

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
9.10.18

BILL 2

LLS NO. 19-0222.01 Bob Lackner x4350

INTERIM COMMITTEE BILL

Wildfire Matters Review Committee

BILL TOPIC: "Wildfire Mitigation Wildland-urban Interface Areas"

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO MITIGATE THE EFFECTS OF WILDFIRES**
102 **WITHIN WILDLAND-URBAN INTERFACE AREAS, AND, IN**
103 **CONNECTION THEREWITH, AUTHORIZING COOPERATIVE**
104 **AGREEMENTS BETWEEN FIRE PROTECTION PROVIDERS AND**
105 **HOMEOWNERS' ASSOCIATIONS TO PROMOTE WILDFIRE**
106 **PREVENTION AND MITIGATION AND CREATING A STATE INCOME**
107 **TAX CREDIT TO REIMBURSE HOMEOWNERS FOR SPECIFIED**
108 **EXPENSES INCURRED IN SATISFYING WILDFIRE PREVENTION AND**
109 **MITIGATION GUIDELINES.**

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

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sections 1 and 2 of the bill specify additional duties assigned to the division of fire prevention and control within the department of public safety and the Colorado state forest service with respect to the coordination of state efforts to prevent and mitigate wildfires within wildland-urban interface (WUI) areas. Some of these duties require collaboration between the 2 agencies. Among these new duties is the establishment of guidelines affecting the construction and maintenance of homes and adjoining open space that will prevent or mitigate the catastrophic risks of harm to life or property caused by a wildfire within a WUI area (guidelines).

Section 3 authorizes the governing body of a fire protection provider (a county, municipality, or any form of special district with primary responsibility for fire suppression within a particular land area) to enter into a cooperative agreement with a homeowners' association.

Under the agreement, a homeowners' association may agree to invest in prevention, preparedness, and mitigation efforts under the direction and supervision of the fire protection provider that will reduce the risks of a catastrophic wildfire to homeowners who are members of the homeowners' association who own homes within a WUI area. The agreement may also incorporate the guidelines.

For income tax years commencing on or after January 1, 2022, but prior to January 1, 2027, **section 4** allows a qualified taxpayer (a resident individual who is a member of a homeowners' association that has entered into a cooperative agreement with a fire protection provider, which agreement incorporates the guidelines) a state income tax credit in an amount equal to the cost of improvements the qualified taxpayer has made to the taxpayer's principal residence to incorporate such guidelines or \$5,000, whichever is less.

The bill specifies additional requirements governing the administration of the tax credit.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-33.5-1203, **add**
3 (1)(x), (1)(y), and (1)(z) as follows:

4 **24-33.5-1203. Duties of division.** (1) The division shall perform
5 the following duties:

6 (x) WITH THE COLLABORATION OF THE COLORADO STATE FOREST

1 SERVICE IDENTIFIED IN SECTION 23-31-301, AND WITH THE ASSISTANCE OF
2 LOCAL PUBLIC BODIES ENGAGED IN WILDFIRE PREVENTION AND
3 MITIGATION EFFORTS, IN COORDINATING THE STATE'S RESPONSE TO
4 WILDFIRES WITHIN WILDLAND-URBAN INTERFACE AREAS; COORDINATE
5 THE ESTABLISHMENT AND MAINTENANCE OF FIRE-ADAPTED COMMUNITIES
6 TO ENSURE THAT HUMAN POPULATION AND INFRASTRUCTURE ARE ABLE
7 TO WITHSTAND A WILDFIRE WITHOUT THE LOSS OF LIFE OR PROPERTY; AND
8 IMPROVE WILDFIRE RESPONSE BY ENSURING THAT ALL POLITICAL
9 SUBDIVISIONS ARE ABLE TO PARTICIPATE IN ESTABLISHING AND
10 IMPLEMENTING SAFE, EFFECTIVE, AND EFFICIENT RISK-BASED WILDFIRE
11 MANAGEMENT DECISIONS;

