

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 16-1165.02 Thomas Morris x4218

SENATE BILL 16-174

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SENATE SPONSORSHIP

Sonnenberg,

HOUSE SPONSORSHIP

Vigil and Coram,

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Senate Committees

Agriculture, Natural Resources, & Energy  
Appropriations

House Committees

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A BILL FOR AN ACT

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

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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/bills summaries>.)*

The bill appropriates the following amounts from the Colorado water conservation board (CWCB) construction fund to the CWCB or the division of water resources for the following projects:

! \$380,000 for continuation of the satellite monitoring system maintenance (**section 1** of the bill);

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.*

SENATE  
Amended 2nd Reading  
April 20, 2016

- ! \$500,000 for continuation of the Colorado floodplain map modernization program (**section 2**);
- ! \$1,500,000 for continuation of the watershed restoration program (**section 3**);
- ! \$175,000 for continuation of the weather modification program (**section 4**);
- ! \$150,000 for the board to support the Colorado Mesonet, a spatially coherent network of weather stations reporting in near real-time via major data portals (**section 5**);
- ! \$300,000 for the water forecasting partnership project (**section 6**);
- ! \$2,500,000 for a Bear Creek reservoir reallocation study (**section 7**);
- ! \$200,000 for an underground storage study (**section 8**);
- ! \$1,000,000 for continuation of the statewide water supply initiative (**section 9**); and
- ! \$200,000 for continuation of the Windy Gap reservoir bypass channel project (**section 10**).

The bill directs the state treasurer to transfer the following amounts from the CWCB construction fund:

- ! Up to \$500,000 to the flood and drought response fund (**section 11**); and
- ! \$600,000 to the litigation fund (**section 12**).

Current law prevents the CWCB from participating in domestic water treatment and distribution systems projects; **section 13** changes this prohibition to water treatment facilities.

**Section 14** gives the CWCB a variety of powers to fully utilize the state's water allocation in the Animas-La Plata project, directs the state treasurer to credit money received pursuant to the exercise of those powers to the CWCB construction fund, and continuously appropriates this money to the board for this purpose.

**Section 15** transfers the following amounts from the severance tax perpetual base fund to the CWCB construction fund:

- ! \$200,000 for the Windy Gap reservoir bypass channel project;
- ! \$1,500,000 for the watershed restoration program, \$2,500,000 for the Bear Creek reservoir reallocation study, and \$1,000,000 for the statewide water supply initiative; and
- ! On each July 1, \$5,000,000 to fund studies, programs, or projects to implement the state water plan.

1           **SECTION 1. Continuation of the satellite monitoring system**

2           **maintenance - appropriation.** (1) For the 2016-17 state fiscal year,  
3           \$380,000 is appropriated to the department of natural resources for use  
4           by the division of water resources. This appropriation is from the  
5           Colorado water conservation board construction fund created in section  
6           37-60-121, C.R.S. To implement this section, the division of water  
7           resources may use this appropriation for renovation of existing gauging  
8           stations, replacement of outdated collection platforms, lysimeter support,  
9           data collection, and maintenance, and upgrading of transmission  
10          components of the satellite monitoring system established and operated  
11          pursuant to section 37-80-102 (10), C.R.S., stream gauge flood hardening  
12          projects, and data collection efforts related to flood forecasting and  
13          warning.

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

16           **SECTION 2. Continuation of the Colorado floodplain map**

17           **modernization program - appropriation.** (1) For the 2016-17 state  
18           fiscal year, \$500,000 is appropriated to the department of natural  
19           resources for use by the Colorado water conservation board. This  
20           appropriation is from the Colorado water conservation board construction  
21           fund created in section 37-60-121, C.R.S. To implement this section, the  
22           Colorado water conservation board may use this appropriation to continue  
23           to assist with the preparation of revised and improved floodplain studies  
24           and maps for communities throughout Colorado and participate in  
25           federally sponsored floodplain map modernization activities.

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

1           **SECTION 3. Continuation of the watershed restoration**

2           **program - appropriation.** (1) For the 2016-17 state fiscal year,  
3           \$1,500,000 is appropriated to the department of natural resources for use  
4           by the Colorado water conservation board. This appropriation is from the  
5           Colorado water conservation board construction fund created in section  
6           37-60-121, C.R.S. To implement this section, the Colorado water  
7           conservation board may use this appropriation to provide planning and  
8           engineering studies, including implementation measures, to address  
9           technical needs for watershed restoration and flood mitigation projects  
10          throughout the state, aquatic habitat protection, flexible operations for  
11          multiple uses, restoration work, quantification of environmental flow  
12          needs, and monitoring efforts to support watershed health goals outlined  
13          in the Colorado water plan.

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

16           **SECTION 4. Continuation of the weather modification**

17           **program - appropriation.** (1) For the 2016-17 state fiscal year,  
18           \$175,000 is appropriated to the department of natural resources for use  
19           by the Colorado water conservation board. This appropriation is from the  
20           Colorado water conservation board construction fund created in section  
21           37-60-121, C.R.S. To implement this section, the Colorado water  
22           conservation board may use this appropriation to continue to assist water  
23           conservation districts, water conservancy districts, and other water  
24           providers and their fiscal agents with the development of cloud seeding  
25           programs that provide benefits to recreation, streams, and reservoirs  
26           through snowpack enhancement.

27          (2) The money appropriated in subsection (1) of this section

1 remains available for the designated purposes until it is fully expended.

2           **SECTION 5. Colorado Mesonet - appropriation.** (1) For the  
3 2016-17 state fiscal year, \$150,000 is appropriated to the department of  
4 natural resources for use by the Colorado water conservation board. This  
5 appropriation is from the Colorado water conservation board construction  
6 fund created in section 37-60-121, C.R.S. To implement this section, the  
7 Colorado water conservation board may use this appropriation to support  
8 the Colorado Mesonet, including operation and maintenance, travel,  
9 communications, database and website management, as well as hazardous  
10 waste disposal.

11           (2) The money appropriated in subsection (1) of this section  
12 remains available for the designated purposes until the project is  
13 completed.

14           **SECTION 6. Water forecasting partnership project -**  
15 **appropriation.** (1) For the 2016-17 state fiscal year, \$300,000 is  
16 appropriated to the department of natural resources for use by the  
17 Colorado water conservation board. This appropriation is from the  
18 Colorado water conservation board construction fund created in section  
19 37-60-121, C.R.S. To implement this section, the Colorado water  
20 conservation board may use this appropriation to support the development  
21 of new ground and aerial remote sensing data and equipment and  
22 hydrologic modeling, to provide reliable volumetric water supply  
23 forecasting.

24           (2) The money appropriated in subsection (1) of this section  
25 remains available for the designated purposes until the project is  
26 completed.

27           **SECTION 7. Bear Creek reservoir reallocation study -**

1     **appropriation.** (1) For the 2016-17 state fiscal year, \$2,500,000 is  
2 appropriated to the department of natural resources for use by the  
3 Colorado water conservation board. This appropriation is from the  
4 Colorado water conservation board construction fund created in section  
5 37-60-121, C.R.S. To implement this section, the Colorado water  
6 conservation board may use this appropriation to work in partnership with  
7 the U.S. Army Corps of Engineers, under the authority of the Energy and  
8 Water Development Appropriation Act of 1998, to study the potential  
9 reallocation of flood storage capacity of Bear Creek reservoir for other  
10 beneficial uses.

11             (2) The money appropriated in subsection (1) of this section  
12 remains available for the designated purposes until the project is  
13 completed.

14             **SECTION 8. Underground storage pilot project -**  
15 **appropriation.** (1) For the 2016-17 state fiscal year, \$200,000 is  
16 appropriated to the department of natural resources for use by the  
17 Colorado water conservation board. This appropriation is from the  
18 Colorado water conservation board construction fund created in section  
19 37-60-121, C.R.S. To implement this section, the Colorado water  
20 conservation board may use this appropriation to conduct an underground  
21 storage pilot project to further evaluate the suitability of various aquifers  
22 to store water, availability of water to be stored, and a conceptual  
23 framework to initiate an underground storage project.

24             (2) The money appropriated in subsection (1) of this section  
25 remains available for the designated purposes until the project is  
26 completed.

27             **SECTION 9. Continuation of the statewide water supply**

1 **initiative - appropriation.** (1) For the 2016-17 state fiscal year,  
2 \$1,000,000 is appropriated to the department of natural resources for use  
3 by the Colorado water conservation board. This appropriation is from the  
4 Colorado water conservation board construction fund created in section  
5 37-60-121, C.R.S. To implement this section, the Colorado water  
6 conservation board may use this appropriation to continue work on the  
7 statewide water supply initiative update that will include reexamination  
8 of municipal, industrial, agricultural, and environmental demands,  
9 hydrologic analyses, climate and drought planning, scenario planning,  
10 climate change, hydrologic variability, agricultural gap, nonconsumptive  
11 gap, basin implementation plan project review, and economics.

