

NOTE: The governor signed this measure on 5/13/2013.

An Act

SENATE BILL 13-181

BY SENATOR(S) Schwartz, Aguilar, Baumgardner, Cadman, Carroll, Crowder, Giron, Guzman, Harvey, Heath, Hodge, Jahn, Jones, Kefalas, Kerr, King, Lambert, Lundberg, Marble, Newell, Nicholson, Roberts, Scheffel, Tochtrop, Todd, Ulibarri, Morse;
also REPRESENTATIVE(S) Fischer, Duran, Exum, Fields, Garcia, Ginal, Hamner, Hullinghorst, Labuda, Lebsock, Lee, Mitsch Bush, Pabon, Pettersen, Rosenthal, Salazar, Schafer, Vigil, Williams, Young.

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

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

SECTION 1. Continuation of maintenance to the satellite monitoring system - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the division of water resources, for the fiscal year beginning July 1, 2013, the sum of \$300,000, or so much thereof as may be necessary, for renovation of existing gauging stations; replacement of outdated collection platforms; upgrading of transmission components of the satellite monitoring system,

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

established and operated pursuant to section 37-80-102 (10), Colorado Revised Statutes; implementation of stream gauge flood hardening projects; and coordination of data collection efforts related to flood forecasting and warning.

(2) The moneys appropriated in subsection (1) of this section remain available for the designated purposes until they are fully expended.

SECTION 2. Continuation of the weather modification program - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2013, the sum of \$175,000, or so much thereof as may be necessary, for the board 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 recreational areas, streams, and reservoirs through snowpack enhancement.

(2) The moneys appropriated in subsection (1) of this section remain available for the designated purposes until they are fully expended.

SECTION 3. Continuation of the Colorado floodplain map modernization program - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2013, the sum of \$500,000, or so much thereof as may be necessary, in order to restore the unencumbered balance in the Colorado floodplain map modernization program to \$500,000, for the board to continue to assist with the preparation of revised and improved floodplain studies and maps for communities throughout Colorado and to participate in federally sponsored floodplain map modernization activities.

(2) The moneys appropriated in subsection (1) of this section remain available for the designated purposes until they are fully expended.

SECTION 4. Continuation of the watershed restoration

program - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2013, the sum of \$250,000, or so much thereof as may be necessary, for the board to continue to provide planning and engineering studies, including implementation measures, to address technical needs for watershed restoration and flood mitigation projects throughout the state.

(2) The moneys appropriated in subsection (1) of this section remain available for the designated purposes until they are fully expended.

SECTION 5. Restoration of the balance of the flood and drought response fund - transfer. (1) The state treasurer shall transfer the sum of \$300,000, or so much thereof as may be necessary, from the unreserved cash in the Colorado water conservation board construction fund to the flood and drought response fund created in section 37-60-123.2, Colorado Revised Statutes, for the fiscal year beginning July 1, 2013, in order to restore the unencumbered balance in the flood and drought response fund to \$300,000, for the board to provide documentation, forecasting, mapping, aerial photography, mitigation, and other efforts deemed necessary to quickly respond to flood and drought events.

(2) The moneys transferred in subsection (1) of this section remain available for the designated purposes until they are fully expended.

SECTION 6. Implementation of the Rio Grande forecasting development project - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2013, the sum of \$215,000, or so much thereof as may be necessary, for the board to improve forecasting of water supplies in the Rio Grande river basin.

(2) The moneys appropriated in subsection (1) of this section remain available for the designated purposes until the project is completed.

SECTION 7. Operation and maintenance of Colorado's decision support systems - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2013, the sum of \$100,000, or so much thereof as may be necessary, to fund the operation and maintenance of the Colorado's decision support systems.

(2) The moneys appropriated in subsection (1) of this section remain available for the designated purposes until completion of the project.

SECTION 8. Continuation of the Colorado river basin study - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2013, the sum of \$75,000, or so much thereof as may be necessary, to support stakeholder participation, negotiations, and other work required for implementation of the Colorado river basin study.