12 (y) COLLABORATE WITH THE COLORADO STATE FOREST SERVICE
13 IDENTIFIED IN SECTION 23-31-301 IN CONNECTION WITH EFFORTS TO
14 RESTORE AND MAINTAIN LANDSCAPES DAMAGED BY WILDFIRES AND
15 ENSURE THAT LANDSCAPES ARE RESILIENT TO WILDFIRE-RELATED
16 DISTURBANCES IN ACCORDANCE WITH FIRE MANAGEMENT OBJECTIVES
17 AND EFFORTS TO REDUCE THE RISKS TO WILDLIFE CAUSED BY WILDFIRES;
18 AND

19 (z) IN COLLABORATION WITH THE COLORADO STATE FOREST
20 SERVICE IDENTIFIED IN SECTION 23-31-301, NOT LATER THAN TWO YEARS
21 AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1)(z) ESTABLISH
22 GUIDELINES AFFECTING THE CONSTRUCTION AND MAINTENANCE OF HOMES
23 AND ADJOINING OPEN SPACE THAT WILL PREVENT OR MITIGATE THE
24 CATASTROPHIC RISKS OF HARM TO LIFE OR PROPERTY CAUSED BY A
25 WILDFIRE WITHIN A WILDLAND-URBAN INTERFACE AREA.

26 **SECTION 2.** In Colorado Revised Statutes, 23-31-301, **add**
27 (2)(b)(III), (2)(b)(IV), and (2)(b)(V) as follows:

1 **23-31-301. Colorado state forest service - powers and duties -**
2 **legislative declaration.** (2) (b) In addition to any other powers and
3 duties conferred upon the Colorado state forest service by law, the
4 Colorado state forest service may:

5 (III) COLLABORATE WITH THE DIVISION OF FIRE PREVENTION AND
6 CONTROL WITHIN THE DEPARTMENT OF PUBLIC SAFETY CREATED IN
7 SECTION 24-33.5-1201 (1)(a), AND WITH THE ASSISTANCE OF LOCAL
8 PUBLIC BODIES ENGAGED IN WILDFIRE PREVENTION AND MITIGATION
9 EFFORTS, IN COORDINATING THE STATE'S RESPONSE TO WILDFIRES WITHIN
10 WILDLAND-URBAN INTERFACE AREAS; COORDINATE THE ESTABLISHMENT
11 AND MAINTENANCE OF FIRE-ADAPTED COMMUNITIES TO ENSURE THAT
12 HUMAN POPULATION AND INFRASTRUCTURE ARE ABLE TO WITHSTAND A
13 WILDFIRE WITHOUT THE LOSS OF LIFE OR PROPERTY; AND IMPROVE
14 WILDFIRE RESPONSE BY ENSURING THAT ALL POLITICAL SUBDIVISIONS ARE
15 ABLE TO PARTICIPATE IN ESTABLISHING AND IMPLEMENTING SAFE,
16 EFFECTIVE, AND EFFICIENT RISK-BASED WILDFIRE MANAGEMENT
17 DECISIONS;

18 (IV) IN COLLABORATION WITH THE DIVISION OF FIRE PREVENTION
19 AND CONTROL WITHIN THE DEPARTMENT OF PUBLIC SAFETY CREATED IN
20 SECTION 24-33.5-1201 (1)(a), COORDINATE EFFORTS BY THE STATE TO
21 RESTORE AND MAINTAIN LANDSCAPES DAMAGED BY WILDFIRES TO ENSURE
22 THAT LANDSCAPES ARE RESILIENT TO WILDFIRE-RELATED DISTURBANCES
23 IN ACCORDANCE WITH FIRE MANAGEMENT OBJECTIVES AND EFFORTS TO
24 REDUCE THE RISKS TO WILDLIFE CAUSED BY WILDFIRES; AND

25 (V) COLLABORATE WITH THE DIVISION OF FIRE PREVENTION AND
26 CONTROL WITHIN THE DEPARTMENT OF PUBLIC SAFETY CREATED IN
27 SECTION 24-33.5-1201 (1)(a) TO ESTABLISH GUIDELINES AFFECTING THE

1 CONSTRUCTION AND MAINTENANCE OF HOMES AND ADJOINING OPEN
2 SPACE THAT WILL PREVENT OR MITIGATE THE CATASTROPHIC RISKS OF
3 HARM TO LIFE OR PROPERTY CAUSED BY A WILDFIRE WITHIN A
4 WILDLAND-URBAN INTERFACE AREA IN ACCORDANCE WITH SECTION
5 24-33.5-1203 (1)(z).

6 **SECTION 3.** In Colorado Revised Statutes, **add** article 30 to title
7 29 as follows:

8 **ARTICLE 30**
9 **Wildfire Prevention and Mitigation in**
10 **Wildland-urban Interface Areas by**
11 **Fire Protection Providers and Homeowners' Associations**

12 **29-30-101. Definitions.** AS USED IN THIS ARTICLE 30, UNLESS THE
13 CONTEXT OTHERWISE REQUIRES:

14 (1) "AGREEMENT" MEANS A COOPERATIVE AGREEMENT AS
15 AUTHORIZED BY THIS ARTICLE 30.

16 (2) "DIVISION" MEANS THE DIVISION OF FIRE PREVENTION AND
17 CONTROL WITHIN THE DEPARTMENT OF PUBLIC SAFETY CREATED IN
18 SECTION 24-33.5-1201 (1)(a).

19 (3) "FIRE PROTECTION PROVIDER" MEANS A COUNTY,
20 MUNICIPALITY, OR ANY FORM OF SPECIAL DISTRICT WITH PRIMARY
21 RESPONSIBILITY FOR FIRE SUPPRESSION WITHIN A PARTICULAR LAND AREA.

22 (4) "HOMEOWNERS' ASSOCIATION" MEANS AN ASSOCIATION OF
23 HOMEOWNERS WHO RESIDE WITHIN A PARTICULAR RESIDENTIAL
24 SUBDIVISION THAT IS LOCATED WHOLLY OR PARTIALLY WITHIN A
25 WILDLAND-URBAN INTERFACE AREA WHETHER THE ASSOCIATION IS
26 ORGANIZED AS A COMMON INTEREST COMMUNITY AS DEFINED IN SECTION
27 38-33.3-103 (8) OR OTHERWISE.

1 (5) "WILDLAND-URBAN INTERFACE" OR "WUI" HAS THE SAME
2 MEANING AS SET FORTH IN SECTION 23-31-310 (2)(f).

3 **29-30-102. Cooperative agreements - parties - requirements**

4 **- terms.** (1) THE GOVERNING BODY OF A FIRE PROTECTION PROVIDER MAY
5 ENTER INTO A COOPERATIVE AGREEMENT WITH A HOMEOWNERS'
6 ASSOCIATION IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

7 (2) A COOPERATIVE AGREEMENT AUTHORIZED BY THIS SECTION
8 MUST BE FOR A TERM OF NOT MORE THAN FIVE YEARS. ANY SUCH
9 AGREEMENT MAY BE RENEWED FOR ONE OR MORE ADDITIONAL FIVE-YEAR
10 TERMS AS MUTUALLY AGREED UPON BY THE PARTIES.

11 (3) (a) UNDER A COOPERATIVE AGREEMENT, A HOMEOWNERS'
12 ASSOCIATION MAY AGREE TO INVEST IN PREVENTION, PREPAREDNESS, AND
13 MITIGATION EFFORTS UNDER THE DIRECTION AND SUPERVISION OF THE
14 FIRE PROTECTION PROVIDER THAT WILL REDUCE THE RISKS OF A
15 CATASTROPHIC WILDFIRE TO HOMEOWNERS WHO ARE MEMBERS OF THE
16 HOMEOWNERS' ASSOCIATION WHO OWN HOMES WITHIN A WUI AREA.

17 (b) THE COOPERATIVE AGREEMENT MAY INCORPORATE THE
18 GUIDELINES ESTABLISHED BY THE DIVISION IN ACCORDANCE WITH
19 SECTION 24-33.5-1203 (1)(z) AFFECTING THE CONSTRUCTION AND
20 MAINTENANCE OF HOMES AND ADJOINING OPEN SPACE THAT WILL
21 PREVENT OR MITIGATE THE CATASTROPHIC RISKS OF HARM TO LIFE OR
22 PROPERTY CAUSED BY A WILDFIRE WITHIN A WUI AREA. INDIVIDUAL
23 HOMEOWNERS WHO ARE MEMBERS OF THE HOMEOWNERS' ASSOCIATION
24 MAY CLAIM THE TAX CREDIT AUTHORIZED BY SECTION 39-22-542 FOR
25 INCURRING SPECIFIED EXPENSES IN MAKING IMPROVEMENTS TO THE
26 HOMEOWNER'S PRINCIPAL RESIDENCE THAT SATISFY THE GUIDELINES IN
27 ACCORDANCE WITH THE PROVISIONS OF SECTION 39-22-542.

