

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

DRAFT
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BILL 3

LLS NO. 22-0176.01 Richard Sweetman x4333

INTERIM COMMITTEE BILL

Wildfire Matters Review Committee

BILL TOPIC: "Wildfire Mitigation And Recovery"

A BILL FOR AN ACT

101 **CONCERNING HEALTHY FORESTS, AND, IN CONNECTION THEREWITH,**
102 **CREATING THE WILDFIRE MITIGATION AND RECOVERY GRANT**
103 **PROGRAM AND DIRECTING THE COLORADO STATE FOREST**
104 **SERVICE TO MAKE UPGRADES AND REPAIRS TO THE STATE**
105 **FOREST SERVICE NURSERY.**

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://leg.colorado.gov/>.)

Wildfire Matters Review Committee. Section 1 of the bill creates the wildfire mitigation and recovery grant program (grant

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

program) in the department of public health and environment (department) to provide grants to help counties with forested areas prevent and recover from wildfire incidents and ensure that such efforts are undertaken in a manner that reduces the amount of carbon that enters the atmosphere. In expending grant money, a county, to the extent practicable, shall ensure that biomass that is removed from forests is recycled or disposed of in a manner that reduces the amount of carbon that enters the atmosphere.

The department shall administer the grant program and, subject to available appropriations, award grants out of money annually appropriated to the department for the grant program. The department shall review grant applications in consultation with the division of fire prevention and control in the department of public safety and with the Colorado forest health council in the department of natural resources.

The state board of health shall promulgate rules as needed to implement the grant program. The grant program is repealed, effective September 1, 2028. Before the repeal, the grant program is scheduled for a sunset review by the department of regulatory agencies. **Section 2** schedules this review.

Section 3 makes legislative findings concerning the Colorado state forest service nursery, requires the state forest service to make certain upgrades and repairs to the nursery and contract with professionals to conduct an analysis of investments necessary for the nursery to respond to wildfires and other incidents (analysis), and requires the general assembly to appropriate money to the Colorado state university system in the 2021-22 state fiscal year for allocation to the state forest service to make the specified upgrades and repairs to the nursery, hire professionals, and conduct the analysis.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 13.5 to
3 title 25 as follows:

4 **ARTICLE 13.5**

5 **Wildfire Mitigation and Recovery Grant Program**

6 **25-13.5-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 13.5
7 IS THE "WILDFIRE MITIGATION AND RECOVERY GRANT PROGRAM ACT".

8 **25-13.5-102. Definitions.** AS USED IN THIS ARTICLE 13.5, UNLESS
9 THE CONTEXT OTHERWISE REQUIRES:

1 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
2 AND ENVIRONMENT.

3 (2) "GRANT PROGRAM" MEANS THE WILDFIRE MITIGATION AND
4 RECOVERY GRANT PROGRAM CREATED IN SECTION 25-13.5-103.

5 (3) "STATE BOARD" MEANS THE STATE BOARD OF HEALTH
6 CREATED IN SECTION 25-1-103.

7 **25-13.5-103. Wildfire mitigation and recovery grant program**

8 **- created - rules.** (1) THERE IS HEREBY CREATED IN THE DEPARTMENT
9 THE WILDFIRE MITIGATION AND RECOVERY GRANT PROGRAM TO PROVIDE
10 GRANTS IN ORDER TO:

11 (a) HELP COUNTIES WITH FORESTED AREAS PREVENT AND RECOVER
12 FROM WILDFIRE INCIDENTS BY REMOVING DEADWOOD AND OTHER
13 POTENTIAL WILDFIRE FUEL AS WELL AS DEBRIS THAT HAS RESULTED FROM
14 A WILDFIRE INCIDENT; AND

15 (b) ENSURE THAT SUCH EFFORTS ARE UNDERTAKEN IN A MANNER
16 THAT REDUCES THE AMOUNT OF CARBON THAT ENTERS THE ATMOSPHERE.

17 (2) GRANT RECIPIENTS MAY USE THE MONEY RECEIVED THROUGH
18 THE GRANT PROGRAM FOR THE FOLLOWING PURPOSES:

19 (a) TO PURCHASE OR LEASE EQUIPMENT, INCLUDING:

20 (I) MOBILE WOOD CHIPPERS TO ASSIST WITH THE REMOVAL OF
21 DEADWOOD AND OTHER POTENTIAL WILDFIRE FUEL AS WELL AS DEBRIS
22 THAT HAS RESULTED FROM A WILDFIRE INCIDENT; AND

23 (II) AIR CURTAIN BURNERS TO SAFELY INCINERATE BIOMASS AND
24 PRODUCE BIOCHAR THAT CAN BE USED FOR AGRICULTURAL FERTILIZATION
25 AND SOIL RESTORATION;

26 (b) TO HIRE AND COMPENSATE LABORERS TO ASSIST WITH THE
27 REMOVAL OF DEADWOOD AND OTHER POTENTIAL WILDFIRE FUEL AS WELL

1 AS DEBRIS THAT HAS RESULTED FROM A WILDFIRE INCIDENT; AND

2 (c) TO INITIATE AND MAINTAIN REFORESTATION EFFORTS,
3 INCLUDING THE PLANTING OF TREE SEEDLINGS, AFTER A WILDFIRE
4 INCIDENT.

5 (3) IN EXPENDING GRANT MONEY AS DESCRIBED IN SUBSECTION (2)
6 OF THIS SECTION, A COUNTY, TO THE EXTENT PRACTICABLE, SHALL ENSURE
7 THAT BIOMASS THAT IS REMOVED FROM FORESTS IS RECYCLED OR
8 DISPOSED OF IN A MANNER THAT REDUCES THE AMOUNT OF CARBON THAT
9 ENTERS THE ATMOSPHERE, INCLUDING THE SALE OR DONATION OF:

10 (a) SALVAGEABLE TIMBER;

11 (b) UNSALVAGEABLE TIMBER THAT IS REDUCED TO CHIP OR PELLET
12 FORM; AND

13 (c) UNSALVAGEABLE BIOMASS THAT HAS BEEN RENDERED AS
14 SUITABLE FOR COMPOSTING.

15 (4) THE DEPARTMENT SHALL ADMINISTER THE GRANT PROGRAM
16 AND, SUBJECT TO AVAILABLE APPROPRIATIONS, SHALL AWARD GRANTS AS
17 PROVIDED IN THIS ARTICLE 13.5. GRANTS SHALL BE PAID OUT OF MONEY
18 ANNUALLY APPROPRIATED FOR THE GRANT PROGRAM, AS DESCRIBED IN
19 SECTION 25-13.5-106.

20 (5) PURSUANT TO ARTICLE 4 OF TITLE 24, THE STATE BOARD SHALL
21 PROMULGATE SUCH RULES AS ARE REQUIRED IN THIS ARTICLE 13.5 AND
22 SUCH ADDITIONAL RULES AS MAY BE NECESSARY TO IMPLEMENT THE
23 GRANT PROGRAM. AT A MINIMUM, THE RULES MUST SPECIFY THE TIME
24 FRAMES FOR APPLYING FOR GRANTS AND THE FORM OF THE GRANT
25 PROGRAM APPLICATION.

26 **25-13.5-104. Wildfire mitigation and recovery grant program**
27 **- application - criteria - awards.** (1) TO RECEIVE A GRANT, A BOARD OF

1 COUNTY COMMISSIONERS MUST SUBMIT AN APPLICATION ON BEHALF OF ITS
2 COUNTY TO THE DEPARTMENT IN ACCORDANCE WITH RULES
3 PROMULGATED BY THE STATE BOARD. AT A MINIMUM, THE APPLICATION
4 MUST INCLUDE THE FOLLOWING INFORMATION:

5 (a) THE NAME OF THE COUNTY AND THE PORTION OF THE COUNTY
6 IN WHICH THE COUNTY PLANS TO IMPLEMENT WILDFIRE MITIGATION OR
7 RECOVERY EFFORTS; AND

8 (b) THE AMOUNT OF GRANT MONEY THAT THE COUNTY SEEKS,
9 INCLUDING AN ITEMIZATION OF HOW THE COUNTY PLANS TO SPEND SUCH
10 MONEY.

11 (2) THE DEPARTMENT SHALL REVIEW GRANT APPLICATIONS IN
12 CONSULTATION WITH THE DIVISION OF FIRE PREVENTION AND CONTROL IN
13 THE DEPARTMENT OF PUBLIC SAFETY AND THE COLORADO FOREST HEALTH
14 COUNCIL CREATED IN SECTION 23-31-316. IN AWARDING GRANTS, THE
15 DEPARTMENT SHALL CONSIDER THE INPUT OF THE DIRECTOR OF THE
16 DIVISION OF FIRE PREVENTION AND CONTROL AND THE INPUT OF THE
17 COLORADO FOREST HEALTH COUNCIL.

18 (3) THE DEPARTMENT SHALL DISTRIBUTE THE GRANT MONEY
19 WITHIN THIRTY DAYS AFTER THE DEPARTMENT AWARDS A GRANT.

20 **25-13.5-105. Reporting requirements.** (1) ON OR BEFORE
21 NOVEMBER 1, 2022, AND ON OR BEFORE NOVEMBER 1 EACH YEAR
22 THEREAFTER, EACH COUNTY THAT RECEIVES A GRANT THROUGH THE
23 GRANT PROGRAM SHALL SUBMIT A REPORT TO THE DEPARTMENT. AT A
24 MINIMUM, THE REPORT MUST INCLUDE AN ITEMIZATION OF HOW THE
25 GRANT MONEY WAS EXPENDED.

26 (2) ON OR BEFORE JANUARY 1, 2023, AND ON OR BEFORE JANUARY
27 1 EACH YEAR THEREAFTER FOR THE DURATION OF THE GRANT PROGRAM,

1 THE DEPARTMENT SHALL SUBMIT A SUMMARIZED REPORT CONCERNING
2 THE GRANT PROGRAM TO THE AGRICULTURE AND NATURAL RESOURCES
3 COMMITTEE OF THE SENATE AND THE ENERGY AND ENVIRONMENT
4 COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR
5 COMMITTEES, AND TO THE GOVERNOR. AT A MINIMUM, THE REPORT MUST
6 INCLUDE IDENTIFICATION OF EACH COUNTY THAT WAS AWARDED A GRANT
7 DURING THE PREVIOUS TWELVE MONTHS, THE AMOUNT OF EACH GRANT,
8 AND HOW THE GRANT MONEY WAS USED BY THE COUNTY.

9 (3) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
10 REPORTING REQUIREMENTS SET FORTH IN THIS SECTION CONTINUE UNTIL
11 THE GRANT PROGRAM REPEALS PURSUANT TO SECTION 25-13.5-107.

12 **25-13.5-106. Funding for grant program.** (1) THE GENERAL
13 ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEY FROM THE GENERAL
14 FUND TO THE DEPARTMENT TO IMPLEMENT THE GRANT PROGRAM. THE
15 DEPARTMENT MAY USE UP TO THREE PERCENT OF THE MONEY ANNUALLY
16 APPROPRIATED FOR THE GRANT PROGRAM TO PAY THE DIRECT AND
17 INDIRECT COSTS THAT THE DEPARTMENT INCURS IN ADMINISTERING THE
18 GRANT PROGRAM.

19 (2) ANY MONEY THAT IS APPROPRIATED TO THE DEPARTMENT
20 PURSUANT TO SUBSECTION (1) OF THIS SECTION AND NOT EXPENDED BY
21 THE DEPARTMENT IN THE STATE FISCAL YEAR FOR WHICH IT IS
22 APPROPRIATED REMAINS WITH THE DEPARTMENT TO IMPLEMENT THE
23 GRANT PROGRAM IN THE FOLLOWING STATE FISCAL YEAR AND DOES NOT
24 REVERT TO THE GENERAL FUND.

25 **25-13.5-107. Repeal of article.** THIS ARTICLE 13.5 IS REPEALED,
26 EFFECTIVE SEPTEMBER 1, 2028. BEFORE THE REPEAL, THE GRANT
27 PROGRAM IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION

1 24-34-104.

2 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **add**
3 (29)(a)(XVII) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.** (29) (a) The following agencies, functions, or both,
7 are scheduled for repeal on September 1, 2028:

8 (XVII) THE WILDFIRE MITIGATION AND RECOVERY GRANT
9 PROGRAM CREATED IN SECTION 25-13.5-103.

10 **SECTION 3.** In Colorado Revised Statutes, **add** 23-31-318 as
11 follows:

12 **23-31-318. Forest service nursery - necessary upgrades and**
13 **repairs - legislative declaration - definition - appropriation - reports**
14 **- repeal.** (1) **Legislative declaration.** (a) THE GENERAL ASSEMBLY
15 FINDS THAT:

16 (I) IN 2020, COLORADO EXPERIENCED A RECORD-BREAKING
17 WILDFIRE SEASON THAT RESULTED IN THE THREE LARGEST WILDFIRES IN
18 THE STATE'S HISTORY;

19 (II) COLORADO WILL CONTINUE TO EXPERIENCE DISTURBANCES IN
20 ITS FORESTS FROM INSECT OUTBREAKS AND UNCHARACTERISTIC WILDFIRES
21 DUE TO THE CONDITION OF THE FORESTS AND THE IMPACTS OF DROUGHT
22 AND CLIMATE CHANGE;

23 (III) ONE NEGATIVE OUTCOME OF WILDFIRES IS THAT THE SEED
24 SOURCE NEEDED TO NATURALLY REGENERATE THE FOREST CAN BE
25 CONSUMED BY THE FIRE, WHICH CAN REDUCE OR ELIMINATE THE
26 OPPORTUNITY FOR THE AREAS TO RECOVER WITHOUT HUMAN
27 INTERVENTION; AND

1 (IV) THERE IS A CRITICAL NEED TO REFOREST NONFEDERAL LANDS
2 AFTER A DESTRUCTIVE INSECT OUTBREAK, FLOOD, OR WILDFIRE IN ORDER
3 TO REESTABLISH FOREST COVER, REDUCE CARBON EMISSIONS, REDUCE THE
4 RISK OF FLOOD, AND STABILIZE WATERSHEDS AND RIPARIAN AREAS.

5 (b) THE GENERAL ASSEMBLY ALSO FINDS THAT:

6 (I) THE COLORADO STATE FOREST SERVICE NURSERY PLAYS A
7 CRITICAL ROLE IN PROVIDING PLANT MATERIALS FOR LANDOWNERS AND
8 LAND MANAGERS IN COLORADO;

9 (II) LOCATED ON THE FOOTHILLS CAMPUS OF COLORADO STATE
10 UNIVERSITY IN FORT COLLINS, THE NURSERY IS THE STATE'S LEADER IN
11 PRODUCING LOW-COST, COLORADO-GROWN SEEDLING TREES AND SHRUBS
12 FOR CONSERVATION PURPOSES;

13 (III) DUE TO OUTDATED INFRASTRUCTURE AND LIMITED GROWING
14 SPACE, THE NURSERY HAS NOT BEEN ABLE TO LEVERAGE ITS LIMITED
15 CAPACITY AND RESOURCES TO ASSIST WITH EFFORTS TO INCREASE
16 REFORESTATION IN POST-DISTURBANCE AREAS AND REDUCE CARBON
17 EMISSIONS; AND

18 (IV) AN INVESTMENT TO UPGRADE, RESTORE, AND REPAIR THE
19 SEED STORAGE AND CLEANING FACILITIES AND OTHER INFRASTRUCTURE
20 OF THE NURSERY, AS INFORMED BY AN ANALYSIS TO BE CONDUCTED BY
21 PROFESSIONALS WITH EXPERTISE IN NURSERY MANAGEMENT AND
22 REFORESTATION, WILL IMPROVE THE NURSERY'S PRODUCTION
23 DRAMATICALLY AND HELP EXPEDITE AND IMPROVE THE EFFICACY OF
24 PLANTING RESPONSE FOLLOWING WILDFIRE, FLOOD, INSECT, AND DISEASE
25 INCIDENTS.

26 (c) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT
27 INVESTING IN THE INFRASTRUCTURE OF THE COLORADO STATE FOREST

1 SERVICE NURSERY IS CRITICALLY IMPORTANT TO THE ECOLOGY OF THE
2 STATE AND THE WELFARE OF ITS RESIDENTS AND VISITORS.

3 (2) **Definition.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
4 OTHERWISE REQUIRES, "NURSERY" MEANS THE COLORADO STATE FOREST
5 SERVICE NURSERY LOCATED ON THE FOOTHILLS CAMPUS OF COLORADO
6 STATE UNIVERSITY IN FORT COLLINS AND OPERATED BY THE COLORADO
7 STATE FOREST SERVICE.

8 (3) **Nursery managers.** TO IMPROVE ITS ADMINISTRATION, THE
9 NURSERY SHALL HIRE TWO FULL-TIME NURSERY MANAGERS, AT LEAST ONE
10 OF WHOM SHALL HAVE SUBSTANTIAL PROFESSIONAL EXPERTISE IN SEED
11 COLLECTION, SEED STORAGE, SEED CLEANING, AND REFORESTATION.

12 (4) **Capacity, expertise, and infrastructure analysis.** TO GUIDE
13 FURTHER INVESTMENT IN THE MODERNIZATION OF THE NURSERY, THE
14 COLORADO STATE FOREST SERVICE SHALL CONTRACT WITH NURSERY
15 MANAGEMENT AND REFORESTATION PROFESSIONALS TO CONDUCT AN
16 ANALYSIS OF PRIORITY INVESTMENT, CAPACITY, AND KNOWLEDGE
17 INVESTMENTS THAT ARE NECESSARY FOR THE NURSERY TO ADDRESS
18 REFORESTATION NEEDS IN RESPONSE TO MORE FREQUENT AND INTENSE
19 WILDFIRE, FLOOD, INSECT, AND DISEASE INCIDENTS.

20 (5) **Appropriation.** FOR THE 2021-22 STATE FISCAL YEAR, THE
21 GENERAL ASSEMBLY SHALL APPROPRIATE MONEY TO THE COLORADO
22 STATE UNIVERSITY SYSTEM FOR ALLOCATION TO AND EXPENDITURE BY
23 THE COLORADO STATE FOREST SERVICE FOR IMPROVEMENTS TO THE
24 NURSERY, TO HIRE NEW PROFESSIONAL STAFF, AND TO CONDUCT THE
25 CAPACITY, EXPERTISE, AND INFRASTRUCTURE ANALYSIS, AS SPECIFIED IN
26 THIS SECTION.

27 (6) **Reporting.** NO LATER THAN JANUARY 1, 2023, AND NO LATER

1 THAN JANUARY 1 OF ANY OTHER YEAR IN WHICH THE COLORADO STATE
2 FOREST SERVICE EXPENDS MONEY APPROPRIATED TO THE COLORADO
3 STATE UNIVERSITY SYSTEM PURSUANT TO THIS SECTION, THE STATE
4 FORESTER SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE OF
5 THE GENERAL ASSEMBLY; THE AGRICULTURE, LIVESTOCK, AND WATER
6 COMMITTEE OF THE HOUSE OF REPRESENTATIVES; AND THE AGRICULTURE
7 AND NATURAL RESOURCES COMMITTEE OF THE SENATE, OR ANY
8 SUCCESSOR COMMITTEES, CONCERNING THE USE OF MONEY RECEIVED BY
9 THE COLORADO STATE FOREST SERVICE PURSUANT TO THIS SECTION.

10 (7) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1,
11 2025.

12 **SECTION 4. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly; except
15 that, if a referendum petition is filed pursuant to section 1 (3) of article V
16 of the state constitution against this act or an item, section, or part of this
17 act within such period, then the act, item, section, or part will not take
18 effect unless approved by the people at the general election to be held in
19 November 2022 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.