

CHAPTER 235

NATURAL RESOURCES

SENATE BILL 13-269

BY SENATOR(S) Nicholson and Roberts, Schwartz, Aguilar, Baumgardner, Carroll, Giron, Guzman, Heath, Hodge, Hudak, Johnston, Jones, Kefalas, Kerr, King, Morse, Newell, Steadman, Tochtrop, Todd, Ulibarri, Cadman, Crowder; also REPRESENTATIVE(S) Coram and McLachlan, Fischer, Duran, Garcia, Gardner, Ginal, Hamner, Labuda, Lebsock, Levy, Mitsch Bush, Moreno, Pettersen, Rankin, Rosenthal, Salazar, Schafer, Singer, Vigil, Wright, Young, Ferrandino.

AN ACT

CONCERNING THE CREATION OF A GRANT PROGRAM TO ASSIST WITH EFFORTS TO REDUCE THE RISK OF CATASTROPHIC WILDFIRES TO FORESTED LANDS IN COLORADO.

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

SECTION 1. In Colorado Revised Statutes, **add** part 4 to article 7 of title 36 as follows:

**PART 4
WILDFIRE RISK REDUCTION GRANT PROGRAM**

36-7-401. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) SINCE 2002, MORE THAN THIRTY-EIGHT THOUSAND DAMAGING WILDFIRES OCCURRED IN COLORADO, INCLUDING THE HAYMAN FIRE, WHICH WAS THE LARGEST CATASTROPHIC WILDFIRE IN COLORADO HISTORY. THE HAYMAN FIRE BURNED ONE HUNDRED THIRTY-EIGHT THOUSAND ONE HUNDRED FOURTEEN ACRES, DESTROYED ONE HUNDRED THIRTY-THREE HOMES AND NUMEROUS OTHER STRUCTURES, CONTRIBUTED TO AIR POLLUTION, AND DAMAGED SEVERAL WATERSHEDS. THE HAYMAN FIRE COST COLORADO THIRTY-NINE MILLION ONE HUNDRED THOUSAND DOLLARS.

(b) ADDITIONALLY, IN 2010, THE FOUR MILE CANYON WILDFIRE DESTROYED ONE HUNDRED SIXTY-NINE HOMES, BURNED SIX THOUSAND THREE HUNDRED EIGHTY-EIGHT ACRES, AND COST TEN MILLION DOLLARS IN FIREFIGHTING EFFORTS;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(c) IN 2011, THERE WERE FOUR THOUSAND THREE HUNDRED TWENTY WILDFIRES REPORTED IN COLORADO; AND

(d) IN 2012, MORE THAN FIVE THOUSAND WILDFIRES OCCURRED IN COLORADO, INCLUDING THE HIGH PARK WILDFIRE, THE LOWER NORTH FORK WILDFIRE, AND THE WALDO CANYON WILDFIRE. SIX PERSONS LOST THEIR LIVES IN WILDFIRES THAT YEAR. ADDITIONALLY, THE WILDFIRES DESTROYED MORE THAN SIX HUNDRED FORTY-EIGHT STRUCTURES, BURNED MORE THAN THREE HUNDRED EIGHTY-FOUR THOUSAND EIGHT HUNDRED THREE ACRES, CAUSED AT LEAST FIVE HUNDRED THIRTY-EIGHT MILLION DOLLARS IN PROPERTY LOSS, AND COST COLORADO MORE THAN FORTY-EIGHT MILLION DOLLARS IN FIREFIGHTING EFFORTS.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) IN THE PAST THIRTY YEARS, THE COLORADO TIMBER INDUSTRY HAS DECLINED, THUS RESULTING IN LESS WOOD BEING REMOVED FROM OUR FORESTS AND LEAVING MORE WOOD MATERIAL TO FUEL DAMAGING WILDFIRES. THE NUMBER OF SAWMILLS IN COLORADO HAS DECLINED FROM EIGHTY-FOUR IN 1982 TO THIRTY-ONE IN 2007.

(b) THE EXISTENCE OF POOR FOREST HEALTH CONDITIONS, COMBINED WITH OUR CURRENT DROUGHT CONDITIONS, INDICATE THE POTENTIAL FOR MORE CATASTROPHIC WILDFIRES IN THE FUTURE;

(c) DAMAGING WILDFIRES OCCUR REGULARLY IN COLORADO DUE IN PART TO INADEQUATE EFFORTS TO ACHIEVE APPROPRIATE DENSITIES IN OUR FORESTS. INCREASING OUR EFFORTS TO THIN THE FORESTS IN COLORADO WOULD KEEP OUR FORESTS HEALTHY AND HELP REDUCE RISKS ASSOCIATED WITH CATASTROPHIC WILDFIRES THAT ENDANGER LIVES, PROPERTY, WATERSHEDS, AND TRANSMISSION LINES.

