

**NOTE: The governor signed this measure on 5/23/2013.**

# An Act

SENATE BILL 13-270

BY SENATOR(S) Nicholson and Roberts, Aguilar, Carroll, Kefalas, Kerr, Newell, Schwartz, Steadman, Ulibarri;  
also REPRESENTATIVE(S) Coram and Fischer, Exum, Gerou, Ginal, Hamner, Hulinghorst, Lebsock, Lee, Levy, Mitsch Bush, Peniston, Pettersen, Rankin, Rosenthal, Salazar, Schafer, Vigil, Young.

CONCERNING FUNDING FOR CERTAIN ACTIVITIES RELATING TO WILDFIRE.

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

**SECTION 1.** In Colorado Revised Statutes, 24-33.5-706, **amend** (2) (a); and **add** (4.5) as follows:

**24-33.5-706. Disaster emergency fund - established - financing - legislative intent - repeal.** (2) (a) A disaster emergency fund is hereby established, which shall receive moneys appropriated by the general assembly. Moneys in the disaster emergency fund shall remain in the fund until expended OR UNTIL TRANSFERRED PURSUANT TO SUBSECTION (4.5) OF THIS SECTION.

(4.5) THE GOVERNOR MAY, FROM TIME TO TIME AS THE GOVERNOR DEEMS NECESSARY BASED ON HIS OR HER DETERMINATION THAT A WILDFIRE-RELATED DISASTER EMERGENCY IS IMMINENT, DIRECT THE STATE

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

TREASURER TO TRANSFER, AND THE STATE TREASURER SHALL TRANSFER MONEYS FROM THE DISASTER EMERGENCY FUND TO THE WILDFIRE EMERGENCY RESPONSE FUND CREATED IN SECTION 24-33.5-1226 (1).

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

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

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

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

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

general fund.

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

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

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

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

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

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

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

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

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

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

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

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

~~(4) (a) There is hereby created in the state treasury the wildfire preparedness fund. The fund consists of all moneys that may be appropriated thereto by the general assembly, all private and public moneys received through gifts, grants, reimbursements, or donations that are transmitted to the state treasurer and credited to the fund, and all moneys transferred to the fund pursuant to section 34-63-102 (5) (a) (I), C.R.S. All interest earned from the investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated for the purposes indicated in this subsection (4). Any moneys not expended at the end of the fiscal year shall remain in the fund and shall not be transferred to or revert to the general fund. NOTHING IN THIS SECTION PRECLUDES OR PREVENTS THE GOVERNOR, IN HIS OR HER DISCRETION, FROM AUTHORIZING ADDITIONAL INCREASES OR DECREASING THE USE OF THE WILDFIRE EMERGENCY RESPONSE FUND IF THE ACTUAL WILDFIRE SITUATION~~

IS MORE OR LESS SEVERE THAN ANTICIPATED AT THE TIME THE WILDFIRE PREPAREDNESS PLAN REQUIRED UNDER SECTION 24-33.5-1227 (2) WAS PREPARED.

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

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

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

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

**24-33.5-1227. [Formerly 24-33.5-1226 (3), (4), and (5)] Wildfire preparedness fund - creation - gifts, grants, and donations authorized - wildfire preparedness plan.** ~~(4)(a)~~ (1) (a) There is hereby created in the state treasury the wildfire preparedness fund. The fund consists of all moneys that may be appropriated thereto by the general assembly, all private and public moneys received through gifts, grants, reimbursements, or donations that are transmitted to the state treasurer and credited to the fund, and all moneys transferred to the fund pursuant to ~~section 34-63-102 (5)(a)(I)~~ SECTION 34-63-102 (5.4) (b) (II), C.R.S. All interest earned from the investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated for the purposes indicated in this ~~subsection (4)~~ SECTION. Any moneys not expended at the end of the fiscal year shall remain in the fund and shall not be transferred to or revert to the general fund.

(b) By executive order or proclamation, the governor may access and designate moneys in the wildfire preparedness fund for wildfire

preparedness activities. The division shall implement the directives set forth in such executive order or proclamation.

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

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

~~(3)~~(a) (2) (a) To effectively implement ~~this section~~ SECTION 24-33.5-1226 and to provide recommendations to the governor related to use of the disaster emergency fund pursuant to section 24-33.5-706 ~~C.R.S.~~, and the wildfire preparedness fund created in ~~subsection (4) of this section~~ SECTION 24-33.5-1227, the director, a representative of the county sheriffs of Colorado, a representative of the Colorado state fire chiefs' association, the director of the office of emergency management created in part 7 of this article, and the adjutant general or his or her designee shall collaborate to develop a wildfire preparedness plan designed to address the following:

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

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

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

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

(V) A process for ordering and dispatching aerial firefighting equipment and personnel that is consistent with, and supportive of, the statewide ALL-HAZARDS RESOURCE mobilization plan prepared pursuant to

section 24-33.5-705.4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**23-31-312. Community wildfire protection plans - county governments - guidelines and criteria - legislative declaration - definitions.** (6) Nothing in this section ~~shall be construed to affect the provisions of~~ AFFECTS section 23-31-309 or the wildfire preparedness plan developed pursuant to ~~such section~~ SECTION 24-33.5-1227.

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



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

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

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

**34-63-102. Creation of mineral leasing fund - distribution - advisory committee - local government permanent fund created - definitions - repeal.** (5.4) Except as otherwise provided in subsection (5.5) of this section, on and after July 1, 2008, all moneys other than bonus payments, as defined in paragraph (b) of subsection (5.3) of this section, credited to the mineral leasing fund created in subparagraph (I) of paragraph (a) of subsection (1) of this section shall be distributed on a quarterly basis for quarters beginning on July 1, October 1, January 1, and April 1 of each state fiscal year as follows:

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

affairs, the office of state planning and budgeting, and the general assembly. This subparagraph (II) is repealed, effective July 1, 2016.

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

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

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

**SECTION 11. 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.

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John P. Morse  
PRESIDENT OF  
THE SENATE

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Mark Ferrandino  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO