

CHAPTER 417

WATER AND IRRIGATION

SENATE BILL 19-221

BY SENATOR(S) Donovan, Bridges, Cooke, Coram, Court, Crowder, Fields, Ginal, Gonzales, Moreno, Pettersen, Priola, Scott, Sonnenberg, Story, Tate, Todd, Williams A., Winter, Zenzinger, Garcia;
 also REPRESENTATIVE(S) Roberts, Arndt, Bird, Bockenfeld, Buck, Buckner, Buentello, Catlin, Cutter, Duran, Esgar, Exum, Gray, Hansen, Humphrey, Jackson, Kennedy, Liston, McCluskie, McKean, McLachlan, Michaelson Jenet, Pelton, Soper, Titone, Valdez D., Van Winkle, Will, Becker.

AN ACT

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

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

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the division of water resources may use this appropriation for renovation of existing gauging stations; replacement of outdated collection platforms; lysimeter support, data collection, and maintenance; upgrading of transmission components of the satellite monitoring system established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

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

SECTION 2. Continuation of the Colorado floodplain map modernization program - appropriation. (1) For the 2019-20 state fiscal year, \$500,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

continue to assist with the preparation of revised and improved floodplain studies and maps for communities throughout Colorado and participate in federally sponsored floodplain map modernization activities.

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

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

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

SECTION 4. Continuation of the Colorado Mesonet project - appropriation. (1) For the 2019-20 state fiscal year, \$150,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to support the Colorado Mesonet, including for the following activities: Operation, maintenance, travel, communications, and database and website management for temperature and precipitation stations.

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

SECTION 5. Continuation of instream flow engineering support services - appropriation. (1) For the 2019-20 state fiscal year, \$250,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to assist staff in conducting technical analysis and providing expert testimony to resolve or defend existing instream flow water rights, establish new instream flow appropriations, and change the use of acquired water rights for instream flow use.

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

SECTION 6. Acquisition of LIDAR data - appropriation. (1) For the 2019-20 state fiscal year, \$200,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 11. Walker recharge project - authorization. (1) The Colorado water conservation board is authorized to make loans of up to \$15,150,000 from the Colorado water conservation board construction 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. The following loans are authorized:

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

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

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

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

(3) The Colorado water conservation board may make loans for the project specified in subsection (1) of this section from money that is or may become available to the Colorado water conservation board construction fund. The total amount of the loans will be in the amount listed in subsection (1) of this section plus or minus the amount, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by the engineering cost indices applicable to the

types of construction required for the project or as may be justified by reason of changes in the plans for the project due to differing or unforeseen site conditions, errors or omissions in the plans and specifications, changes instituted by regulatory agencies, or changes in material quantities beyond contract limits.

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

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

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

37-60-122.7. Feasibility study small grant fund - creation. (5) (b) ON JULY 1, 2019, AND ON EACH JULY 1 THEREAFTER, IN ADDITION TO ANY REMAINING BALANCE IN THE FUND AT THE END OF THE FISCAL YEAR, the state treasurer is hereby authorized and directed to ANNUALLY transfer ~~two~~ UP TO FIVE hundred thousand dollars from the Colorado water conservation board construction fund to the feasibility study small grant fund TO RESTORE THE UNENCUMBERED BALANCE IN THE FEASIBILITY STUDY SMALL GRANT FUND TO FIVE HUNDRED THOUSAND DOLLARS. The ~~moneys~~ MONEY in the feasibility study small grant fund ~~are~~ is hereby continuously appropriated to the board for grants in compliance with this subsection (5). All interest derived from the investment of ~~moneys~~ MONEY in the feasibility study small grant fund shall be credited to the Colorado water conservation board construction fund. Any balance remaining in the feasibility study small grant fund at the end of any fiscal year shall remain in the fund and shall not revert to the Colorado water conservation board construction fund.

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

37-60-123.2. Flood and drought response fund - created. (1) There is hereby created in the state treasury the flood and drought response fund, referred to in this section as the "response fund". ON JULY 1, 2019, AND ON EACH JULY 1 THEREAFTER, IN ADDITION TO ANY REMAINING BALANCE IN THE RESPONSE FUND AT THE END OF THE FISCAL YEAR, THE STATE TREASURER IS HEREBY AUTHORIZED AND DIRECTED TO ANNUALLY TRANSFER UP TO FIVE HUNDRED THOUSAND DOLLARS FROM THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND TO THE RESPONSE FUND TO RESTORE THE UNENCUMBERED BALANCE IN THE RESPONSE FUND TO FIVE HUNDRED THOUSAND DOLLARS. The board is authorized to provide funding for flood and drought preparedness and for response and recovery activities following flood or drought events and disasters. The ~~moneys~~ MONEY in the response fund ~~are~~ is hereby continuously appropriated to the board for flood and drought response purposes, including the immediate availability of funds for aerial photography of flooded areas, flood and drought documentation and identification of specific hazards, evaluations and revisions of floodplain designations and drought-prone areas, flood and drought forecasting and preparation, and development of disaster and recovery mitigation plans. The state treasurer shall credit all interest derived from the investment of ~~moneys~~ MONEY in the response fund to the Colorado water conservation board construction fund. Any balance remaining in the response fund

at the end of any fiscal year remains in the fund.

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

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

(a) **The severance tax perpetual base fund.** (XVI) (A) Notwithstanding any provision of this subsection (2)(a) to the contrary, on July 1, 2017, ~~and each year thereafter on July 1, 2019,~~ the state treasurer shall transfer ten million dollars from the fund to the Colorado water conservation board construction fund, created in section 37-60-121 (1)(a), for use by the Colorado water conservation board, created in section 37-60-102, for the board to fund studies, programs, or projects that assist in implementing the state water plan adopted pursuant to section ~~37-60-106 (1)(u)~~ 37-60-106.3.

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

SECTION 16. 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: June 3, 2019