(d) THE EXISTENCE OF FIRE-DEPENDENT ECOSYSTEMS IN COLORADO NECESSITATES THAT COMMUNITIES IN AREAS OF THE WILDLAND-URBAN INTERFACE BE FIRE ADAPTED.

(3) (a) THE GENERAL ASSEMBLY FURTHER FINDS, DECLARES, AND DETERMINES THAT IT IS CRITICAL THAT WE INVEST IN MEASURES THAT REDUCE THE PROBABILITY OF CATASTROPHIC FIRES SPREADING UNCONTROLLABLY INTO OUR COMMUNITIES IN AREAS OF THE WILDLAND-URBAN INTERFACE.

(b) IT IS THE GENERAL ASSEMBLY'S INTENT TO PROVIDE AID AND GUIDANCE FOR CATASTROPHIC WILDFIRE RISK MITIGATION BY AUTHORIZING A COMPETITIVE GRANT PROGRAM TO ASSIST WITH FUNDING COMMUNITY-LEVEL AND STATEWIDE ACTIONS IMPLEMENTED TO PROTECT POPULATIONS AND PROPERTY IN THE WILDLAND-URBAN INTERFACE AND TO PROMOTE FOREST HEALTH AND THE UTILIZATION OF WOODY MATERIAL INCLUDING TRADITIONAL FOREST PRODUCTS AND BIOMASS ENERGY.

36-7-402. Definitions. AS USED IN THIS PART 4, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES.

(2) "FUEL" MEANS LIVING AND DEAD COMBUSTIBLE VEGETATION THAT CAN FEED A FIRE, INCLUDING GRASS, LEAVES, PINE BOUGHS, SHRUBS, AND TREES.

(3) "HAZARDOUS FOREST FUEL REDUCTION TREATMENT" MEANS TREATMENTS INCLUDING MANIPULATION OR REMOVAL OF FUEL TO HELP DIMINISH:

- (a) THE POTENTIAL DAMAGE ARISING FROM A CATASTROPHIC WILDFIRE; AND
 - (b) EMERGENCY PERSONNEL'S ABILITY TO INFLUENCE THE SPREAD OF WILDFIRE.
- (4) "WILDLAND-URBAN INTERFACE" OR "WUI" MEANS AN AREA WHERE:
- (a) HUMAN DEVELOPMENT IS CLOSE TO FORESTED PUBLIC LAND; AND
 - (b) THERE EXISTS A HIGH POTENTIAL FOR A WILDLAND FIRE.

36-7-403. Wildfire risk reduction grant program - creation - eligibility - department powers and duties - rules. (1) THERE IS HEREBY CREATED IN THE DEPARTMENT THE WILDFIRE RISK REDUCTION GRANT PROGRAM. THE PURPOSE OF THE PROGRAM IS TO PROVIDE FUNDING OPPORTUNITIES FOR PROJECTS IMPLEMENTING HAZARDOUS FOREST FUEL REDUCTION TREATMENTS TO REDUCE THE RISKS ASSOCIATED WITH WILDFIRES IN THE WUI THROUGHOUT COLORADO.

(2) THE DEPARTMENT SHALL DEVELOP AND ADMINISTER THE PROGRAM IN CONSULTATION WITH AN ADVISORY COMMITTEE CREATED IN SECTION 36-7-404. IN DEVELOPING THE PROGRAM, THE DEPARTMENT SHALL:

(a) DEDICATE UP TO TWENTY-FIVE PERCENT OF THE GRANT FUNDS AVAILABLE IN THE WILDFIRE RISK REDUCTION FUND, CREATED IN SECTION 36-7-405, TO FUND CAPACITY-BUILDING EFFORTS TO PROVIDE LOCAL GOVERNMENTS, COMMUNITY GROUPS, AND COLLABORATIVE FORESTRY GROUPS WITH THE RESOURCES NECESSARY TO PROVIDE SITE-BASED HAZARDOUS FOREST FUEL REDUCTION TREATMENTS, INCLUDING NEIGHBORHOOD SLASH PILES AND COMMUNITY EQUIPMENT FOR USE BY LANDOWNERS;

(b) DEDICATE UP TO FIVE PERCENT OF THE GRANT FUNDS AVAILABLE IN THE WILDFIRE RISK REDUCTION FUND TO BE USED BY THE DEPARTMENT TO:

- (I) MONITOR GRANT RECIPIENTS' COMPLIANCE WITH THE GRANT PROGRAM; AND
 - (II) MEASURE THE GRANT PROGRAM'S EFFECTIVENESS;
- (c) REQUIRE A GRANT APPLICANT TO DEMONSTRATE THAT:

(I) THE GRANT APPLICANT HAS AVAILABLE, OR WILL HAVE AVAILABLE BEFORE IMPLEMENTATION OF THE PROJECT, MATCHING FUNDS IN THE FORM OF A DOLLAR-FOR-DOLLAR MATCH OR THE VALUE OF IN-KIND CONTRIBUTIONS FOR THE PROJECT. A PROJECT'S MATCHING FUNDS MAY COME FROM FEDERAL SOURCES OR STATE SOURCES, BUT NO MORE THAN FIFTY PERCENT OF THE MATCHING FUNDS MAY COME FROM STATE SOURCES; EXCEPT THAT, IF THE GRANT APPLICANT IS A STATE AGENCY, MORE THAN FIFTY PERCENT OF THE MATCHING FUNDS MAY COME FROM

OTHER STATE SOURCES.

(II) THE PROPOSED PROJECT INCLUDES A PLAN FOR UTILIZING ANY WOODY MATERIAL GENERATED BY THE PROJECT, INCLUDING TRADITIONAL FOREST PRODUCTS AND BIOMASS ENERGY PRODUCTS. PURSUANT TO ITS AUTHORITY CREATED IN SECTION 23-31-315, C.R.S., THE COLORADO STATE FOREST SERVICE SHALL, UPON REQUEST, OFFER TECHNICAL SUPPORT TO GRANT APPLICANTS TO ASSIST WITH THE DEVELOPMENT OF THE APPLICANT'S PLAN FOR UTILIZING FOREST PRODUCTS. THE DEPARTMENT SHALL INFORM APPLICANTS OF THE AVAILABILITY OF THE COLORADO STATE FOREST SERVICE'S TECHNICAL SUPPORT.

(d) ENCOURAGE A GRANT APPLICANT, WHERE FEASIBLE, TO:

(I) UTILIZE THE LABOR OF:

(A) YOUTH AND YOUNG ADULTS PARTICIPATING IN A COLORADO YOUTH CORPS ORGANIZATION ACCREDITED BY THE COLORADO YOUTH CORPS ASSOCIATION; OR

(B) THE VETERANS GREEN CORPS OPERATED BY THE COLORADO YOUTH CORPS ASSOCIATION; AND

(II) IDENTIFY WHETHER THE PROPOSED PROJECT WILL TAKE PLACE ON STATE OR PRIVATE LANDS ADJACENT TO UNITED STATES FOREST SERVICE PROJECTS IN THE WUI, USING PROJECT MAPS THAT THE DEPARTMENT ANTICIPATES WILL BE PROVIDED BY THE UNITED STATES FOREST SERVICE. ONCE THE DEPARTMENT RECEIVES THE MAPS FROM THE UNITED STATES FOREST SERVICE, IT SHALL MAKE THE MAPS AVAILABLE TO GRANT APPLICANTS. WHEN APPROPRIATE, APPLICANTS MAY APPLY THE PRINCIPLES OF GOOD NEIGHBOR AUTHORITY, AS DEFINED IN SECTION 23-31-313 (3) (e), C.R.S., TO ADDRESS CROSS-BOUNDARY TREATMENT NEEDS ON UNITED STATES FOREST SERVICE LANDS.

(e) IN CONSULTATION WITH THE ADVISORY COMMITTEE CREATED IN SECTION 36-7-404, ESTABLISH THE INFORMATION TO BE INCLUDED IN THE GRANT APPLICATION, INCLUDING A DESCRIPTION OF THE PROPOSED PROJECT; AND

(f) ESTABLISH A PLAN FOR ADMINISTERING THE GRANT PROGRAM, INCLUDING THE DEVELOPMENT OF:

(I) PERIODIC REPORTING REQUIREMENTS;

(II) TOOLS FOR MONITORING AND TRACKING GRANT PROJECTS; AND

(III) MEASURES FOR ASSESSING THE PROGRESS OF GRANT PROJECTS.

