

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 13-0915.01 Kate Meyer x4348

SENATE BILL 13-270

SENATE SPONSORSHIP

Nicholson and Roberts,

HOUSE SPONSORSHIP

Coram and Fischer,

Senate Committees

Agriculture, Natural Resources, & Energy
Appropriations

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

HOUSE
3rd Reading Unamended
May 6, 2013

A BILL FOR AN ACT

101 **CONCERNING FUNDING FOR CERTAIN ACTIVITIES RELATING TO**
102 **WILDFIRE.**

HOUSE
2nd Reading Unamended
May 3, 2013

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://www.leg.state.co.us/billsummaries>.)

SENATE
3rd Reading Unamended
April 29, 2013

The bill amends various provisions relating to wildfire preparedness and response.

Section 1 of the bill authorizes the governor to direct the state treasurer to transfer moneys from the disaster emergency fund to the wildfire emergency response fund (WERF) if the governor determines

SENATE
Amended 2nd Reading
April 26, 2013

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

that a wildfire-related disaster emergency is imminent. **Section 2**, which becomes effective only if House Bill 13-1031 is enacted, contains an alternate version of this provision that harmonizes the governor's authority with a similar grant of authority contained in House Bill 13-1031.

Currently, the WERF and the wildfire preparedness fund are created under a single statute. **Sections 3 and 4** bifurcate the funds' organic provisions into 2 distinct statutes and exempt both funds from the reporting requirements for funds that rely on gifts, grants, and donations.

Section 3 makes the following changes with respect to the WERF:

- ! Clarifies the sources of moneys in the fund;
- ! Establishes the minimum activities for which the WERF provides financing or reimbursement;
- ! Allows the governor to authorize funding or reimbursements beyond that statutory minimum, pursuant to the division of fire prevention and control (division) in the Colorado department of safety; and
- ! Specifies that the governor may increase or decrease the WERF usage as warranted by the actual severity of a wildfire.

Section 4 creates a new statute for the wildfire preparedness fund and, with respect to that fund:

- ! Authorizes the director of the division to enter into agreements to provide firefighting services to federal, state, and local agencies; and
- ! Changes the dates by which the annual wildfire preparedness plan must be developed and submitted to the general assembly.

Section 5 allows the general assembly to appropriate revenues collected for insurance premium taxes to the WERF and the wildfire preparedness fund, and transfers \$500,000 to the WERF for fiscal year 2013-14.

Sections 6 through 9 make conforming amendments to update and correct statutory citations to the WERF, the wildfire preparedness fund, and the annual wildfire preparedness plan.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-33.5-706, **amend**

3 (2) (a); and **add** (4.5) as follows:

4 **24-33.5-706. Disaster emergency fund - established - financing**

5 **- legislative intent - repeal.** (2) (a) A disaster emergency fund is hereby

1 established, which shall receive moneys appropriated by the general
2 assembly. Moneys in the disaster emergency fund shall remain in the fund
3 until expended OR UNTIL TRANSFERRED PURSUANT TO SUBSECTION (4.5)
4 OF THIS SECTION.

5 (4.5) THE GOVERNOR MAY, FROM TIME TO TIME AS THE GOVERNOR
6 DEEMS NECESSARY BASED ON HIS OR HER DETERMINATION THAT A
7 WILDFIRE-RELATED DISASTER EMERGENCY IS IMMINENT, DIRECT THE
8 STATE TREASURER TO TRANSFER, AND THE STATE TREASURER SHALL
9 TRANSFER MONEYS FROM THE DISASTER EMERGENCY FUND TO THE
10 WILDFIRE EMERGENCY RESPONSE FUND CREATED IN SECTION 24-33.5-1226
11 (1).

12 **SECTION 2.** In Colorado Revised Statutes, 24-33.5-706, **amend**
13 **as added by House Bill 13-1031** (4.5) as follows:

14 **24-33.5-706. Disaster emergency fund - established - financing**
15 **- legislative intent - repeal.** (4.5) (a) The governor may, from time to
16 time as the governor deems necessary based on his or her determination
17 that a disaster emergency is imminent, direct the state treasurer to
18 transfer, and the state treasurer shall transfer, moneys from the disaster
19 emergency fund to the resource mobilization fund created in section
20 24-33.5-705.4 (6).

21 (b) THE GOVERNOR MAY, FROM TIME TO TIME AS THE GOVERNOR
22 DEEMS NECESSARY BASED ON HIS OR HER DETERMINATION THAT A
23 WILDFIRE-RELATED DISASTER EMERGENCY IS IMMINENT, DIRECT THE
24 STATE TREASURER TO TRANSFER, AND THE STATE TREASURER SHALL
25 TRANSFER, MONEYS FROM THE DISASTER EMERGENCY FUND TO THE
26 WILDFIRE EMERGENCY RESPONSE FUND CREATED IN SECTION 24-33.5-1226
27 (1).

1 **SECTION 3.** In Colorado Revised Statutes, **amend** 24-33.5-1226
2 as follows:

3 **24-33.5-1226. Wildfire emergency response fund - creation -**
4 **gifts, grants, and donations authorized.** (1) (a) There is hereby created
5 in the state treasury the wildfire emergency response fund, which FUND
6 shall be administered by the division. The division is authorized to seek
7 and accept gifts, grants, reimbursements, or donations from private or
8 public sources for the purposes of this section. The fund consists of all
9 moneys that may be appropriated thereto by the general assembly, ANY
10 MONEYS TRANSFERRED TO THE FUND BY THE STATE TREASURER PURSUANT
11 TO SECTION 24-33.5-706 (4.5) OR TRANSFERRED PURSUANT TO SECTION
12 10-3-209 (4), C.R.S., and all private and public funds received through
13 gifts, grants, reimbursements, or donations that are transmitted to the state
14 treasurer and credited to the fund. All interest earned from the investment
15 of moneys in the fund shall be credited to the fund. The moneys in the
16 fund are hereby continuously appropriated for the purposes indicated in
17 this section. Any moneys not expended at the end of the fiscal year ~~shall~~
18 remain in the fund and ~~shall not be transferred to~~ DO NOT TRANSFER or
19 revert to the general fund.

20 (b) THE GENERAL ASSEMBLY FINDS THAT THE IMPLEMENTATION OF
21 THIS SECTION DOES NOT RELY ON THE RECEIPT OF ADEQUATE FUNDING
22 THROUGH GIFTS, GRANTS, OR DONATIONS. THEREFORE, THE NOTICE
23 REQUIREMENTS SPECIFIED IN SECTION 24-75-1303 (3) ARE INAPPLICABLE
24 TO THE WILDFIRE EMERGENCY RESPONSE FUND.

25 (2) AT A MINIMUM, the division shall use the moneys in the
26 wildfire emergency response fund to provide funding or reimbursement
27 for:

1 (a) The first aerial tanker flight or the first hour of a firefighting
2 helicopter ~~to OPERATING ON~~ a wildfire at the request of any county sheriff,
3 municipal fire department, or fire protection district; and

4 (b) The employment of wildfire hand crews to fight a wildfire for
5 the first two days of a wildfire at the request of any county sheriff,
6 municipal fire department, or fire protection district, with a preference for
7 the use of wildfire hand crews from the inmate disaster relief program
8 created in section 17-24-124, C.R.S.

9 ~~(3) (a) To effectively implement this section and to provide~~
10 ~~recommendations to the governor related to use of the disaster emergency~~
11 ~~fund pursuant to section 24-33.5-706, C.R.S., and the wildfire~~
12 ~~preparedness fund created in subsection (4) of this section, the director,~~
13 ~~a representative of the county sheriffs of Colorado, a representative of the~~
14 ~~Colorado state fire chiefs' association, the director of the office of~~
15 ~~emergency management created in part 7 of this article, and the adjutant~~
16 ~~general or his or her designee shall collaborate to develop a wildfire~~
17 ~~preparedness plan designed to address the following:~~ ON AN ANNUAL
18 BASIS, THE GOVERNOR MAY AUTHORIZE THE DIVISION TO INCREASE THE
19 USE OF THE WILDFIRE EMERGENCY RESPONSE FUND TO PROVIDE FUNDING
20 OR REIMBURSEMENT FOR ADDITIONAL AERIAL TANKER FLIGHTS OR
21 ADDITIONAL USAGE OF WILDFIRE HAND CREWS TO FIGHT A WILDFIRE. THE
22 DIRECTOR SHALL INCLUDE A REQUEST FOR SUCH AUTHORIZATION IN, AND
23 IN ACCORDANCE WITH, THE ANNUAL WILDFIRE PREPAREDNESS PLAN
24 RECOMMENDATIONS DEVELOPED PURSUANT TO SECTION 24-33.5-1227 (2).

25 ~~(I) The amount of aerial firefighting resources necessary for the~~
26 ~~state of Colorado at times of high and low wildfire risk;~~

27 ~~(II) The availability of appropriate aerial firefighting equipment~~

1 and personnel at times of high fire risk to respond to a wildfire;

2 (III) ~~The availability of state wildfire engines and staffing of the~~
3 ~~engines at different levels of wildfire risk;~~

4 (IV) ~~The availability of state inmate wildfire hand crews at~~
5 ~~different levels of wildfire risk; and~~

6 (V) ~~A process for ordering and dispatching aerial firefighting~~
7 ~~equipment and personnel that is consistent with, and supportive of, the~~
8 ~~statewide mobilization plan prepared pursuant to section 24-33.5-705.4.~~

9 (b) ~~The wildfire preparedness plan recommendations developed~~
10 ~~pursuant to paragraph (a) of this subsection (3) shall be updated each~~
11 ~~December 1. Notwithstanding section 24-1-136 (11), the director shall~~
12 ~~submit a written report of the wildfire preparedness plan to the governor~~
13 ~~and the members of the general assembly no later than each December 15.~~

14 (c) ~~The director, the representative of the county sheriffs of~~
15 ~~Colorado, the representative of the Colorado state fire chiefs' association,~~
16 ~~the director of the office of emergency management created in part 7 of~~
17 ~~this article, and the adjutant general or his or her designee shall not~~
18 ~~receive additional compensation for the collaboration required by this~~
19 ~~subsection (3) for the development of the wildfire preparedness plan.~~

20 (4) (a) ~~There is hereby created in the state treasury the wildfire~~
21 ~~preparedness fund. The fund consists of all moneys that may be~~
22 ~~appropriated thereto by the general assembly, all private and public~~
23 ~~moneys received through gifts, grants, reimbursements, or donations that~~
24 ~~are transmitted to the state treasurer and credited to the fund, and all~~
25 ~~moneys transferred to the fund pursuant to section 34-63-102 (5) (a) (I);~~
26 ~~C.R.S. All interest earned from the investment of moneys in the fund shall~~
27 ~~be credited to the fund. The moneys in the fund are hereby continuously~~

1 ~~appropriated for the purposes indicated in this subsection (4). Any~~
2 ~~moneys not expended at the end of the fiscal year shall remain in the fund~~
3 ~~and shall not be transferred to or revert to the general fund~~ NOTHING IN
4 THIS SECTION PRECLUDES OR PREVENTS THE GOVERNOR, IN HIS OR HER
5 DISCRETION, FROM AUTHORIZING ADDITIONAL INCREASES OR DECREASING
6 THE USE OF THE WILDFIRE EMERGENCY RESPONSE FUND IF THE ACTUAL
7 WILDFIRE SITUATION IS MORE OR LESS SEVERE THAN ANTICIPATED AT THE
8 TIME THE WILDFIRE PREPAREDNESS PLAN REQUIRED UNDER SECTION
9 24-33.5-1227 (2) WAS PREPARED.

10 (b) ~~By executive order or proclamation, the governor may access~~
11 ~~and designate moneys in the wildfire preparedness fund for wildfire~~
12 ~~preparedness activities. The division shall implement the directives set~~
13 ~~forth in such executive order or proclamation.~~

14 (c) ~~The division may use the moneys in the wildfire preparedness~~
15 ~~fund to provide funding or reimbursement for the purchase of fire shelters~~
16 ~~by volunteer fire departments in order to comply with applicable federal~~
17 ~~requirements.~~

18 (5) ~~Procedures governing the development, adoption, or~~
19 ~~implementation of community wildfire protection plans by county~~
20 ~~governments are specified in section 30-15-401.7, C.R.S. Nothing in this~~
21 ~~section shall be construed to affect the provisions of section 30-15-401.7,~~
22 ~~C.R.S.~~

23 **SECTION 4.** In Colorado Revised Statutes, **add with amended**
24 **and relocated provisions** 24-33.5-1227 as follows:

25 **24-33.5-1227. [Formerly 24-33.5-1226 (3), (4), and (5)]**
26 **Wildfire preparedness fund - creation - gifts, grants, and donations**
27 **authorized - wildfire preparedness plan.** ~~(4)(a)~~ (1) (a) There is hereby

1 created in the state treasury the wildfire preparedness fund. The fund
2 consists of all moneys that may be appropriated thereto by the general
3 assembly, all private and public moneys received through gifts, grants,
4 reimbursements, or donations that are transmitted to the state treasurer
5 and credited to the fund, and all moneys transferred to the fund pursuant
6 to ~~section 34-63-102 (5) (a) (I)~~ SECTION 34-63-102 (5.4) (b) (II), C.R.S.
7 All interest earned from the investment of moneys in the fund shall be
8 credited to the fund. The moneys in the fund are hereby continuously
9 appropriated for the purposes indicated in this ~~subsection (4)~~ SECTION.
10 Any moneys not expended at the end of the fiscal year shall remain in the
11 fund and shall not be transferred to or revert to the general fund.

12 (b) By executive order or proclamation, the governor may access
13 and designate moneys in the wildfire preparedness fund for wildfire
14 preparedness activities. The division shall implement the directives set
15 forth in such executive order or proclamation.

16 (c) The division may use the moneys in the wildfire preparedness
17 fund to provide funding or reimbursement for the purchase of fire shelters
18 by volunteer fire departments in order to comply with applicable federal
19 requirements.

20 (d) THE GENERAL ASSEMBLY FINDS THAT THE IMPLEMENTATION OF
21 THIS SECTION DOES NOT RELY ON THE RECEIPT OF ADEQUATE FUNDING
22 THROUGH GIFTS, GRANTS, OR DONATIONS. THEREFORE, THE NOTICE
23 REQUIREMENTS SPECIFIED IN SECTION 24-75-1303 (3) ARE INAPPLICABLE
24 TO THE WILDFIRE PREPAREDNESS FUND.

25 ~~(3) (a) (2) (a)~~ To effectively implement ~~this section~~ SECTION
26 24-33.5-1226 and to provide recommendations to the governor related to
27 use of the disaster emergency fund pursuant to section 24-33.5-706

1 ~~C.R.S.~~, and the wildfire preparedness fund created in ~~subsection (4) of~~
2 ~~this section~~ SECTION 24-33.5-1227, the director, a representative of the
3 county sheriffs of Colorado, a representative of the Colorado state fire
4 chiefs' association, the director of the office of emergency management
5 created in part 7 of this article, and the adjutant general or his or her
6 designee shall collaborate to develop a wildfire preparedness plan
7 designed to address the following:

8 (I) The amount of aerial firefighting resources necessary for the
9 state of Colorado at times of high and low wildfire risk;

10 (II) The availability of appropriate aerial firefighting equipment
11 and personnel at times of high fire risk to respond to a wildfire;

12 (III) The availability of state wildfire engines and staffing of the
13 engines at different levels of wildfire risk;

14 (IV) The availability of ~~state inmate~~ wildfire hand crews,
15 INCLUDING STATE INMATE WILDFIRE HAND CREWS, at different levels of
16 wildfire risk; and

17 (V) A process for ordering and dispatching aerial firefighting
18 equipment and personnel that is consistent with, and supportive of, the
19 statewide ALL-HAZARDS RESOURCE mobilization plan prepared pursuant
20 to section 24-33.5-705.4.

21 (b) The wildfire preparedness plan recommendations developed
22 pursuant to paragraph (a) of this ~~subsection (3)~~ SUBSECTION (2) shall be
23 updated each ~~December 1~~ MARCH 15. Notwithstanding section 24-1-136
24 (11), the director shall submit a written report of the wildfire
25 preparedness plan to the governor and the members of the general
26 assembly no later than each ~~December 15~~ APRIL 1.

27 (c) The director, the representative of the county sheriffs of

1 Colorado, the representative of the Colorado state fire chiefs' association,
2 the director of the office of emergency management created in part 7 of
3 this article, and the adjutant general or his or her designee shall not
4 receive additional compensation for the collaboration required by this
5 ~~subsection (3)~~ SUBSECTION (2) for the development of the wildfire
6 preparedness plan.

7 (3) THE DIRECTOR MAY ENTER INTO AGREEMENTS TO PROVIDE
8 FIREFIGHTING SERVICES, INCLUDING PERSONNEL OR FIREFIGHTING
9 AIRCRAFT, ENGINES, OR OTHER VEHICLES TO FEDERAL, STATE, OR LOCAL
10 AGENCIES. ANY MONEYS RECEIVED PURSUANT TO SUCH AGREEMENTS
11 SHALL BE CREDITED TO THE WILDLAND FIRE COST RECOVERY FUND
12 CREATED IN SECTION 24-33.5-1220 (4).

13 ~~(5)~~ (4) Procedures governing the development, adoption, ~~or~~ AND
14 implementation of community wildfire protection plans by county
15 governments are specified in section 30-15-401.7, C.R.S. Nothing in this
16 section ~~shall be construed to affect the provisions of~~ AFFECTS section
17 30-15-401.7, C.R.S.

18 **SECTION 5.** In Colorado Revised Statutes, 10-3-209, **amend** (4)
19 as follows:

20 **10-3-209. Tax on premiums collected - exemptions - penalties**
21 **- repeal.** (4) (a) All taxes, penalties, and fines collected by the division
22 of insurance under ~~the provisions of~~ this section shall be transmitted to
23 the department of the treasury and credited to the general fund; except
24 that:

25 (I) Such amounts appropriated by the general assembly to the
26 division of insurance cash fund, created in section 10-1-103 (3), not to
27 exceed a maximum of five percent of all taxes collected under this

1 section, shall be transmitted to the state treasurer and deposited in the
2 division of insurance cash fund; AND

3 (II) SUCH AMOUNTS AS MAY BE APPROPRIATED BY THE GENERAL
4 ASSEMBLY TO THE WILDFIRE EMERGENCY RESPONSE FUND, CREATED IN
5 SECTION 24-33.5-1226, C.R.S., AND TO THE WILDFIRE PREPAREDNESS
6 FUND CREATED IN SECTION 24-33.5-1227, C.R.S., SHALL BE TRANSMITTED
7 TO THE STATE TREASURER AND DEPOSITED IN SAID FUNDS.

8 (b) (I) NO LATER THAN JULY 1, 2013, THE STATE TREASURER
9 SHALL TRANSFER FIVE HUNDRED THOUSAND DOLLARS FROM THE MONEYS
10 COLLECTED UNDER THIS SECTION TO THE WILDFIRE EMERGENCY RESPONSE
11 FUND CREATED IN SECTION 24-33.5-1226, C.R.S.

12 (II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2014.

13 **SECTION 6.** In Colorado Revised Statutes, 23-30-123, **repeal** (4)
14 (b) as follows:

15 **23-30-123. Investment policy - fiduciary responsibility.** (4) If
16 the board of governors votes to invest moneys pursuant to sections
17 23-20-121 and 23-20-122, the board:

18 (b) ~~Shall not use moneys invested in the wildfire emergency~~
19 ~~response fund created in section 23-31-309 (1) or the wildfire~~
20 ~~preparedness fund created in section 23-31-309 (4) for any academic or~~
21 ~~institutional obligations. For the purposes of paragraph (a) of this~~
22 ~~subsection (4), the board shall consider these funds to be outstanding~~
23 ~~operational obligations.~~

24 **SECTION 7.** In Colorado Revised Statutes, 23-31-312, **amend**
25 (6) as follows:

26 **23-31-312. Community wildfire protection plans - county**
27 **governments - guidelines and criteria - legislative declaration -**

1 **definitions.** (6) Nothing in this section ~~shall be construed to affect the~~
2 ~~provisions of~~ AFFECTS section 23-31-309 or the wildfire preparedness
3 plan developed pursuant to ~~such section~~ SECTION 24-33.5-1227.

4 **SECTION 8.** In Colorado Revised Statutes, 24-33.5-1203,
5 **amend** (1) (m) as follows:

6 **24-33.5-1203. Duties of division.** (1) The division shall perform
7 the following duties:

8 (m) To help ensure that communities and firefighters have
9 sufficient resources, technical support, and training to adequately assess
10 wildfire risks, increase upgrades on federal excess property fire engines
11 on loan to local fire departments; increase technical assistance in wildland
12 fire preparedness to counties and fire protection districts; and, in
13 conjunction with the wildfire preparedness plan created pursuant to
14 ~~section 23-31-309 (3) (a), C.R.S.~~ SECTION 24-33.5-1227, ensure that state
15 fire-fighting equipment such as fire engines and air tankers is fully
16 operational and available to and coordinated with the equipment
17 capacities of local fire departments and fire protection districts, and that
18 personnel are fully trained in its use;

19 **SECTION 9.** In Colorado Revised Statutes, 34-63-102, **amend**
20 (5.4) (b) (II) as follows:

21 **34-63-102. Creation of mineral leasing fund - distribution -**
22 **advisory committee - local government permanent fund created -**
23 **definitions - repeal.** (5.4) Except as otherwise provided in subsection
24 (5.5) of this section, on and after July 1, 2008, all moneys other than
25 bonus payments, as defined in paragraph (b) of subsection (5.3) of this
26 section, credited to the mineral leasing fund created in subparagraph (I)
27 of paragraph (a) of subsection (1) of this section shall be distributed on

1 a quarterly basis for quarters beginning on July 1, October 1, January 1,
2 and April 1 of each state fiscal year as follows:

3 (b) (II) Notwithstanding any other provision of this section, in the
4 fiscal years commencing July 1, 2012, and July 1, 2013, unless another
5 source of funding becomes available, the executive director of the
6 department of local affairs shall transfer, prior to any other distribution
7 specified in this paragraph (b), three million two hundred fifty thousand
8 dollars of the moneys available for grant applications pursuant to this
9 paragraph (b) to the state treasurer, who shall credit the moneys to the
10 wildfire preparedness fund created in ~~section 23-31-309 (4)~~, SECTION
11 24-33.5-1227, C.R.S. The ~~Colorado state forest service designated in~~
12 ~~section 23-31-302, C.R.S.~~ DIVISION OF FIRE PREVENTION AND CONTROL IN
13 THE DEPARTMENT OF PUBLIC SAFETY, CREATED PURSUANT TO SECTION
14 24-33.5-1201, C.R.S., shall annually report on the use of the moneys
15 transferred pursuant to this subparagraph (II) to the department of local
16 affairs, the office of state planning and budgeting, and the general
17 assembly. This subparagraph (II) is repealed, effective July 1, 2016.

18 **SECTION 10. Effective date.** (1) Except as otherwise provided
19 in this section, this act takes effect upon passage.

20 (2) (a) Section 24-33.5-706 (4.5), Colorado Revised Statutes, as
21 enacted in section 1 of this act, takes effect only if House Bill 13-1031
22 does not become law.

23 (b) Section 24-33.5-706 (4.5), Colorado Revised Statutes, as
24 amended in section 2 of this act, becomes law and takes effect only if
25 House Bill 13-1031 becomes law and takes effect either upon the
26 effective date of this act or House Bill 13-1031, whichever is later.

27 **SECTION 11. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.