(2) The moneys appropriated in subsection (1) of this section remain available for the designated purposes until completion of the project.

SECTION 9. Continuation of the Arkansas river decision support system - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2013, the sum of \$250,000, or so much thereof as may be necessary, to begin implementation of the Arkansas river decision support efforts, including the collection and compilation of data.

(2) The moneys appropriated in subsection (1) of this section remain available for the designated purposes until completion of the project.

SECTION 10. Continuation of the statewide water supply initiative - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water

conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2013, the sum of \$225,000, or so much thereof as may be necessary, for the board to begin work on the study's 2016 update that will include reexamining the methodologies used to analyze the municipal, industrial, agricultural, and nonconsumptive water demands, as well as considering varying hydrologic analyses, climate change, and drought planning.

(2) The moneys appropriated in subsection (1) of this section remain available for the designated purposes until they are fully expended.

SECTION 11. Continuation of the South Platte river basin groundwater level data collection and analysis - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2013, the sum of \$250,000, or so much thereof as may be necessary, for the board to collect and analyze data, perform updates, make enhancements, perform model runs to the South Platte decision support system model, install and monitor various devices, conduct public outreach, and perform other functions as necessary to assist with determining the cause, and developing possible remediation, of high groundwater levels in the South Platte river basin.

(2) The moneys appropriated in subsection (1) of this section remain available for the designated purposes until completion of the project.

SECTION 12. Windy Gap reservoir bypass channel project - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2013, the sum of \$2,000,000, or so much thereof as may be necessary, for the board to participate in the planning, design, and construction of the Windy Gap reservoir bypass channel project.

(2) The moneys appropriated in subsection (1) of this section remain available for the designated purposes until completion of the project.

SECTION 13. Chatfield reservoir reallocation project - appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2013, the sum of \$28,000,000, or so much thereof as may be necessary, for the board to participate in the implementation of the Chatfield reservoir reallocation project pursuant to section 37-60-120.1, Colorado Revised Statutes, and to provide funding for other project participants to purchase their allocated storage space in the Chatfield reservoir reallocation project.

(2) The moneys appropriated in subsection (1) of this section remain available for the designated purposes until completion of the project.

SECTION 14. Tri-county Water Conservancy District - increased water project loan authorization from the Colorado water conservation board construction fund. Pursuant to section 37-60-122 (1) (b), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys from the Colorado water conservation board construction fund to the Tri-county Water Conservancy District to continue the construction of the tri-county water hydropower project at the outlet works of Ridgway dam in Ouray county, which the board previously authorized in September 2011. The previously approved loan amount of \$9,090,000 is increased by \$4,040,000, for a total of \$13,130,000.

SECTION 15. In Colorado Revised Statutes, 37-60-123.7, **amend** (1) as follows:

37-60-123.7. Acquisitions of water for instream flows. (1) In addition to any other moneys appropriated from the Colorado water conservation board construction fund, up to one million dollars in the fund are continuously appropriated to the board annually to pay for the costs of acquiring water, water rights, and interests in water for instream flow use. The total amount of ~~such~~ THE continuous appropriation that is unencumbered in any fiscal year ~~shall~~ MUST not exceed one million dollars. The primary priority for expenditures of these revenues ~~shall be~~ IS the costs of water acquisitions for existing or new instream flow water rights to preserve AND IMPROVE the natural environment to a reasonable degree. These revenues also may be used, in limited circumstances, for the costs of

water acquisitions to:

(a) Preserve AND 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;

(b) Support wild and scenic alternative management plans; or

(c) Provide federal regulatory certainty.