(3) ANNUALLY AND IN A FINAL REPORT TO BE PRESENTED BEFORE THE END OF THE REGULAR SESSION IN 2018, THE DEPARTMENT SHALL REPORT TO THE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE IN THE COLORADO HOUSE OF REPRESENTATIVES AND THE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE IN THE COLORADO SENATE, OR THEIR SUCCESSOR COMMITTEES, REGARDING THE PROGRESS OF THE GRANT PROGRAM, INCLUDING INFORMATION CONCERNING THE:

- (a) NUMBER OF ACRES TREATED;
- (b) COST PER ACRE TO TREAT;
- (c) TONNAGE OF MATERIAL GENERATED;
- (d) NUMBER OF JOBS CREATED; AND
- (e) USE OF ANY FOREST PRODUCTS GENERATED.

36-7-404. Wildfire risk reduction grant program advisory committee - creation - appointment - duties. (1) (a) THERE IS HEREBY CREATED A WILDFIRE RISK REDUCTION GRANT PROGRAM ADVISORY COMMITTEE CONSISTING OF EIGHT MEMBERS. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL APPOINT THE MEMBERS OF THE ADVISORY COMMITTEE AS FOLLOWS:

(I) AT LEAST ONE MEMBER WHO REPRESENTS A RESEARCH UNIVERSITY IN COLORADO;

(II) AT LEAST ONE MEMBER FROM EACH OF THE FOLLOWING STATE AGENCIES:

(A) THE DEPARTMENT, AS DESIGNATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT;

(B) THE DEPARTMENT OF PUBLIC SAFETY, AS DESIGNATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY; AND

(C) THE COLORADO STATE FOREST SERVICE, AS DESIGNATED BY THE STATE FORESTER;

(III) AT LEAST ONE MEMBER WHO REPRESENTS A COUNTY OR MUNICIPAL GOVERNMENT WITH JURISDICTION OVER AN AREA OF THE WUI;

(IV) AT LEAST ONE MEMBER WHO REPRESENTS A FEDERAL LAND MANAGER;

(V) AT LEAST ONE MEMBER WHO REPRESENTS THE TRADITIONAL FOREST PRODUCTS INDUSTRY;

(VI) AT LEAST ONE MEMBER WHO REPRESENTS THE BIOMASS ENERGY PRODUCTS INDUSTRY;

(VII) AT LEAST ONE MEMBER WHO REPRESENTS A NONPROFIT COLLABORATIVE GROUP INVOLVED WITH THE MITIGATION OF CATASTROPHIC WILDFIRES IN COLORADO; AND

(VIII) AT LEAST ONE MEMBER WITH EXPERTISE IN WATER AND WATERSHED MANAGEMENT.

(b) A MEMBER OF THE ADVISORY COMMITTEE MAY REPRESENT MORE THAN ONE OF THE GROUPS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (1).

(2) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL SELECT AS ADVISORY COMMITTEE MEMBERS PERSONS WHO ARE INVOLVED IN OR CONCERNED WITH THE MITIGATION OF CATASTROPHIC WILDFIRES IN COLORADO. AN ADVISORY COMMITTEE MEMBER SHALL RECUSE HIMSELF OR HERSELF IF HE OR SHE HAS AN ACTUAL OR POTENTIAL CONFLICT OF INTEREST WITH RESPECT TO A GRANT APPLICANT.

(3) (a) IN CONSULTATION WITH THE DEPARTMENT, THE ADVISORY COMMITTEE SHALL DETERMINE ELIGIBILITY CRITERIA FOR GRANT RECIPIENTS. ELIGIBLE GRANT RECIPIENTS INCLUDE:

(I) LOCAL COMMUNITY GROUPS, INCLUDING HOMEOWNERS' ASSOCIATIONS OR NEIGHBORHOOD ASSOCIATIONS, THAT ARE WITHIN CLOSE PROXIMITY TO THE WUI;

(II) LOCAL GOVERNMENT ENTITIES WITHIN OR ADJACENT TO THE WUI;

(III) PUBLIC OR PRIVATE UTILITIES, INCLUDING WATER PROVIDERS, WITH INFRASTRUCTURE OR LAND OWNERSHIP IN AREAS OF HIGH RISK FOR CATASTROPHIC WILDFIRES;

(IV) STATE AGENCIES, SUCH AS THE COLORADO STATE FOREST SERVICE, THE STATE LAND BOARD, OR THE DIVISION OF PARKS AND WILDLIFE, THAT OWN LANDS OR PROPERTY IN AREAS OF HIGH RISK FOR CATASTROPHIC WILDFIRES; AND

(V) NONPROFIT GROUPS THAT PROMOTE HAZARDOUS FOREST FUEL REDUCTION TREATMENT PROJECTS IN PARTNERSHIP WITH LOCAL, STATE, OR PRIVATE ENTITIES.

(b) THE ADVISORY COMMITTEE SHALL GIVE PRIORITY TO PROPOSED PROJECTS BASED ON GEOGRAPHY AND RISK ASSESSMENT, USING THE "RED-ZONE" MAP DEVELOPED BY THE COLORADO STATE FOREST SERVICE TO IDENTIFY AREAS WHERE A HIGH RISK OF CATASTROPHIC WILDFIRE ENDANGERS HOMES, COMMUNITIES, UTILITIES, AND WATERSHEDS.

(c) IN CONSULTATION WITH THE DEPARTMENT, THE ADVISORY COMMITTEE'S DUTIES ARE TO:

(I) DEVELOP SCORING METRICS FOR GRANT PROPOSALS;

(II) PREPARE A REQUEST FOR GRANT PROPOSALS;

(III) DETERMINE A DEADLINE FOR RECEIVING AN APPLICANT'S GRANT PROPOSAL;

(IV) EVALUATE AND RANK GRANT PROPOSALS RECEIVED BY THE DEADLINE; AND

(V) AWARD GRANTS.

(d) THE DEPARTMENT MAY ASSIGN OTHER DUTIES TO THE ADVISORY COMMITTEE THAT ARE RELATED TO THE GRANT PROPOSAL SELECTION PROCESS.

(4) THE ADVISORY COMMITTEE MAY AWARD GRANTS TO AS MANY ELIGIBLE APPLICANTS WHOSE GRANT PROPOSALS THE ADVISORY COMMITTEE WISHES TO FUND UNTIL ALL OF THE GRANT MONEYS ARE AWARDED.

(5) THE ADVISORY COMMITTEE IS NOT SUBJECT TO THE REVIEW REQUIRED IN SECTION 2-3-1203, C.R.S.

36-7-405. Wildfire risk reduction fund - creation - transfer. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE WILDFIRE RISK REDUCTION FUND, REFERRED TO IN THIS SECTION AS THE "FUND". THE FUND CONSISTS OF ALL MONEYS TRANSFERRED PURSUANT TO SUBSECTION (2) OF THIS SECTION AND ALL MONEYS THAT THE GENERAL ASSEMBLY MAY APPROPRIATE TO THE FUND. THE MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT OF NATURAL RESOURCES FOR THE PURPOSES SET FORTH IN THIS PART 4. ALL INTEREST EARNED FROM THE INVESTMENT OF MONEYS IN THE FUND IS CREDITED TO THE FUND. THE MONEYS IN THE FUND ARE AVAILABLE UNTIL EXPENDED. ANY MONEYS NOT EXPENDED AT THE END OF THE FISCAL YEAR REMAIN IN THE FUND AND DO NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

(2) ON JULY 1, 2013, THE STATE TREASURER SHALL TRANSFER FROM THE GENERAL FUND TO THE WILDFIRE RISK REDUCTION FUND THE SUM OF NINE MILLION EIGHT HUNDRED THOUSAND DOLLARS.

36-7-406. Repeal. THIS PART 4 IS REPEALED, EFFECTIVE JULY 1, 2018.

SECTION 2. In Colorado Revised Statutes, **add** 23-31-315 as follows:

23-31-315. Technical support for the Colorado wildfire risk reduction grant program - repeal. (1) TO THE EXTENT FEASIBLE WITHIN EXISTING FUNDING, THE COLORADO STATE FOREST SERVICE SHALL, IN COLLABORATION WITH THE DEPARTMENT OF NATURAL RESOURCES, PROVIDE TECHNICAL ASSISTANCE TO APPLICANTS SEEKING A GRANT PURSUANT TO PART 4 OF ARTICLE 7 OF TITLE 36, C.R.S. A COLORADO WILDFIRE RISK REDUCTION GRANT PROGRAM APPLICANT MAY SEEK TECHNICAL SUPPORT FROM THE COLORADO STATE FOREST SERVICE WITH RESPECT TO THE APPLICATION REQUIREMENT THAT THE APPLICANT DEVELOP A PLAN FOR UTILIZING ANY FOREST PRODUCTS GENERATED BY THE APPLICANT'S PROPOSED GRANT PROJECT, AS SET FORTH IN SECTION 36-7-403, C.R.S.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2018.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 17, 2013