

<p>SUPREME COURT, STATE OF COLORADO</p> <p>2 East 14<sup>th</sup> Avenue Denver, CO 80203</p>	<p>FILED IN THE SUPREME COURT</p> <p>APR 28 2008</p> <p>OF THE STATE OF COLORADO SUSAN J. FESTAG, CLERK</p> <p>▲ COURT USE ONLY ▲</p>
<p>ORIGINAL PROCEEDING PURSUANT TO § 1-40-107(2), C.R.S. (2007)</p> <p>Appeal from Ballot Title Setting Board</p> <p>IN THE MATTER OF THE TITLE, BALLOT TITLE AND SUBMISSION CLAUSE, AND SUMMARY FOR 2007-2008, #71 ("SEVERANCE TAXES")</p> <p>HOWARD STANLEY DEMPSEY, OBJECTOR,</p> <p>Petitioner,</p> <p>v.</p> <p>JOE NEUHOF AND GARY NAKARADO, PROPONENTS; AND WILLIAM A. HOBBS, SHARON EUBANKS AND DANIEL DOMENICO, TITLE BOARD,</p> <p>Respondents.</p>	
<p>JOHN W. SUTHERS, Attorney General MAURICE G. KNAIZER, Deputy Attorney General*</p> <p>1525 Sherman Street, 7<sup>th</sup> Floor Denver, CO 80203 (303) 866-5380 Registration Number: 05264 *Counsel of Record</p>	<p>Case No.: 08SA117</p>
<p><b>OPENING BRIEF OF TITLE BOARD</b></p>	

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William A. Hobbs, Sharon Eubanks and Daniel Domenico, as members of the Title Board (“Board”) hereby submit their Opening Brief.

### **STATEMENT OF THE ISSUES**

The Board adopts the statement of issues set forth in the Objector’s Petition for Review.

### **STATEMENT OF THE CASE**

On March 7, 2008 the proponents filed Proposed Initiative #71 (#71) with the Secretary of State. The Board held a hearing to set the titles on March 19, 2008. The Board concluded that #71 had a single subject and set titles.

On March 26, 2008, Henry Stanley Dempsey, the Objector, filed a motion for rehearing. He alleged that #71 contains multiple subjects and that the titles are misleading, incomplete, confusing, inaccurate and include a catch phrase. On April 2, 2008, the Board denied the motion for rehearing. The Objector filed this appeal.

### **STATEMENT OF THE FACTS**

#71 amends article 29 of title 39, C.R.S. (2007). It seeks to impose a new severance tax of 3 ½ % on gross income of \$300,000 and over attributable to the sale of oil and gas severed from the land. It exempts any revenue collected under the new tax provisions from spending limits under Colo. Const. art. X, § 20. It

amends the legislative declaration to state that a portion of revenues derived from severance taxes “be made available to promote the acquisition and preservation of land and water resources.” It allocates a portion of the new revenues to the clean energy fund and the local government severance tax fund. It directs that the moneys allocated to the local severance tax fund from the new tax be distributed to political subdivisions. In addition, it creates a land conservation trust fund under the auspices of the State Board of Great Outdoors Colorado (“GOCO”) and allocates a portion of the new revenues to the fund. The money directed to the land conservation trust fund must be used exclusively for the purpose of “making competitive grants to counties, municipalities, other political subdivisions of the state, the Colorado division of wildlife, the Colorado division of parks and outdoor recreation, and nonprofit land conservation organizations for acquisition of land or interests in land and, to the extent acquired with such funds to assist with stewardship of land or interests in land, that will preserve native wildlife habitat, river corridors, working farms or ranches, urban parks and open lands, and open space and natural areas of statewide significance.”

## SUMMARY OF THE ARGUMENT

#71 contains only one subject: imposing severance taxes on oil and gas. All provisions within the measure relate directly to the tax. The measure allocates the money collected to designated funds, all of which attempt to alleviate the impact of severing minerals from the land.

The titles set by the Board are fair, clear and accurate. Although the titles do not describe all of the details of the proposed measure, they do recite its central features.

The phrase “preservation of land and resources” is not a catch phrase.

## ARGUMENT

### **I. #71 contains one subject: imposing severance taxes on gross income of oil and gas extracted in the state.**

Objector contends that the Board should not have set titles because #71 contains more than one subject, thereby violating Colo. Const. art. V, § 1(5.5), which states:

No measure shall be proposed by petition containing more than one subject, which shall be clearly expressed in the title; but if any subject shall be embraced in any measure which shall not be expressed in the title, such measure shall be void only as to so much thereof as shall not be so expressed. If a measure contains more than one subject, such that a ballot title cannot be fixed that clearly expresses a single subject, no title shall be set and the

measure shall not be submitted to the people for adoption or rejection at the polls.