SECTION 16. In Colorado Revised Statutes, 39-29-109, **amend** (1), (2) (a) (II), (2) (a) (III), (2) (a) (VIII) (D), (2) (a) (XI), (2) (b), and (2) (c) (I) introductory portion; **repeal** (2) (a) (VII) and (2) (a) (IX); and **add** (2) (a) (I.5) and (2) (a) (XII) as follows:

39-29-109. Severance tax trust fund - created - administration - distribution of moneys - repeal. (1) There is hereby created in the ~~office of the state treasurer~~ TREASURY the severance tax trust fund, also referred to in this section as the "fund", WHICH THE DEPARTMENT OF NATURAL RESOURCES SHALL ADMINISTER. The fund is to be perpetual and held in trust as a replacement for depleted natural resources, for the development and conservation of the state's water resources pursuant to sections 37-60-106 (1) (j) and (1) (l), 37-60-119, and 37-60-122, C.R.S., for the use in funding programs that promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and water and for the use in funding programs to reduce the burden of increasing home energy costs on low-income households.

(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 moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund remain therein and shall not be credited or transferred to the general fund or any other fund. All moneys in the fund are subject to appropriation by the general assembly for the following purposes:

(a) **The severance tax perpetual base fund.** (I.5) THERE IS HEREBY CREATED IN THE STATE TREASURY THE SEVERANCE TAX PERPETUAL BASE FUND, ALSO REFERRED TO IN THIS PARAGRAPH (a) AS THE "FUND", WHICH

THE COLORADO WATER CONSERVATION BOARD, ALSO REFERRED TO IN THIS PARAGRAPH (a) AS THE "BOARD", SHALL ADMINISTER. THE STATE TREASURER SHALL TRANSFER MONEYS TO THE FUND FROM THE SEVERANCE TAX TRUST FUND, AS SPECIFIED IN THIS SECTION. THE MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE BOARD FOR PURPOSES AUTHORIZED BY THIS PARAGRAPH (a).

(II) One-half of the severance tax receipts credited to the fund for fiscal years commencing on or after July 1, 2009, shall be credited to the SEVERANCE TAX perpetual base ~~account of the fund~~ and used for state water projects pursuant to sections 37-60-119 and 37-60-122, C.R.S.; except that the total amount of severance tax receipts credited to the SEVERANCE TAX perpetual base ~~account~~ FUND during ~~said~~ THE fiscal year shall not exceed fifty million dollars unless the cap established in subparagraph (III) of this paragraph (a) is exceeded. The authorization and contract for each ~~such~~ project ~~shall~~ MUST require repayment of principal and interest to the fund, and moneys so repaid shall be credited to the SEVERANCE TAX perpetual base ~~account of the fund~~.

(III) For fiscal years commencing on or after July 1, 2009, the state treasurer shall transfer the moneys credited to the fund that are not credited to either the SEVERANCE TAX perpetual base ~~account~~ FUND or the SEVERANCE TAX operational ~~account~~ FUND to the small communities water and wastewater grant fund created in section 25-1.5-208 (4), C.R.S.; except that the maximum amount of moneys annually credited to the small communities water and wastewater grant fund shall not exceed ten million dollars.

~~(VII) Notwithstanding any provision of this paragraph (a) to the contrary, on June 30, 2011, the state treasurer shall deduct sixteen million dollars from the perpetual base account of the fund and transfer such sum to the general fund.~~

(VIII) (D) If, on June 30, 2015, any moneys appropriated under sub-subparagraph (A) of this subparagraph (VIII) have not been fully expended, the unexpended moneys are deauthorized and ~~shall~~ revert to the SEVERANCE TAX perpetual base ~~account~~ FUND.

~~(IX) (A) Notwithstanding any provision of this paragraph (a) to the contrary, on July 1, 2011, the state treasurer shall deduct twenty-five million~~

dollars from the perpetual base account of the fund and transfer such sum to the general fund.