1 (4) ANY FIRE PROTECTION PROVIDER THAT IS A PARTY TO THE
2 AGREEMENT SHALL FILE A COPY OF AN EXECUTED AGREEMENT TO WHICH
3 IT IS A PARTY WITH THE DIVISION.

4 **SECTION 4.** In Colorado Revised Statutes, **add** 39-22-542 as
5 follows:

6 **39-22-542. Credit for making improvements to a homeowner's**
7 **principal residence to incorporate state guidelines for reducing the**
8 **risk of a catastrophic wildfire within a wildland-urban interface area**
9 **- legislative declaration - definitions - repeal.** (1) THE GENERAL
10 ASSEMBLY HEREBY FINDS AND DECLARES THAT THE INTENDED PURPOSE
11 OF THE TAX CREDIT CREATED IN THIS SECTION IS TO PROVIDE INCENTIVES
12 TO ENCOURAGE HOMEOWNERS WHO ARE MEMBERS OF HOMEOWNERS'
13 ASSOCIATIONS THAT HAVE ENTERED INTO COOPERATIVE AGREEMENTS
14 WITH FIRE PROTECTION PROVIDERS INCORPORATING GUIDELINES
15 AFFECTING THE CONSTRUCTION AND MAINTENANCE OF HOMES AND
16 ADJOINING OPEN SPACE WITHIN A WUI AREA TO MAKE IMPROVEMENTS TO
17 THEIR PRINCIPAL RESIDENCE THAT SATISFY SUCH GUIDELINES TO REDUCE
18 THE RISK OF A CATASTROPHIC WILDFIRE TO HOMES LOCATED IN SUCH
19 AREAS.

20 (2) AS USED IN THIS SECTION:

21 (a) "AGREEMENT" MEANS A COOPERATIVE AGREEMENT AS
22 AUTHORIZED BY SECTION 29-30-102 (1).

23 (b) "FOREST SERVICE" MEANS THE COLORADO STATE FOREST
24 SERVICE IDENTIFIED IN SECTION 23-31-310.

25 (c) "FIRE PROTECTION PROVIDER" MEANS A COUNTY,
26 MUNICIPALITY, OR ANY FORM OF SPECIAL DISTRICT WITH PRIMARY
27 RESPONSIBILITY FOR FIRE SUPPRESSION WITHIN A PARTICULAR LAND AREA.

1 (d) "HOMEOWNERS' ASSOCIATION" MEANS AN ASSOCIATION OF
2 HOMEOWNERS WHO RESIDE WITHIN A PARTICULAR RESIDENTIAL
3 SUBDIVISION THAT IS LOCATED WHOLLY OR PARTIALLY WITHIN A
4 WILDLAND-URBAN INTERFACE AREA WHETHER THE ASSOCIATION IS
5 ORGANIZED AS A COMMON INTEREST COMMUNITY AS DEFINED IN SECTION
6 38-33.3-103 (8) OR OTHERWISE.

7 (e) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL WHO
8 IS A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT HAS ENTERED INTO
9 A COOPERATIVE AGREEMENT WITH A FIRE PROTECTION PROVIDER IN
10 ACCORDANCE WITH SECTION 29-30-102 (1), WHICH AGREEMENT
11 INCORPORATES GUIDELINES AFFECTING THE CONSTRUCTION AND
12 MAINTENANCE OF HOMES AND ADJOINING OPEN SPACE WITHIN A WUI
13 AREA.

14 (f) "WILDLAND URBAN INTERFACE" OR "WUI" HAS THE SAME
15 MEANING AS IS SET FORTH IN SECTION 23-31-310 (2)(f).