A proposed initiative violates the single subject rule if it “relate[s] to more than one subject and ... [has] at least two distinct and separate purposes which are not dependent upon or connected with each other.” *In re Title, Ballot Title and Submission Clause for Proposed Initiatives 2005-2006* #55, 138 P.3d 273, 277 (Colo. 2002)(Colo. 2006) (#55) A proposed initiative that “tends to effect or to carry out one general objective or purpose presents only one subject.” *In re Ballot Title 1999-2000* #25, 974 P.2d 458, 463 (Colo. 1999). The single subject rule both prevents joinder of multiple subjects to secure the support of various factions and prevents voter fraud and surprise. #55, 138 P.3d at 277 *In re Title, Ballot Title and Submission Clause for Proposed Initiatives 2001-02* #43, 46 P.3d 438, 442 (Colo. 2002)(#43).

The Court will not address the merits of a proposed measure, interpret it or construe its future legal effects. #43, 46 P.3d at 443. . *In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000* #258(A), 4 P.3d 1094, 1097-98 (Colo. 2000). However, the Court may engage in a limited inquiry into the meaning of terms within a proposed measure if necessary to review an allegation



that the measure violates the single subject rule. *In re Title, Ballot Title and Submission Clause for 2001-2002 #21 and #22*, 44 P.3d, 213, 216 (Colo. 2002).

The single subject rule must be liberally construed to avoid unduly restricting the right of initiative. *In re Title, Ballot Title and Submission Clause, and Summary for 1997-98 No. 74*, 962 P.2d 927, 929 (Colo. 1998). Sections of a measure that include “implementation or enforcement details directly tied to the single subject will not, in and of themselves, constitute a single subject.” *Title, Ballot Title and Submission Clause, and Summary for 2005-2006 #73*, 135 P.3d 736, 739 (Colo. 2006).

Objector argues that the measure contains multiple subjects because it allocates the revenues to different funds not necessarily connected with the tax increase or with each other. This contention is without merit.

#71 amends article 29 of title 39. When enacting the present law, the Colorado General Assembly declared the severance taxes were intended to recapture a portion of wealth lost through the extraction of nonrenewable natural resources for use for public purposes, for inclusion in a perpetual fund and for use by local governments to offset the impact created by nonrenewable resource development. Section 39-29-101(1), (3), C.R.S. (2007). The proceeds are

distributed among various funds, all related to potential impact caused by the extraction of these resources, including but not limited to “sound natural resource planning and development related to minerals, energy geology and water.” Section 39-29-109(1)(a), C.R.S. (2007).

#71 is consistent with the goals of the existing laws. It creates a new source of revenue from the extraction of natural resources and then allocates the money to three funds to be used to help the state offset the effects of removal of those resources. The clean energy fund, which is designed to develop new energy technologies, will help the state replace the loss of fossil fuels caused by extraction. Section 24-75-1201, C.R.S. (2007). The local government severance tax fund assists communities impacted by development of minerals and fossil fuels. Section 39-29-110, C.R.S. (2007). The land conservation fund created by the measure will help conserve some of the land affected by mineral extraction. Allocation of revenues to these funds is related to the tax and to each other. The revenues are tied directly to the tax. In addition, each fund is intended to offset the fiscal and environmental effects of the removal of minerals from the land.

Courts have liberally interpreted the single subject requirement in the context of creation of new taxes and their allocation. *Colorado Criminal Justice*

*Reform Coalition v. Ortiz*, 121 P.2d 288 (Colo. App. 2005). The Colorado General Assembly enacted a law that authorized the state to enter into lease purchase agreements to finance the construction of a correctional facility for the Department of Corrections and new academic facilities for the University of Colorado Health Sciences Center. Taxpayer plaintiffs argued that the measure violated the single subject requirement because it funded two separate facilities for two separate departments. The court rejected the argument. It concluded that the authorization of two specific agreements for two different departments properly fell under the single subject of lease purchase for capital construction. *Id.* at 291. *See also, Abts v. School District RE-1*, 622 P.2d 518, 524 (Colo. 1981) (raising funds to construct school facilities in two different communities within same school district did not violate single subject; objectives are related because they concern structures needed to serve school children in the district.)