~~(B) Notwithstanding any provision of this paragraph (a) to the contrary, on June 30, 2012, the state treasurer shall deduct twenty-three million one hundred thousand dollars from the perpetual base account of the fund and transfer such sum to the general fund.~~

(XI) (A) Notwithstanding any provision of this paragraph (a) to the contrary, the state treasurer shall transfer to the Colorado water conservation board construction fund, for use by the Colorado water conservation board also referred to in this subparagraph (XI) as the "board", ~~thirteen~~ SIXTY-TWO million dollars for the implementation of the Chatfield reservoir reallocation project, pursuant to section 37-60-120.1, C.R.S. The state treasurer shall transfer the moneys in ~~two~~ consecutive installments of five million dollars on January 1, 2013, ~~and eight~~ FOURTEEN million dollars on ~~July~~ JANUARY 1, 2014, FOURTEEN MILLION DOLLARS ON JUNE 30, 2014, AND TWENTY-NINE MILLION DOLLARS ON JULY 1, 2015.

(B) This subparagraph (XI) is repealed, effective July 1, ~~2015~~ 2016.

(XII) (A) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (a) TO THE CONTRARY, ON JULY 1, 2013, THE STATE TREASURER SHALL TRANSFER TWO MILLION DOLLARS FROM THE FUND TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND, FOR USE BY THE BOARD TO MAKE A GRANT TO THE MUNICIPAL SUBDISTRICT OF THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR THE PLANNING, DESIGN, AND CONSTRUCTION OF THE WINDY GAP RESERVOIR BYPASS CHANNEL PROJECT, AS PART OF THE WINDY GAP FIRING PROJECT ON THE COLORADO RIVER.

(B) THIS SUBPARAGRAPH (XII) IS REPEALED, EFFECTIVE JULY 1, 2014.

(b) **The severance tax operational fund.** There is hereby created IN THE STATE TREASURY the SEVERANCE TAX operational ~~account of the severance tax trust fund~~, also referred to in this paragraph (b) as the "account" "FUND", which THE DEPARTMENT OF NATURAL RESOURCES shall ~~be administered by the state treasurer and shall consist of~~ ADMINISTER. THE STATE TREASURER SHALL TRANSFER one-half of the severance tax receipts

credited to the SEVERANCE TAX TRUST fund for tax years commencing on and after July 1, 1995, TO THE FUND. Moneys in the ~~account~~ FUND shall be distributed as set forth in section 39-29-109.3.

(c) **The water supply reserve fund.** (I) There is hereby created in the office of the state treasurer the water supply reserve fund, also referred to in this paragraph (c) as the "fund", which shall be administered by the Colorado water conservation board. The state treasurer shall transfer moneys to the fund from the SEVERANCE TAX operational ~~account of the severance tax trust~~ fund as specified in section 39-29-109.3 (2) (a). The moneys in the fund are hereby continuously appropriated, for purposes authorized by this paragraph (c), to the Colorado water conservation board, also referred to in this paragraph (c) as the "board". All interest derived from the investment of moneys in the fund shall be credited to the statewide account of the fund, which account is hereby created. Repayments of both the principal and interest on loans from the fund shall be credited to the fund. Any balance remaining in the fund at the end of any fiscal year remains in the fund. The board shall allocate moneys by grant or loan from the fund only for water activities approved by a roundtable pursuant to article 75 of title 37, C.R.S. The approving roundtable is the roundtable for the basin in which a proposed water diversion or nonstructural activity would occur. If the applicant is a covered entity, as defined in section 37-60-126, C.R.S., the board shall allocate moneys by grant or loan from the fund only if the applicant has adopted a water conservation plan, as defined in section 37-60-126, C.R.S. The board, in consultation with the interbasin compact committee created in section 37-75-105, C.R.S., shall establish criteria and guidelines for allocating moneys from the fund, including criteria that ensure that the allocations will assist in meeting water supply needs identified under section 37-75-104 (2) (c), C.R.S., in a manner consistent with section 37-75-102, C.R.S., and shall facilitate both structural and nonstructural projects or methods. Eligible water activities include the following:

SECTION 17. In Colorado Revised Statutes, 37-60-122, **amend** (1) (b) as follows:

37-60-122. General assembly approval. (1) Moneys in the Colorado water conservation board construction fund shall be expended in the following manner and under the following circumstances:

(b) The general assembly may authorize ~~such~~ projects as it deems to be to the advantage of the people of the state of Colorado and shall direct the board to proceed with ~~said~~ THE projects in the priorities established by the general assembly under terms approved by the general assembly. The board is authorized to make loans without general assembly approval in amounts not to exceed ten million dollars. The unappropriated balance of moneys in the Colorado water conservation board construction fund and the state severance tax ~~trust~~ PERPETUAL BASE fund ~~perpetual base account~~ shall be available and continuously appropriated for this purpose. The board shall submit a written determination of the basis for ~~such~~ THE project loans to the general assembly by January 15 of the year following the year in which the loan was made.

SECTION 18. Water project loan authorization from the construction fund. (1) Pursuant to section 37-60-122 (1) (b), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys in the amount of \$18,538,550 from the Colorado water conservation board construction fund to enable the purchase of water rights for the Roxborough water and sanitation district water activity enterprise.

(2) The Colorado water conservation board may make loans for the project specified in subsection (1) of this section from moneys that are or may become available to the Colorado water conservation board construction fund. The amount of the loan listed in subsection (1) of this section may vary based on the following:

(a) Ordinary fluctuations in construction costs, as indicated by the engineering cost indices applicable to the types of construction required for the project; and

(b) Changes in the plans for the project due to:

(I) Differing or unforeseen site conditions;

(II) Errors;

(III) Omissions in the plans and specifications;

(IV) Changes instituted by regulatory agencies; or

(V) Changes in material quantities beyond contract limits.

(3) Pursuant to section 37-60-120 (1), Colorado Revised Statutes, the board shall require terms and conditions in any contracts concerning the project as will ensure repayment of funds made available by the board. The board shall not disburse moneys for a loan authorized by subsection (1) of this section unless it is satisfied, at its sole discretion, that the recipient of the loan will be able to make repayment pursuant to the terms and conditions established by the board and by subsection (1) of this section.

SECTION 19. In Colorado Revised Statutes, 24-75-201.5, **amend** (1) (g) (II) (F) and (1) (g) (II) (G) as follows:

24-75-201.5. Revenue shortfalls - required actions by the governor with respect to the reserve. (1) (g) (II) The transfer or transfers described in subparagraph (I) of this paragraph (g) shall be made from one or more of the following funds:

(F) The SEVERANCE TAX perpetual base ~~account of the severance tax trust~~ fund created in section 39-29-109 (2) (a), C.R.S., not to exceed seventy-five million dollars;

(G) The SEVERANCE TAX operational ~~account of the severance tax trust~~ fund created in section 39-29-109 (2) (b), C.R.S., not to exceed twenty-one million three hundred thousand dollars;

SECTION 20. In Colorado Revised Statutes, 24-75-217, **amend** (3) (d) as follows:

24-75-217. Restoration of funds transferred to augment the general fund for the 2001-02 fiscal year. (3) The funds that shall be restored pursuant to subsection (1) of this section include:

(d) The SEVERANCE TAX operational ~~account of the severance tax trust~~ fund created in section 39-29-109 (2) (b), C.R.S.;

SECTION 21. In Colorado Revised Statutes, 34-20-104, **amend** (3) (j) as follows:

34-20-104. Minerals, energy, and geology policy advisory board

- **creation.** (3) The advisory board shall:

(j) Provide advice to the executive director on programs or projects that should receive a grant of funds from the SEVERANCE TAX operational account of the severance tax trust fund, as set forth in section 39-29-109.3 (1), C.R.S.

SECTION 22. In Colorado Revised Statutes, **amend** 37-60-123.1 as follows:

37-60-123.1. Loan foreclosure fund - created. There is hereby created in the state treasury the loan foreclosure fund, referred to in this section as the "foreclosure fund". The state treasurer is hereby authorized and directed to transfer one hundred thousand dollars from the Colorado water conservation board construction fund to the foreclosure fund. The Colorado water conservation board is authorized to provide funding to cover the direct costs associated with completing foreclosure proceedings against a delinquent borrower from either the Colorado water conservation board construction fund or the severance tax ~~trust fund~~ perpetual base ~~account~~ FUND. The moneys in the foreclosure fund are hereby continuously appropriated to the board for loan foreclosure proceedings, including ~~but not limited to~~, property management costs, appraisals, assessments, taxes, local government fees, insurance costs, court costs, and legal fees. All interest derived from the investment of moneys in the foreclosure fund shall be credited to the Colorado water conservation board construction fund. Any balance remaining in the foreclosure fund at the end of any fiscal year ~~shall remain~~ REMAINS in the fund.

SECTION 23. In Colorado Revised Statutes, 37-60-123.5, **amend** (1) as follows:

37-60-123.5. Agricultural emergency drought response. (1) If, pursuant to federal or state law, any portion of Colorado has received emergency drought designation or a disaster emergency has been proclaimed due to drought, notwithstanding the provisions of section 39-29-109 (1), C.R.S., in addition to any other moneys appropriated from the SEVERANCE TAX perpetual base ~~account of the severance tax trust fund~~, created by section 39-29-109 (2) (a), C.R.S., up to one million dollars in the SEVERANCE TAX perpetual base ~~account of the severance tax trust fund~~ are continuously appropriated annually to the director of the Colorado water

conservation board and the state engineer for ~~any such~~ USE, IN CONNECTION WITH THE designation or proclamation, to make loans and grants to agricultural organizations for emergency drought-related water augmentation purposes.

SECTION 24. In Colorado Revised Statutes, 37-60-126, **amend** (6) and (12) (a) (IV) as follows:

37-60-126. Water conservation and drought mitigation planning - programs - relationship to state assistance for water facilities - guidelines - water efficiency grant program - repeal. (6) The board is hereby authorized to recommend the appropriation and expenditure of ~~such~~ revenues as are necessary from the unobligated balance of the five percent share of the SEVERANCE TAX operational ~~account of the severance tax trust~~ fund designated for use by the board for the purpose of the office providing assistance to covered entities to develop water conservation plans that meet the provisions of this section.

(12) (a) (IV) Any moneys remaining in the fund on June 30, 2020, shall be transferred to the SEVERANCE TAX operational ~~account of the severance tax trust~~ fund described in section 39-29-109 (2) (b), C.R.S.

SECTION 25. In Colorado Revised Statutes, 37-60-126.5, **amend** (3) as follows:

37-60-126.5. Drought mitigation planning - programs - relationship to state assistance. (3) The board is hereby authorized to expend revenues from the water efficiency grant program cash fund and to recommend the appropriation and expenditure of ~~such~~ THE revenues as is necessary from the unobligated balance of the five-percent share of the SEVERANCE TAX operational ~~account of the severance tax trust~~ fund designated for use by the board for the purpose of assisting covered entities and other state or local governmental entities to develop drought mitigation plans ~~identified~~ THAT THE OFFICE IDENTIFIES as sufficient. ~~by the office.~~

SECTION 26. In Colorado Revised Statutes, 39-29-109.3, **amend** (1) introductory portion, (1) (a) (I), (1) (b), (1) (c), (1) (d), (1) (e), (1) (f), (2) introductory portion, (3) (a), (4) (b), and (5); and **repeal** (6) as follows:

39-29-109.3. Severance tax operational fund - repeal. (1) For

fiscal years commencing on and after July 1, 1997, the executive director of the department of natural resources shall submit with the department's budget request for each fiscal year a list and description of the programs the executive director recommends to be funded from the SEVERANCE TAX operational ~~account of the severance tax trust~~ fund created in section 39-29-109 (2) (b), referred to in this section as the "operational ~~account~~ FUND". The minerals, energy, and geology policy advisory board established pursuant to section 34-20-104, C.R.S., shall review the executive director's recommendation before submittal. The general assembly may appropriate moneys from the total moneys available in the operational ~~account~~ FUND to fund recommended programs as follows:

(a) (I) For programs or projects within the Colorado oil and gas conservation commission, up to thirty-five percent of the moneys in the operational ~~account~~ FUND for fiscal years commencing on or after July 1, 2009.