12 (2) The money appropriated in subsection (1) of this section  
13 remains available for the designated purposes until the project is  
14 completed.

15 **SECTION 10. Continuation of the Windy Gap reservoir**  
16 **bypass channel project - appropriation.** (1) For the 2016-17 state  
17 fiscal year, \$200,000 is appropriated to the department of natural  
18 resources for use by the Colorado water conservation board. This  
19 appropriation is from the Colorado water conservation board construction  
20 fund created in section 37-60-121, C.R.S. To implement this section, the  
21 Colorado water conservation board may use this appropriation to  
22 participate in the planning, design, and construction of the Windy Gap  
23 bypass channel project.

24 (2) The money appropriated in subsection (1) of this section  
25 remains available for the designated purposes until the project is  
26 completed.

27 **SECTION 11. Reservoir dredging project - appropriation.**

1 (1) For the 2016-2017 state fiscal year, \$1,000,000 is appropriated to the  
2 department of natural resources for use by the Colorado water  
3 conservation board. This appropriation is from the Colorado water  
4 conservation board construction fund created in section 37-60-121,  
5 C.R.S. To implement this section, the Colorado water conservation board  
6 may use this appropriation to conduct a reservoir dredging project in  
7 partnership with a water provider such as a municipality, district, or  
8 irrigation company, subject to the approval by the board with a cost share  
9 amount not to exceed fifty percent.

10 (2) The money appropriated in subsection (1) of this section  
11 remains available for the designated purposes until July 1, 2018, at which  
12 time the unencumbered balance of the money reverts to the  
13 unappropriated balance of the Colorado water conservation board  
14 construction fund.

15 **SECTION 12. Restoration of the balance of the flood and**  
16 **drought response fund - transfer.** On July 1, 2016, the state treasurer  
17 shall transfer the sum of \$500,000, or so much thereof as may be  
18 necessary, from the unreserved cash in the Colorado water conservation  
19 board construction fund to the flood and drought response fund created  
20 in section 37-60-123.2, C.R.S., in order to restore the unencumbered  
21 balance in the flood and drought response fund to \$500,000 for the board  
22 to provide documentation, forecasting, mapping, aerial photography,  
23 mitigation, and other efforts deemed necessary to quickly respond to  
24 flood and drought events.

25 **SECTION 13. Restoration of litigation fund cash balance -**  
26 **transfer.** On July 1, 2016, the state treasurer shall transfer the sum of  
27 \$600,000 from the unreserved cash in the Colorado water conservation



1 board construction fund to the litigation fund created in section 37-60-121  
2 (2.5), C.R.S., to continue litigation support for the board.

3 **SECTION 14.** In Colorado Revised Statutes, 37-60-119, **amend**  
4 (1) (a) as follows:

5 **37-60-119. Construction of water and power facilities -**  
6 **contracts with and charges against users.** (1) (a) In order to promote  
7 the general welfare and safety of the citizens of this state and to protect  
8 the allocation of interstate waters to the state, the board may, subject to  
9 the provisions in section 37-60-122, construct, rehabilitate, enlarge, or  
10 improve, or loan ~~moneys~~ MONEY to enable the construction,  
11 rehabilitation, enlargement, or improvement of, such flood control, water  
12 supply, and hydroelectric energy facilities, excluding ~~domestic~~ water  
13 treatment ~~and distribution systems~~ FACILITIES, together with related  
14 recreational facilities, in whole or in part, as will, in the opinion of the  
15 board, abate floods or conserve, effect more efficient use of, develop, or  
16 protect the water and hydroelectric energy resources and supplies of the  
17 state of Colorado.