The Oklahoma Supreme Court determined that a measure that would authorize casinos, allow the state to collect gaming fees and distribute gaming fees for computer-related educational purposes, local governments and correctional facilities did not violate the single subject requirement. It concluded that taxability, distribution of gaming revenue and imposing of civil liability for debts incurred in gaming were related to the subject to the legalization and regulation of

gaming. *In re Initiative Petition No. 363, State Question No. 672*, 927 P.2d 558 (Okla. 1996). *See also, Bonney v. Indiana Finance Authority*, 849 N.E.2d 473, 482 (Ind. 2006) (Provisions for raising taxes or revenues and directing their use are properly contained in the same bill.)

The California Supreme Court reached a similar conclusion in *Kennedy Wholesale, Inc. v. State Bd. Of Equalization*, 806 P.2d 1360 (Cal. 1991). California voters passed a tax on tobacco for the primary purpose of reducing the economic costs of tobacco use in California. It directed the revenues garnered from the tax increase to programs in which smoking had caused an increase in government expenditures. Some of the revenues were allocated to programs that were not directly related to tobacco use. The Court concluded that the spending provisions, although not particularly precise, were sufficiently related to the purpose of alleviating state expenditures involving tobacco use. *Id.* at 1366.

Objector also claims that the measure improperly expands the authority of GOCO by removing current limitations and restrictions on the State Board. Again, this contention must be rejected.

#71 creates a land conservation fund to be administered by GOCO. GOCO may make “competitive grants to political subdivisions of the state, the Colorado Division of Wildlife, the Colorado Division of Parks and Outdoor Recreation and

nonprofit land conservation organizations for acquisition of land or interests in land or interests in land, that will preserve native wildlife habitat, river corridors, working farms or ranches, urban parks and open lands, and open space and natural area of statewide significance.” The measure also states that “the land conservation fund shall not be subject to the limitations and restrictions made applicable to the Great Outdoors Colorado Trust Fund of Article XXVII of the State Constitution.”

GOCO is a constitutionally-created political subdivision of the state. Colo. Const. art. XXVII, § 6(5). It administers lottery funds placed in the Great Outdoors Colorado Trust Fund. Colo. Const. art. XXVII, § 6(2). The Trust Fund consists of lottery proceeds. Colo. Const. art. XXVII, § 3(1). In addition to acting as the fiduciary for the Trust Fund, GOCO also “administer[s] the distribution of grants pursuant to Sections 1(1)(c), 1(1)(d), 5(1)(a)(III) and 5(1)(a)(IV)” of the article. Colo. Const. art. XXVII, § 6(2)(e). GOCO may grant funds to qualified entities to “identify, acquire, and manage unique open space and natural areas of statewide significance.” Colo. Const. article XXVII, § 1(1)(c). It may grant funds “to match local investments to acquire, develop and manage open space, parks, and environmental educational facilities, and which will encourage cooperative investments by other public and private entities for these purposes.” Colo. Const.

art. XXVII, § 1(d). The source of funds used for these grants is not necessarily limited to revenues in the Trust Fund. Grants may be defrayed “from the funds made available to GOCO’s program elements.” Colo. Const. art. XXVII, § 6(2)(d).

The measure does not remove any limits or restrictions on GOCO’s powers. By its terms, #71 does not alter the terms of the Trust Fund or GOCO’s fiduciary responsibilities as the trustee of the Trust Fund. It merely states the new land conservation fund is not a part of the Trust fund established under article XXVII. It permits GOCO to make grants for specified purposes, a goal consistent with GOCO’s existing responsibilities.

Because all sections of the measure are related to its main subject, the Court must conclude that the measure meets the single subject requirement.

## **II. The titles are fair, clear and accurate.**

Section 1-40-106(3), C.R.S. (2005) establishes the standard for setting titles.

It provides:

In setting a title, the title board shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general effect of a “yes” or “no” vote will be unclear. The title for the proposed law or constitutional amendment, which shall correctly and fairly state the true intent and meaning thereof, together with the ballot title and submission clause, shall be completed within two weeks after the first meeting of the title board...Ballot

titles shall be brief, shall not conflict with those selected for any petition previously filed for the same election, and shall be in the form of a question which may be answered “yes” (to vote in favor of the proposed law or constitutional amendment) or “no” (to vote against the proposed law or constitutional amendment) and which shall unambiguously state the principle of the provision sought to be added, amended or repealed.