(b) For programs within the Colorado geological survey, up to twenty percent of the moneys in the operational ~~account~~ FUND;

(c) For programs within the division of reclamation, mining, and safety, up to thirty percent of the moneys in the operational ~~account~~ FUND for fiscal years commencing before July 1, 2008, and up to twenty-five percent of the moneys in the operational ~~account~~ FUND for fiscal years commencing on or after July 1, 2008. As part of any appropriation made, five hundred thousand dollars, or so much as may be available, shall be transferred to the abandoned mine reclamation fund created in section 34-34-102 (1), C.R.S.

(d) For programs within the Colorado water conservation board and for purposes authorized by article 75 of title 37, C.R.S., up to five percent of the moneys in the operational ~~account~~ FUND;

(e) For fiscal years commencing on or after July 1, 2008, only, for programs within the division of parks and wildlife that monitor, manage, or mitigate the impacts of mineral or mineral fuel production activities on wildlife in any region of the state in which production activity is occurring or, from any location in the state, research such impacts, up to five percent of the moneys in the operational ~~account~~ FUND, which moneys shall not supplant moneys that would otherwise be made available for such

programs;

(f) For fiscal years commencing on or after July 1, 2009, for programs within the division of parks and wildlife that operate, maintain, or improve state parks in any region of the state in which production activity is occurring, up to ten percent of the moneys in the operational ~~account~~ FUND.

(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~~ FUND as specified in subsection (1) of this section, the state treasurer shall transfer the following:

(3) (a) Except as provided in paragraph (b) of this subsection (3), it is the intent of the general assembly that the operational ~~account~~ FUND maintain a reserve equal to the current state fiscal year's operating appropriations for the programs specified in subsection (1) of this section plus fifteen percent of the current fiscal year's transfers specified in subsection (2) of this section. Moneys may be transferred from the reserve to offset temporary revenue reductions in the programs specified in subsection (1) of this section and to offset reductions for programs specified in subsection (2) of this section, up to fifteen percent of the current fiscal year's transfers specified in subsection (2) of this section; except that, if the general assembly determines that transfers of moneys from the reserve are needed during a state revenue crisis, the transfers shall be a loan from the reserve to be repaid as soon as moneys are available. This provision is intended to mitigate the impact of fluctuations in the amount of revenue credited to the fund from year to year so as to maintain current levels of service for the programs specified in subsection (1) of this section.

(4) (b) (I) If the revenue estimate prepared by the staff of the legislative council in June of any fiscal year indicates that the amount of severance tax revenues to be credited to the operational ~~account~~ FUND in the next fiscal year as specified in section 39-29-109 (2) (b) is insufficient for the state treasurer to make the transfers set forth in subsection (2) of this section and to meet the reserve requirement specified in subsection (3) of this section, all transfers scheduled to be made on July 1 shall be proportionally reduced. The July 1 proportional reduction shall be calculated based on the size of the annual transfers as specified in subsection (2) of this section and shall be made to the extent necessary to

cover forty percent of the projected shortfall between total moneys available in the operational ~~account~~ FUND and the sum of the total operating appropriations for the programs specified in subsection (1) of this section, the total fiscal year's transfers specified in subsection (2) of this section, and the reserve requirement specified in subsection (3) of this section; except that up to one-third of the fifteen percent of the current fiscal year's transfers specified as part of the reserve set forth in subsection (3) of this section shall be used to offset any proportional reduction required by this subparagraph (I) in any fiscal year.

