



## CONSERVATION TRUST FUND SB 10-98 Frequently Asked Questions

### **What is the Conservation Trust Fund (CTF)?**

Conservation Trust Funds are the portion of Lottery proceeds constitutionally mandated to be distributed directly to local governments, based on population, for acquiring and maintaining parks, open space and recreational facilities. The funds are distributed and monitored through the Colorado Department of Local Affairs (DOLA).

### **Who is eligible to receive CTF dollars?**

Eligible entities include counties, cities, towns, and Title 32 special districts that provide park and recreation services in their service plans. All eligible entities must create a local conservation trust fund and certify annually to DOLA that they have created such a fund.

### **What did SB 10-98 do?**

Senate Bill 10-98 provides the potential for voluntary cooperation or contracting between a Conservation District or a Local Noxious Weed Control Program and participating Conservation Trust Fund (CTF) entities. If undertaken, this cooperation or contracting **must** be for eligible activities on publicly owned property specifically for park, recreation or open space purposes.

### **FAQ**

1. Does SB 10-98 make a Conservation District or a Local Noxious Weed Control Program an eligible CTF entity and therefore eligible for participating in the direct receipt of funds based on population?

No. Conservation Districts and Local Noxious Weed Control Programs do not meet the definition of an eligible entity. As defined in statute:

- "Eligible entity means a county, municipality, or special district which has created a conservation trust fund pursuant to this section and which has certified to the department of local affairs that it has created such fund."

*C.R.S. 29-21-101(1)(b)*

- "Municipality means a statutory or home rule city or town or a territorial charter city."

*C.R.S. 29-21-101(1)(d)*

- "Special district means:

(l) a special district organized under article 1 of title 32, C.R.S., which provides park or recreation facilities or programs pursuant to the district's service plan, which facilities or programs are open to public use"

*C.R.S. 29-21-101(1)(g)*

2. Can an article 70 title 35 special district become an article 1 title 32 special district?

No. The process required to "change" a Conservation District defined in 35-70-101 into a Title 32-1 Special District would necessitate the dissolution of the conservation district per requirements in C.R.S. 35-70-118 and then the creation of a CTF eligible 32-1 special district per C.R.S. 32-1-301.

3. What kinds of activities and properties are eligible for expenditure of CTF funds?

CTF can be used for the acquisition, development, and maintenance of new conservation sites or for capital improvements or maintenance for recreational purposes on any public site. A public site is defined by the department as a publicly owned site, or government owned property. A more detailed list of CTF eligible activities can be found on the CTF website at: [www.dola.colorado.gov/ctf](http://www.dola.colorado.gov/ctf)

As defined in statute:

"New conservation sites means interests in land and water, acquired after establishment of a conservation trust fund pursuant to this section, for park or recreation purposes, for all types of open space, including but not limited to floodplains, greenbelts, agricultural lands, or scenic areas, or for any scientific, historic, scenic, recreational, aesthetic, or similar purpose."

*C.R.S. 29-21-101(1)(e)*

"Interests in land and water means any and all rights and interests in land or water, or both, including fee interests and less than full fee interests such as future interests, developmental rights, easements, covenants, and contractual rights. Every interest in land or water may be in perpetuity or for a fixed term and shall be deemed to run with the land or water to which it pertains for the benefit of the citizens of this state."

*C.R.S. 29-21-101(1)(c)*

4. What is the definition of a recreation site?

A brief list of recreational properties (available on the CTF website) includes:

- Parks and Open Space
- Athletic fields and courts
- Community and Recreation Centers
- Swimming pools
- Libraries
- Museums
- Fairgrounds
- Campgrounds
- Golf Courses
- Zoos
- Skate parks
- Skating rinks
- Shooting ranges

5. Does travel qualify as recreational?

No. Travel to recreation sites along county roads or highways does not count as recreational. For example, Park and Recreation departments within a local government are not responsible for maintaining the roads within their jurisdiction simply because the roads lead to their public community center.

6. Does SB 10-98 allow for weed/noxious weed control on government-owned park, recreation and open space properties?

Yes, weed/noxious weed control on government-owned park, recreation and open space properties has always been considered as a maintenance expense to keep the eligible property from decline.

7. Does SB 10-98 allow for CTF dollars be used to control noxious weeds on privately owned agricultural land?

Yes, but **ONLY** if a CTF entity holds an interest in land or water on that property (e.g. a conservation easement held by the CTF entity on private agricultural land). This was an eligible use of CTF dollars prior to SB 10-98.

As defined in statute:

"New conservation sites means interests in land and water, acquired after establishment of a conservation trust fund pursuant to this section, for park or recreation purposes, for all types of open space, including but not limited to floodplains, greenbelts, agricultural lands, or scenic areas, or for any scientific, historic, scenic, recreational, aesthetic, or similar purpose."