The titles must be fair, clear, accurate and complete. *In re Title, Ballot Title and Submission Clause and Summary for 1999-00* #256, 12 P.3d 246, 256 (Colo. 2000) However, the Board is not required to set out every detail. #21, 44 P.3d at 222. In setting titles, the Board may not ascertain the measure’s efficacy, or its practical or legal effects. #256, 12 P.3d at 257; *In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000* #246(e), 8 P.3d 1194, 1197 (Colo. 2000). The Court does not demand that the Board draft the best possible title. #256, at p. 219. The Court grants great deference to the Board in the exercise of its drafting authority. *Id.* The Court will reverse the Board’s decision only if the titles are insufficient, unfair or misleading. *In re Proposed Initiative Concerning “Automobile Insurance Coverage”*, 877 P.2d 853, 857 (Colo. 1994).

The measure splits the revenue from the new tax among three funds. Forty percent is credited to clean energy fund, forty percent to the land conservation

fund, and twenty percent to the local government fund. Objector has not explained how a statement of the percentage distribution is a key element of the measure. Generally, the key elements of a measure raising taxes are the amount of the increase, Colo. Const. art. X, § 20,\* and the purpose for which the moneys will be spent, *Abts v. School District RE-1*, 622 P.2d at 524. Objector has not presented any information indicating that the distribution percentages are particularly important to the voters.

### **III. The measure does not include a catch phrase.**

The Objectors contend that the term “preservation of land and water resources” is a catch phrase. The Court must reject this argument.

“Catch phrases are words that work to a proposal’s favor without contributing to voter understanding. By drawing attention to themselves and triggering a favorable response, catch phrases generate support for a proposal that hinges not on the content of the proposal itself, but merely on the wording of the catch phrase.” *In re Title, Ballot Title 1999-2000 No. 258(A)*, 4 P.3d 1094, 1100 (Colo. 2000). The existence of a catch phrase must be determined in the context of contemporary political debate. *In re Title, Ballot Title and Submission Clause, and Summary for 1997-1998 #105*, 961 P.2d 1092, 1100 (Colo. 1998). An objector



must provide sufficient evidence to prove that a word or group of words constitutes a catch phrase. *Id.*

The court has concluded that similar phrases are not catch phrases. #256, 12 P.3d at 257 (“management of growth” a neutral phrase) *In re Title, Ballot Title and Submission Clause, and Summary for 1997-98 #112*, 962 P.2d 255 (Colo. 1998) (“protect the environment and human health” not a catch phrase); *In re Proposed Initiative 1996-6*, 917 P.2d 1277, 1281 (Colo. 1996) (“public’s interest in state waters” not a catch phrase)


The word “preserve” is not inherently prejudicial. Thus, the Court concluded that the phrase “to preserve...the social institution of marriage” is not a catch phrase. *In re Title, Ballot Title and Submission Clause and Summary for 1999-2000 #227 and #228* (Colo. 2000).

Objector has not provided any evidence that the phrase will draw attention to itself and create a favorable response in today’s political climate. In light of the Court’s rulings in similar circumstances and the complete lack of any evidence showing that the words constitute a catch phrase, the Court must reject the argument.

## CONCLUSION

For the reasons stated in this brief, the Court must affirm the Board's action.

JOHN W. SUTHERS  
Attorney General

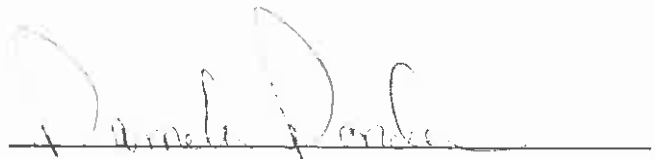
  
MAURICE G. KNAIZER, 05264\*  
Deputy Attorney General  
Public Officials  
State Services Section  
Attorneys for Title Board  
\*Counsel of Record

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **OPENING BRIEF OF TITLE BOARD** upon all parties herein by depositing copies of same, overnight by DHL at Denver, Colorado, this 28th day of April 2008 addressed as follows:

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## Ballot Title Setting Board

### Proposed Initiative 2007-2008 #71<sup>1</sup>

The title as designated and fixed by the Board is as follows:

State taxes shall be increased \$299.1 million annually by an amendment to the Colorado Revised Statutes concerning the severance tax on oil and gas extracted in the state, and, in connection therewith, for taxable years commencing on or after January 1, 2009, imposing an additional severance tax on oil and gas for taxpayers with three hundred thousand dollars or more of gross income; exempting revenues from the additional tax from state and local government spending limits; and requiring specified percentages of the revenues from the additional tax to be credited to (1) the clean energy fund, (2) the local government severance tax fund, and (3) the land conservation fund that the measure creates to be used for awarding grants for the acquisition of land or interests in land for preservation of land and water resources.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall state taxes be increased \$299.1 million annually by an amendment to the Colorado Revised Statutes concerning the severance tax on oil and gas extracted in the state, and, in connection therewith, for taxable years commencing on or after January 1, 2009, imposing an additional severance tax on oil and gas for taxpayers with three hundred thousand dollars or more of gross income; exempting revenues from the additional tax from state and local government spending limits; and requiring specified percentages of the revenues from the additional tax to be credited to (1) the clean energy fund, (2) the local government severance tax fund, and (3) the land conservation fund that the measure creates to be used for awarding grants for the acquisition of land or interests in land for preservation of land and water resources?

*Hearing March 19, 2008:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 11:03 a.m.*

*Hearing April 2, 2008:*

*Motion for Rehearing denied.*

*Hearing adjourned 12:25 p.m.*

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<sup>1</sup> Unofficially captioned "Severance Taxes" by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.

RECEIVED

Proposed Initiative

MAR 17 2008

2007-2008

Be it Enacted by the People of the State of Colorado:

#71

~~#68~~

SECRETARY OF STATE

(corrected)  
(3/13/08 cty)

SECTION 1. 39-29-101 (3), Colorado Revised Statutes, is amended to read:

Final  
Text

**39-29-101. Legislative declaration.** (3) It additionally is the intent of the general assembly that a portion of the revenues derived from such a severance tax be used by the state for public purposes, that a portion be held by the state in a perpetual trust fund, and that a portion be made available to local governments to offset the impact created by nonrenewable resource development, THAT A PORTION BE MADE AVAILABLE TO PROMOTE THE DEVELOPMENT OF RENEWABLE ENERGY SOURCES AND ENERGY CONSERVATION PROGRAMS, AND THAT A PORTION BE MADE AVAILABLE TO PROMOTE THE ACQUISITION AND PRESERVATION OF LAND AND WATER RESOURCES TO PROTECT WILDLIFE HABITAT AND FOR OTHER PUBLIC PURPOSES.

SECTION 2. 39-29-105, Colorado Revised Statutes, is amended to read:

**39-29-105. Tax on severance of oil and gas.** (1) (c) IN ADDITION TO THE TAX PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), AND IN ADDITION TO ANY OTHER TAX, THERE SHALL BE LEVIED, COLLECTED, AND PAID FOR EACH TAXABLE YEAR COMMENCING ON OR AFTER JANUARY 1, 2009, A FURTHER TAX UPON THE GROSS INCOME ATTRIBUTABLE TO THE SALE OF OIL AND GAS SEVERED FROM THE EARTH IN THIS STATE. NOTHING IN THIS PARAGRAPH (c) SHALL EXEMPT A PRODUCER OF OIL AND GAS FROM SUBMITTING A PRODUCTION EMPLOYEE REPORT AS REQUIRED BY SECTION 39-39-110(1)(d)(I). THE TAX FOR OIL AND GAS PROVIDED FOR IN THIS PARAGRAPH SHALL BE AT THE FOLLOWING RATE OF GROSS INCOME:

\$300,000 AND OVER

3 1/2%

(3) THE PROCEEDS OF THE TAX AND INVESTMENT INCOME RECEIVED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION THEREON SHALL BE COLLECTED AND SPENT BY THE STATE AS A VOTER-APPROVED REVENUE CHANGE WITHOUT REGARD TO ANY SPENDING LIMITATION CONTAINED WITHIN SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, OR ANY OTHER LAW, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUE THAT MAY BE COLLECTED AND SPENT BY THE STATE OR ANY DISTRICT.

SECTION 3. 39-29-108 (2), Colorado Revised Statutes, is amended to read:

**39-29-108. Allocation of severance tax revenues – definitions – repeal.** (2) (a) Of the total gross receipts realized from the severance taxes imposed on minerals and mineral fuels under the provisions of this article after June 30, 1981, EXCEPTING THOSE REVENUES LEVIED, COLLECTED, AND PAID BY OPERATION OF SECTION 39-29-105 (1) (c), fifty percent shall be credited to the state severance tax trust fund created by section 39-29-109, and fifty percent shall be credited to the local government severance tax fund created by section 39-29-110.