16 (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (3)(b)(III) OF THIS
17 SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
18 1, 2022, BUT PRIOR TO JANUARY 1, 2027, A QUALIFIED TAXPAYER WHO
19 SATISFIES THE REQUIREMENTS OF THIS SECTION AND MEETS ANY
20 ADDITIONAL REQUIREMENTS ESTABLISHED BY THE DEPARTMENT OF
21 REVENUE OR THE FOREST SERVICE IS ALLOWED A CREDIT AGAINST THE
22 INCOME TAXES IMPOSED BY THIS ARTICLE 22 IN AN AMOUNT EQUAL TO
23 THE COST OF IMPROVEMENTS THE QUALIFIED TAXPAYER HAS MADE TO THE
24 TAXPAYER'S PRINCIPAL RESIDENCE TO SATISFY ANY GUIDELINES
25 INCORPORATED IN A COOPERATIVE AGREEMENT PURSUANT TO SECTION
26 29-30-102 OR FIVE THOUSAND DOLLARS, WHICHEVER IS LESS.

27 (b) (I) THE FOREST SERVICE IS RESPONSIBLE FOR ISSUING CREDIT

1 CERTIFICATES TO QUALIFIED TAXPAYERS. THE CREDIT CERTIFICATE MUST
2 IDENTIFY THE TAXPAYER AND CERTIFY THAT THE INDIVIDUAL MEETS THE
3 REQUIREMENTS SET FORTH IN THIS SECTION.

4 (II) TO CLAIM THE CREDIT UNDER THIS SECTION, THE INDIVIDUAL
5 MUST INCLUDE THE CREDIT CERTIFICATE WITH THE INCOME TAX RETURN
6 FILED WITH THE DEPARTMENT OF REVENUE.

7 (III) THE FOREST SERVICE SHALL TRACK ALL CREDIT CERTIFICATES
8 ISSUED UNDER THIS SECTION IN EACH INCOME TAX YEAR AND, WHEN THE
9 TOTAL AMOUNT OF CREDIT CERTIFICATES ISSUED EQUALS ONE MILLION
10 DOLLARS PER INCOME TAX YEAR, SHALL CEASE ISSUING CREDIT
11 CERTIFICATES IN THAT INCOME TAX YEAR. UNTIL THE ONE MILLION
12 DOLLAR PER INCOME TAX YEAR CAP IS REACHED, THE CREDIT
13 CERTIFICATES MUST BE ISSUED IN THE ORDER IN WHICH THEY ARE
14 REQUESTED.

15 (4) IF THE AMOUNT OF THE CREDIT ALLOWED IN THIS SECTION
16 EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE
17 INDIVIDUAL'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE CREDIT
18 IS BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET
19 AGAINST INCOME TAXES IN THE CURRENT INCOME TAX YEAR MAY BE
20 CARRIED FORWARD AND USED AS A CREDIT AGAINST SUBSEQUENT YEARS'
21 INCOME TAX LIABILITY FOR A PERIOD NOT TO EXCEED FIVE YEARS AND
22 MUST BE APPLIED FIRST TO THE EARLIEST INCOME TAX YEARS POSSIBLE.
23 ANY CREDIT REMAINING AFTER THE PERIOD MAY NOT BE REFUNDED OR
24 CREDITED TO THE INDIVIDUAL.

25 (5) NO LATER THAN JANUARY 1, 2023, AND NO LATER THAN
26 JANUARY 1 OF EACH YEAR THEREAFTER THROUGH JANUARY 1, 2027, THE
27 FOREST SERVICE SHALL PROVIDE THE DEPARTMENT OF REVENUE WITH AN

1 ELECTRONIC REPORT OF THE TAXPAYERS RECEIVING A CREDIT
2 CERTIFICATE AS ALLOWED IN THIS SECTION FOR THE PREVIOUS CALENDAR
3 YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

4 (a) EACH TAXPAYER'S NAME;

5 (b) EACH TAXPAYER'S SOCIAL SECURITY NUMBER OR FEDERAL
6 EMPLOYEE IDENTIFICATION NUMBER; AND

7 (c) THE AMOUNT OF THE CREDIT ALLOCATED.

8 (6) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2032.

9 **SECTION 5. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly
12 (August 2, 2019, if adjournment sine die is on May 3, 2019); except that,
13 if a referendum petition is filed pursuant to section 1 (3) of article V of
14 the state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2020 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.