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"Interests in land and water means any and all rights and interests in land or water, or both, including fee interests and less than full fee interests such as future interests, developmental rights, easements, covenants, and contractual rights. Every interest in land or water may be in perpetuity or for a fixed term and shall be deemed to run with the land or water to which it pertains for the benefit of the citizens of this state."

*C.R.S. 29-21-101(1)(c)*

8. Does SB 10-98 allow for weed control on properties, either public or private, adjacent to government-owned park, recreation, or open space properties?

No. SB 10-98 did not expand CTF eligible uses to include these activities on property other than government owned park, recreation, or open space as described above in #3.

9. Does SB 10-98 allow for uses such as weed control on gravel pits or along road and highways?

No. SB 10-98 did not expand CTF eligible uses to include these activities on property other than government-owned park, recreation, or open space as described above in #3.

10. Does SB 10-98 allow for uses such uses as educational programs and activities?

No. Educational programs of any kind are not a maintenance expense or a capital improvement and therefore do not qualify as an eligible use of CTF dollars. However, expenditures for such things as interpretive signs along recreational trails are an eligible use of CTF dollars.

11. Does SB 10-98 allow for uses such uses as weed control or soil stabilization on flood control structures?

No. While flood control structures may be publically owned in some instances, they do not provide public access and serve as a park, recreation or open space purpose.

12. Although Conservation Districts and Local Noxious Weed Control Programs are not eligible entities, does SB 10-98 allow an eligible entity to share their CTF dollars with a Conservation District or Local Noxious Weed Control Program?

No. A CTF entity can only "share" their funds with another CTF entity.

As defined in statute:

"Subject to the separate accounting requirement of subparagraph (II) of paragraph (b) of subsection (2) of this section, such cooperation may include the sharing of moneys held by any such entities in their respective conservation trust funds for joint expenditures for the acquisition, development, and maintenance of new conservation sites."

*C.R.S. 29-21-101(5)*

However, CTF entities may cooperate or contract with a Conservation District or a Noxious Weed Control Program for services provided on CTF eligible properties as stated in #3 above.

**13. Are counties and municipalities required to cooperate or contract with Conservation Districts or Local Noxious Weed Control Programs for services?**

No. CTF entities may cooperate or contract with any vendor, including Conservation Districts and Local Noxious Weed Control Programs, for necessary weed/noxious weed control services or any other maintenance services that may be necessary to keep eligible properties from decline.

As defined in statute:

“In the utilization of moneys received pursuant to this section, each eligible entity may cooperate or contract with any other government or political subdivision, INCLUDING A CONSERVATION DISTRICT ESTABLISHED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 70 OF TITLE 35, C.R.S., OR A LOCAL NOXIOUS WEED CONTROL PROGRAM, pursuant to part 2 of article 1 of this title.”

*C.R.S. 29-21-101(5)*

**14. Are the Conservation Districts and Local Noxious Weed Control Programs subject to the same separate accounting requirements as eligible entities?**

No. Conservation Districts and Local Noxious Weed Control Programs are not eligible entities as described in #1 above, and therefore cannot have a conservation trust fund. Only CTF entities are subject to the separate accounting requirements. CTF entities contracting with non-CTF entities are responsible for the performance and appropriate expenditures under such contract.

As defined in statute:

“All moneys received from the state by each eligible entity pursuant to this section shall be deposited in its conservation trust fund and shall be expended only for the acquisition, development, and maintenance of new conservation sites or for capital improvements or maintenance for recreational purposes on any public site. An eligible entity shall not deposit any other moneys in its conservation trust fund.”

*C.R.S. 29-21-101(4)*

**15. Are Conservation Districts and Local Noxious Weed Control Programs subject to the same compliance and reporting requirements as eligible entities?**

No. Conservation Districts and Local Noxious Weed Control Programs are not eligible entities as described in #1 above, and therefore cannot have a conservation trust fund. Only CTF entities are subject to the compliance and reporting requirements. CTF entities contracting with non-CTF entities are responsible for the performance and appropriate expenditures under such contract.

As defined in statute:

“On forms supplied by the division, each eligible entity shall annually submit to the division a statement showing the total amount of state moneys in its local conservation trust fund, the amount of any state moneys encumbered or expended from such fund since the previous year's report, and the purpose of the encumbrance or expenditure.”

*C.R.S. 29-21-101(6)*

**16. Can the use of SB 10-98 funds be used to match other funds?**

SB 10-98 did not create separate funds under CTF, so there are no “SB 10-98 funds”, per se, only Conservation Trust Funds. However, CTF entities can use CTF dollars as a match for other grants, such as GOCO grants, as long as CTF dollars expended for the activities meet CTF requirements as stated above in #3.