(b) OF THE REVENUES RECEIVED BY OPERATION OF SECTION 39-29-105 (1) (c):

(I) FORTY PERCENT OF SUCH REVENUES SHALL BE CREDITED TO THE CLEAN ENERGY FUND PURSUANT TO SECTION 24-75-1201, C.R.S.;

(II) FORTY PERCENT OF SUCH REVENUES SHALL BE CREDITED TO THE LAND CONSERVATION FUND ESTABLISHED IN SECTION 39-29-108.7 FOR THE PURPOSES SET FORTH THEREIN; AND

(III) TWENTY PERCENT OF SUCH REVENUES SHALL BE CREDITED TO THE LOCAL GOVERNMENT SEVERANCE TAX FUND FOR THE PURPOSES SET FORTH IN SECTION 39-29-110 (1) (b) (I).

**SECTION 4.** 39-29-110(1)(c.5), Colorado Revised Statutes, is amended, and the said 39-29-110 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**39-29-110. Local government severance tax fund – creation – administration – energy impact assistance advisory committee created – definitions – repeal.** (1) (c.5) EXCEPT AS SPECIFIED IN SUBSECTION (5) OF THIS SECTION, for any state fiscal year commencing on or after July 1, 2007, state severance tax receipts credited to the local government severance tax fund shall be distributed as follows:

(I) Seventy percent of the receipts and income shall be distributed to political subdivisions in the manner specified in paragraph (b) of this subsection (1); and

(II) Thirty percent of the receipts and income shall be distributed or loaned to counties or municipalities in the manner specified in paragraph (c) of this subsection (1).

(5) ONE HUNDRED PERCENT OF THE REVENUES RECEIVED AND CREDITED TO THE LOCAL GOVERNMENT SEVERANCE TAX FUND BY OPERATION OF SECTION 39-29-108 (2) (b) (III) SHALL BE DISTRIBUTED TO POLITICAL SUBDIVISIONS AS PROVIDED IN THAT SUBPARAGRAPH.

**SECTION 5.** Article 29 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**39-29-108.7. Land Conservation Fund.** (1) THERE IS HEREBY CREATED THE LAND CONSERVATION FUND, TO BE ADMINISTERED AND OVERSEEN BY THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND CREATED BY SECTION 6 OF ARTICLE XXVII OF THE STATE CONSTITUTION. REVENUES CREDITED TO THE LAND CONSERVATION FUND SHALL BE USED FOR THE EXCLUSIVE PURPOSE OF MAKING COMPETITIVE GRANTS TO COUNTIES, MUNICIPALITIES, OTHER POLITICAL SUBDIVISIONS OF THE STATE, THE COLORADO DIVISION OF WILDLIFE, THE COLORADO DIVISION OF PARKS AND OUTDOOR RECREATION, AND NONPROFIT LAND CONSERVATION ORGANIZATIONS FOR ACQUISITION OF LAND OR INTERESTS IN LAND AND, TO THE EXTENT ACQUIRED WITH SUCH FUNDS TO ASSIST WITH STEWARDSHIP OF LAND OR INTERESTS IN LAND, THAT WILL PRESERVE NATIVE WILDLIFE HABITAT, RIVER CORRIDORS, WORKING FARMS OR RANCHES, URBAN PARKS AND OPEN LANDS, AND OPEN SPACE AND NATURAL AREAS OF STATEWIDE SIGNIFICANCE.

(2) THE LAND CONSERVATION FUND SHALL NOT BE SUBJECT TO THE LIMITATIONS AND RESTRICTIONS MADE APPLICABLE TO THE GREAT OUTDOORS COLORADO TRUST FUND

BY ARTICLE XXVII OF THE STATE CONSTITUTION. FURTHER, IN ADMINISTERING AND OVERSEEING THE LAND CONSERVATION FUND, THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND SHALL HAVE THE DISCRETION TO DIRECT THAT ANY PORTION OF AVAILABLE REVENUES BE REINVESTED IN THE LAND CONSERVATION FUND AND NOT EXPENDED IN ANY PARTICULAR YEAR.

**SECTION 6.** 33-60-107, Colorado Revised Statutes, is amended to read:

**33-60-107. State board of the great outdoors Colorado trust fund.** (4) THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND SHALL HAVE THE FURTHER POWERS TO ADMINISTER AND OVERSEE THE LAND CONSERVATION FUND ESTABLISHED BY SECTION 39-29-108.7, C.R.S.

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