18 **SECTION 15.** In Colorado Revised Statutes, **add** 37-60-120.2 as  
19 follows:

20 **37-60-120.2. Animas-La Plata project - authority - repeal.**

21 (1) NOTWITHSTANDING ANY OTHER LAW, INCLUDING SECTION  
22 24-30-1303, C.R.S., AND GIVEN THAT THIRTY-SIX MILLION DOLLARS HAVE  
23 BEEN AUTHORIZED AND APPROPRIATED AND A PURCHASE AGREEMENT HAS  
24 BEEN EXECUTED WITH THE UNITED STATES BUREAU OF RECLAMATION TO  
25 ACQUIRE ALL OF THE STATE'S WATER ALLOCATION IN THE ANIMAS-LA  
26 PLATA PROJECT AND THAT THE STATE IS A PARTICIPATING MEMBER OF THE  
27 ANIMAS-LA PLATA OPERATION, MAINTENANCE, AND REPLACEMENT

1 ASSOCIATION, AND IN ORDER TO SUPPORT AND PROVIDE LONG-TERM  
2 WATER SUPPLIES FOR THE LOCAL AREA AND TO FULLY UTILIZE THE STATE'S  
3 WATER ALLOCATION IN THE ANIMAS-LA PLATA PROJECT, IN  
4 COORDINATION WITH THE UNITED STATES BUREAU OF RECLAMATION AND  
5 THE OTHER PARTICIPATING PROJECT BENEFICIARIES, THE DEPARTMENT OF  
6 NATURAL RESOURCES, ACTING BY AND THROUGH THE BOARD, MAY:

7 (a) CONTRACT WITH AND ALLOCATE ANIMAS-LA PLATA PROJECT  
8 WATER TO LOCAL ENTITIES AND WATER PROVIDERS IN COLORADO;

9 (b) RECEIVE AND EXPEND PROCEEDS FROM THE SALE OR LEASE OF  
10 ANIMAS-LA PLATA PROJECT WATER AND LAND, AND ANY OTHER  
11 ACTIVITIES THAT EFFECTUATE THE PURPOSE OF THE ACQUIRED PROJECT  
12 WATER;

13 (c) UNDERTAKE ANIMAS-LA PLATA PROJECT OPERATIONS,  
14 MAINTENANCE, AND REPLACEMENT COSTS;

15 (d) PAY THE COSTS OF ANIMAS-LA PLATA PROJECT STORAGE OR  
16 OTHER NECESSARY EXPENSES, OTHERWISE IMPLEMENT THE PURPOSES OF  
17 THIS SUBSECTION (1), AND FULLY UTILIZE THE WATER AND STORAGE  
18 ACQUIRED; AND

19 (e) UNDERTAKE SUCH ACTION AS NECESSARY TO LEASE, SUBLEASE,  
20 EXCHANGE, SELL, ASSIGN, OR OTHERWISE EFFECTUATE THE USE OF THE  
21 ACQUIRED PROJECT WATER IN THE LOCAL AREA WITHIN COLORADO.

22 (2) THE STATE TREASURER SHALL CREDIT ALL PROCEEDS RECEIVED  
23 UNDER THIS SECTION AND THE INTEREST EARNED FROM INVESTMENTS OF  
24 THOSE PROCEEDS TO THE COLORADO WATER CONSERVATION BOARD  
25 CONSTRUCTION FUND CREATED IN SECTION 37-60-121 (1) (a), AND ALL  
26 SUCH MONEY IS CONTINUOUSLY APPROPRIATED TO THE BOARD AND  
27 REMAINS AVAILABLE FOR THE DESIGNATED PURPOSES UNTIL IT IS FULLY

1 EXPENDED.

2 (3) (a) IN THE EVENT OF A CONFLICT BETWEEN THE APPLICATION  
3 OF STATE OR FEDERAL LAW OR RULES, INCLUDING CHAPTER 3 OF THE  
4 STATE FISCAL RULES IN EXISTENCE AS OF JUNE 7, 2010, REGARDING THE  
5 MONEY SUBJECT TO THIS SECTION, FEDERAL LAW AND RULES APPLY.

6 (b) NOTHING IN THIS SECTION PRECLUDES THE USE OF WATER  
7 ACQUIRED PURSUANT TO THIS SECTION FOR COMPACT COMPLIANCE. IN THE  
8 EVENT OF A COMPACT CALL, WATER ACQUIRED PURSUANT TO THIS SECTION  
9 SHALL BE TREATED NO DIFFERENTLY THAN ANY OTHER DECREED WATER  
10 RIGHT IN THIS STATE.