(II) If the revenue estimate prepared by the staff of the legislative council in December of any fiscal year indicates that the amount of severance tax revenues credited to the operational ~~account~~ FUND as specified in section 39-29-109 (2) (b) is insufficient for the state treasurer to make the transfers set forth in subsection (2) of this section and to meet the reserve requirement specified in subsection (3) of this section, all transfers scheduled to be made on January 4 of the fiscal year shall be proportionally reduced. The January 4 proportional reduction shall be calculated based on the size of the annual transfers as specified in subsection (2) of this section and shall be made to the extent necessary to cover seventy percent of the projected shortfall between total moneys available in the operational ~~account~~ FUND and the sum of the total operating appropriations for the programs specified in subsection (1) of this section, the total fiscal year's transfers specified in subsection (2) of this section, and the reserve requirement specified in subsection (3) of this section; except that up to one-third of the fifteen percent of the current fiscal year's transfers specified as part of the reserve set forth in subsection (3) of this section shall be used to offset any proportional reduction required by this subparagraph (II) in any fiscal year.

(III) If the revenue estimate prepared by the staff of the legislative council in March of any fiscal year indicates that the amount of severance tax revenues credited to the operational ~~account~~ FUND as specified in section 39-29-109 (2) (b) is insufficient for the state treasurer to make the transfers set forth in subsection (2) of this section and to meet the reserve requirement specified in subsection (3) of this section, all transfers scheduled to be made on April 1 of the fiscal year shall be proportionally reduced. The April 1 proportional reduction shall be calculated based on the size of the annual transfers as specified in subsection (2) of this section and shall be made to the extent necessary to cover the projected shortfall

between total moneys available in the operational ~~account~~ FUND and the sum of the total operating appropriations for the programs specified in subsection (1) of this section, the total fiscal year's transfers specified in subsection (2) of this section, and the reserve requirement specified in subsection (3) of this section; except that any moneys remaining of the fifteen percent of the current fiscal year's transfers specified as part of the reserve set forth in subsection (3) of this section shall be used to offset any proportional reduction required by this subparagraph (III) in any fiscal year.

(IV) If proportional reductions are made to either the July 1 or January 4 installments, the April 1 installment may be increased to offset proportional reductions made earlier in the current fiscal year to the maximum extent allowable under the revenue estimate prepared by the staff of the legislative council in March of any fiscal year. The April 1 installment shall only be increased if the revenue estimate indicates that the amount of severance tax revenues credited to the operational ~~account~~ FUND as specified in section 39-29-109 (2) (b) is sufficient to fund ~~such~~ THE increased installments and still meet the reserve requirement specified in subsection (3) of this section.

(5) In addition to the distributions specified in paragraph (a) of subsection (4) of this section, if there were any proportional reductions required in a fiscal year as specified in paragraph (b) of said subsection (4), after the reserve specified in subsection (3) of this section is made whole if any portion of the reserve was used as specified in paragraph (b) of subsection (4) of this section to offset any proportional reduction required by said paragraph (b) of subsection (4), the state treasurer shall make proportional distributions on August 20 of the following fiscal year to the programs specified in subsection (2) of this section if the revenues actually received in the operational ~~account of the severance tax trust~~ fund for the previous fiscal year were sufficient for the state treasurer to more fully make the transfers set forth in subsection (2) of this section and to fully meet the reserve requirement specified in subsection (3) of this section.

~~(6) (a) Notwithstanding any provision of this section to the contrary, on April 15, 2010, the state treasurer shall deduct eleven million dollars from the operational account and transfer such sum to the general fund:~~

~~(b) Notwithstanding any provision of this section to the contrary, on June 30, 2012, the state treasurer shall deduct three million nine hundred~~

~~fifty thousand dollars from the operational account and transfer such sum to the general fund.~~

SECTION 27. 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.

John P. Morse
PRESIDENT OF
THE SENATE

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO