

CHAPTER 232

PUBLIC UTILITIES

SENATE BILL 21-235

BY SENATOR(S) Jaquez Lewis and Priola, Bridges, Donovan, Fenberg, Garcia, Ginal, Gonzales, Kolker, Moreno, Pettersen, Rodriguez, Simpson, Winter;
also REPRESENTATIVE(S) Bernett and McCormick, Benavidez, Cutter, Duran, Esgar, Exum, Gonzales-Gutierrez, Herod, Hooton, Jackson, Lontine, Lynch, McCluskie, McLachlan, Mullica, Pelton, Roberts, Snyder, Titone, Valdez D., Will.

AN ACT

CONCERNING ADDITIONAL FUNDING FOR PROGRAMS OF THE DEPARTMENT OF AGRICULTURE TO SUPPORT INCREASED EFFICIENCY IN AGRICULTURAL OPERATIONS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly finds, determines, and declares that:

(a) The Colorado department of agriculture's advancing Colorado's renewable energy and energy efficiency program, also known as "ACRE³", promotes the development and implementation of renewable energy and energy efficiency projects for Colorado's agricultural producers and processors;

(b) ACRE³ is Colorado's principal source of state-level support for agricultural energy management, providing financial and technical assistance and education to help agricultural producers and processors cut energy costs, develop their own energy resources, and create markets for agriculturally derived energy and fuels;

(c) Energy efficiency measures and renewable energy technologies are effective strategies to make Colorado's agricultural businesses more economically competitive and sustainable;

(d) Healthy soils support rural communities by increasing the prosperity of farming and ranching families and supporting the local food and agricultural businesses upon which they rely;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(e) Healthy soils have important environmental benefits, including improved air and water quality, soil structural integrity, erosion prevention, and nutrient cycling; increased biological and microbiological diversity; and carbon sequestration;

(f) Healthy soils can increase the profitability of agricultural producers by reducing labor and supply costs and increasing yields and resilience to extreme weather events, including drought and heat;

(g) Supporting voluntary soil health, renewable energy, and energy efficiency projects is vital to a strong and prosperous future for Colorado's food and agricultural industry, generating an estimated forty-seven billion dollars of economic activity annually and supporting nearly one hundred ninety-five thousand jobs; and

(h) Therefore, it is in the public interest to enhance the level of financial support provided to both the ACRE³ program and the department's soil health programs.

SECTION 2. In Colorado Revised Statutes, 35-1-104, **add** (1)(ff) as follows:

35-1-104. Functions, powers, and duties - rules - repeal. (1) The department has and shall exercise the following functions, powers, and duties:

(ff) (I) TO IMPLEMENT VOLUNTARY SOIL HEALTH PROGRAMS.

(II) NO LATER THAN JANUARY 31 OF EACH YEAR, THE DEPARTMENT SHALL PREPARE AND MAKE AVAILABLE TO THE PUBLIC A REPORT ON ITS OFFICIAL WEBSITE THAT MUST CONTAIN THE FOLLOWING INFORMATION FOR THE PREVIOUS YEAR:

(A) AN ACCOUNTING OF ALL MONEY RECEIVED AND SPENT FOR THE PURPOSE ENUMERATED IN SUBSECTION (1)(ff)(I) OF THIS SECTION; AND

(B) A DESCRIPTION OF ACTIVITIES UNDERTAKEN, INCLUDING THE NUMBER AND TYPE OF GRANT-FUNDED PROJECTS AND THE EDUCATIONAL AND STAKEHOLDER ENGAGEMENT ACTIVITIES.

(III) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I):

(A) NO LATER THAN JANUARY 31 OF EACH YEAR, THE DEPARTMENT SHALL SUBMIT THE REPORT PREPARED IN ACCORDANCE WITH SUBSECTION (1)(ff)(II) OF THIS SECTION TO THE AGRICULTURE AND NATURAL RESOURCES COMMITTEE OF THE SENATE AND THE AGRICULTURE, LIVESTOCK, AND WATER COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES; AND

(B) THE DEPARTMENT SHALL ANNUALLY REPORT ON ITS ACTIVITIES UNDER THIS SUBSECTION (1)(ff) AT THE HEARING REQUIRED BY THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

(IV) THIS SUBSECTION (1)(ff) IS REPEALED, EFFECTIVE DECEMBER 31, 2022.

SECTION 3. In Colorado Revised Statutes, 35-75-205, **amend** (1); and **add** (4)

as follows:

35-75-205. Grants, loans and loan guarantees, and equity investments - agriculture value-added cash fund - created - definition - repeal.

(1) (a) ~~Moneys~~ MONEY received by the board from public or private gifts, grants, or donations or from any other source shall be forwarded to the state treasurer and shall be credited to the agriculture value-added cash fund, which fund is hereby created. ~~Moneys~~ MONEY in the fund ~~are~~ IS continuously appropriated to the board and shall be used for the purpose of preparing criteria and reviewing applications as provided in section 35-75-204 and for financial or technical assistance to agricultural projects, project concepts, and research as approved by the board. All interest earned on the investment of ~~moneys~~ MONEY in the fund shall be credited to the fund. The board may provide or facilitate grants, loans and loan guarantees, and equity investments for agricultural projects, project concepts, or research; except that such grants, loans and loan guarantees, and equity investments shall be limited to two million dollars per project AND, OF THE MONEY TRANSFERRED TO THE FUND PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, THE BOARD SHALL ALLOCATE AT LEAST ONE HUNDRED FIFTY THOUSAND DOLLARS TO RESEARCH, GUIDANCE, TECHNICAL ASSISTANCE, FEASIBILITY STUDIES, AND PROJECTS RELATED TO AGRIVOLTAICS. Grants, loans and loan guarantees, and equity investments may only be provided to feasible projects and for an amount that is the least amount necessary to cause the project to occur, as determined by the board. The board may structure the grants, loans and loan guarantees, and equity investments in a way that facilitates the project and also provides for a compensatory return on investment or loan payment to the board based on the risk of the project. Any ~~moneys~~ MONEY credited to the agriculture value-added cash fund and unexpended at the end of any given fiscal year shall remain in the fund and shall not revert to the general fund or any other fund.

(b) AS USED IN THIS SECTION, "AGRIVOLTAICS" MEANS ONE OR MORE SOLAR ENERGY GENERATION FACILITIES CO-LOCATED ON THE SAME PARCEL OF LAND AS AGRICULTURAL PRODUCTION, INCLUDING CROP PRODUCTION, GRAZING, APIARIES, OR OTHER PRODUCTION OF AGRICULTURAL COMMODITIES FOR SALE IN THE RETAIL OR WHOLESALE MARKET.

(4) (a) WITHIN THREE DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (4), THE STATE TREASURER SHALL TRANSFER THREE MILLION DOLLARS FROM THE GENERAL FUND TO THE AGRICULTURE VALUE-ADDED CASH FUND. THE BOARD SHALL USE THE MONEY TRANSFERRED UNDER THIS SUBSECTION (4)(a) IN A MANNER CONSISTENT WITH SUBSECTIONS (2) AND (3) OF THIS SECTION; EXCEPT THAT THE BOARD MAY RETAIN UP TO TWO PERCENT OF THE MONEY TO DEFRAY THE DEPARTMENT'S COSTS OF ADMINISTRATION.

(b) (I) ON JANUARY 15, 2022, AND SEMIANNUALLY FOR TWO YEARS AFTER THE DATE OF THE FIRST GRANT AWARDED OR LOAN ISSUED USING MONEY TRANSFERRED UNDER SUBSECTION (4)(a) OF THIS SECTION, THE DEPARTMENT SHALL REPORT THE AMOUNTS OF ALL SUCH GRANTS AND LOANS AND THE PURPOSES TO WHICH THE PROCEEDS WERE DEDICATED:

(A) TO THE OFFICE OF STATE PLANNING AND BUDGETING, THE AGRICULTURE AND NATURAL RESOURCES COMMITTEE OF THE SENATE, AND THE AGRICULTURE,

LIVESTOCK, AND WATER COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THE SUCCESSORS TO THOSE ENTITIES; AND

(B) TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH SECTION 24-1-136 (9).

(II) IN ADDITION TO MAKING THE REPORTS SPECIFIED IN SUBSECTION (4)(b)(I) OF THIS SECTION, THE DEPARTMENT SHALL INCORPORATE THE INFORMATION CONTAINED IN THOSE REPORTS INTO ITS ANNUAL PRESENTATION UNDER THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

(c) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2023.

SECTION 4. Appropriations. (1) For the 2020-21 state fiscal year, \$3,000,000 is appropriated to the department of agriculture for use by the commissioner's office. This appropriation is from the agriculture value-added cash fund created in section 35-75-205 (1), C.R.S. To implement this act, the commissioner may use this appropriation to make grants to implement renewable energy and energy efficiency projects, conduct energy audits, and provide technical assistance. Any money appropriated in this subsection (1) not expended prior to July 1, 2021, is further appropriated to the department for the 2021-22 state fiscal year for the same purpose.

(2) For the 2020-21 state fiscal year, \$2,000,000 is appropriated to the department of agriculture for use by the conservation services division. This appropriation is from the general fund. The division may use this appropriation in accordance with section 35-1-104 (1)(ff), C.R.S. Any money appropriated in this subsection (2) not expended prior to July 1, 2021, is further appropriated to the department for the 2021-22 and 2022-23 state fiscal years for the same purposes; except that the department of agriculture shall expend all of the money thus appropriated on or before December 31, 2022, and, of the total amount expended by that date, the department shall expend at least \$1,000,000 in grants to conservation districts.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 15, 2021