FISCAL YEAR IN WHICH AN AMOUNT LESS THAN FIVE THOUSAND DOLLARS IS TRANSFERRED TO THE FUND FOR THE PURPOSES OF THE GRANT PROGRAM PURSUANT TO SUBSECTION (1)(b)(II)(B) OF THIS SECTION, THE BOARD SHALL ENDEAVOR TO AWARD GRANTS IN AMOUNTS THAT MAXIMIZE WILDLIFE REHABILITATION EFFORTS TO THE GREATEST EXTENT POSSIBLE.

(e) GRANT MONEYS AWARDED UNDER THIS SUBSECTION (4) MAY BE USED BY WILDLIFE REHABILITATORS FOR THE REHABILITATION OF BOTH GAME AND NONGAME WILDLIFE SPECIES; EXCEPT THAT GRANT MONEYS SHALL NOT BE USED TO REHABILITATE EXOTIC WILDLIFE.

(f) WILDLIFE REHABILITATORS MUST EXECUTE A CONTRACT WITH THE DIVISION IN ORDER TO RECEIVE ANY GRANT MONEYS AWARDED. SUCH CONTRACTS MUST REQUIRE, AT A MINIMUM, THAT REHABILITATION PROJECTS FUNDED IN WHOLE OR IN PART THROUGH GRANT MONEYS WILL BE PERFORMED OR MANAGED BY THE GRANTEE.

(g) GRANTEES SHALL SUBMIT ANNUAL REPORTS, IN ACCORDANCE WITH A SCHEDULE DEVELOPED BY THE BOARD, TO THE DIVISION DESCRIBING HOW GRANT MONEYS THEY RECEIVED HAVE BEEN EXPENDED. THE DIVISION SHALL MAKE THE GRANT RECIPIENTS AND AMOUNTS AND THE ANNUAL REPORTS AVAILABLE ON ITS OFFICIAL WEBSITE.

(5) THE BOARD IS SUBJECT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF

ARTICLE 72 OF TITLE 24, AND TO THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972" CONTAINED IN PART 4 OF ARTICLE 6 OF TITLE 24. FOR PURPOSES OF THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, THE RECORDS OF THE BOARD AND THE AUTHORITY ARE PUBLIC RECORDS.

**SECTION 3.** In Colorado Revised Statutes, 33-1-112, **amend** (6) as follows:

**33-1-112. Funds - cost accounting - definition - repeal.** (6) The cost of nongame programs established under articles 1 to 6 of this ~~title~~ TITLE 33 shall be borne by the general fund, the ~~nongame and endangered wildlife~~ COLORADO NONGAME CONSERVATION AND WILDLIFE RESTORATION cash fund, the wildlife cash fund, and any other sources deemed appropriate by the general assembly.

**SECTION 4.** In Colorado Revised Statutes, 33-6-105, **amend** (1)(a) as follows:

**33-6-105. Disposition of fines and surcharges.** (1) (a) Except as otherwise provided in ~~paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION, all moneys collected for fines under articles 1 to 6 of this ~~title~~ TITLE 33, either by payment of a penalty assessment or assessed by a court upon conviction and resulting from issuance of a citation by a wildlife officer of the division of parks and wildlife, shall be transmitted to the state treasurer, who shall credit one-half to the general fund and one-half to the wildlife cash fund or, for offenses involving nongame wildlife, to the ~~nongame and endangered wildlife~~ COLORADO NONGAME CONSERVATION AND WILDLIFE RESTORATION cash fund.

**SECTION 5. Appropriation.** For the 2017-18 state fiscal year, \$2,200 is appropriated to the department of revenue. This appropriation is from the Colorado nongame conservation and wildlife restoration cash fund created in section 33-1-125 (1)(a), C.R.S. To implement this act, the department may use this appropriation for tax administration IT system (GenTax) support.

**SECTION 6. Act subject to petition - effective date - applicability.** (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to voluntary contributions made via state individual income tax return forms published for tax years commencing on or after January 1, 2017.

Approved: June 5, 2017