11 (4) THIS SECTION IS REPEALED, EFFECTIVE WHEN THE STATE HAS  
12 NO WATER ALLOCATION IN THE ANIMAS-LA PLATA PROJECT, IS NOT A  
13 MEMBER OF THE ANIMAS-LA PLATA OPERATION, MAINTENANCE, AND  
14 REPLACEMENT ASSOCIATION, AND ALL EXISTING PURCHASES, LEASES,  
15 SUBLEASES, OR ANY OTHER OF THE CONTRACTUAL ARRANGEMENTS THAT  
16 HAVE BEEN EXECUTED ON BEHALF OF THE STATE'S WATER ALLOCATION,  
17 HAVE BEEN FULLY REPAID OR FULFILLED. THE DIRECTOR OF THE BOARD  
18 SHALL FILE A WRITTEN NOTIFICATION TO THE REVISOR OF STATUTES WHEN  
19 THE FINAL CONDITION OF THIS SUBSECTION (4) HAS BEEN FULFILLED.

20 **SECTION 16.** In Colorado Revised Statutes, 39-29-109, **amend**  
21 (2) introductory portion and (2) (a) (XII); and **add** (2) (a) (XV) and (2) (a)  
22 (XVI) as follows:

23 **39-29-109. Severance tax trust fund - created - administration**  
24 **- distribution of money - repeal.** (2) State severance tax receipts shall  
25 be credited to the severance tax trust fund as provided in section  
26 39-29-108. Except as otherwise set forth in section 39-29-109.5, all  
27 income derived from the deposit and investment of the ~~moneys~~ MONEY

1 in the fund shall be credited to the fund. At the end of any fiscal year, all  
2 unexpended and unencumbered ~~moneys~~ MONEY in the fund ~~remain~~  
3 REMAINS therein and shall not be credited or transferred to the general  
4 fund or any other fund. All ~~moneys~~ MONEY in the fund ~~are~~ IS subject to  
5 appropriation by the general assembly for the following purposes:

6 (a) **The severance tax perpetual base fund.**

7 (XII) (A) Notwithstanding any provision of this paragraph (a) to the  
8 contrary, on July 1, 2013, the state treasurer shall transfer two million  
9 dollars from the fund to the Colorado water conservation board  
10 construction fund, AND ON JULY 1, 2016, THE STATE TREASURER SHALL  
11 TRANSFER TWO HUNDRED THOUSAND DOLLARS FROM THE FUND TO THE  
12 COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND, for use  
13 by the board to make a grant to the municipal subdistrict of the northern  
14 Colorado water conservancy district for the planning, design, and  
15 construction of the Windy Gap reservoir bypass channel project, as part  
16 of the Windy Gap firming project on the Colorado river.

17 (B) This subparagraph (XII) is repealed, effective July 1, ~~2016~~  
18 2020.

19 (XV) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (a)  
20 TO THE CONTRARY, ON JULY 1, 2016, THE STATE TREASURER SHALL  
21 TRANSFER FIVE MILLION DOLLARS FROM THE FUND TO THE COLORADO  
22 WATER CONSERVATION BOARD CONSTRUCTION FUND, CREATED IN SECTION  
23 37-60-121 (1) (a), C.R.S., FOR USE BY THE COLORADO WATER  
24 CONSERVATION BOARD, CREATED IN SECTION 37-60-102, C.R.S., IN THE  
25 AMOUNT OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS TO  
26 CONTINUE THE WATERSHED RESTORATION PROGRAM, TWO MILLION FIVE  
27 HUNDRED THOUSAND DOLLARS FOR THE BEAR CREEK RESERVOIR

1 STORAGE REALLOCATION STUDY, AND ONE MILLION DOLLARS FOR THE  
2 STATEWIDE WATER SUPPLY INITIATIVE UPDATE.

3 (XVI) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (a)  
4 TO THE CONTRARY, ON JULY 1, 2016, AND EACH YEAR THEREAFTER ON  
5 JULY 1, THE STATE TREASURER SHALL TRANSFER FIVE MILLION DOLLARS  
6 FROM THE FUND TO THE COLORADO WATER CONSERVATION BOARD  
7 CONSTRUCTION FUND, CREATED IN SECTION 37-60-121 (1)(a), C.R.S., FOR  
8 USE BY THE COLORADO WATER CONSERVATION BOARD, CREATED IN  
9 SECTION 37-60-102, C.R.S., FOR THE BOARD TO FUND STUDIES,  
10 PROGRAMS, OR PROJECTS THAT ASSIST IN IMPLEMENTING THE STATE  
11 WATER PLAN ADOPTED PURSUANT TO SECTION 37-60-106 (1) (u), C.R.S.

12 **SECTION 17. Safety clause.** The general assembly hereby finds,  
13 determines, and declares that this act is necessary for the immediate  
14 preservation of the public peace, health, and safety.