First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

PREAMENDED

This Unofficial Version Includes Committee Amendments Not Yet Adopted on Second Reading

LLS NO. 09-0129.01 Jason Gelender **SENATE BILL 09-018**

SENATE SPONSORSHIP

Kopp and Gibbs, Penry

HOUSE SPONSORSHIP

King S. and Scanlan, Levy, Lundberg

Senate Committees
Local Government and Energy
Appropriations

House Committees

A BILL FOR AN ACT

CONCERNING THE CREATION OF A HIGH-RISK COMMUNITIES WILDFIRE MITIGATION GRANT PROGRAM.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on Wildfire Issues in Wild Land-Urban Interface Areas. Creates the high-risk communities wildfire mitigation grant program (program). Creates the high-risk communities wildfire mitigation grant program fund (fund). Appropriates specified amounts from the general fund to the fund for the 2008-09 through 2012-13 fiscal years, and requires all fund investment earnings to be credited to the fund. Continuously appropriates the fund to the Colorado state forest service

(forest service) for expenditure only for high-risk communities wildfire mitigation grants subject to an exception that allows the forest service to expend up to a specified percentage of each annual appropriation to share the costs of developing community wildfire protection plans.

Requires the forest service to develop and implement the program and provide high-risk communities wildfire mitigation grants from the fund to local governments, the state, the federal government, fire protection districts, agencies thereof, and, in the sole discretion of the forest service, homeowners' associations for the purpose of funding nonemergency preventive wildfire mitigation measures. Specifies minimum matching requirements for grant recipients, and only allows grants for wildfire mitigation measures that are located in wild land-urban interface areas and that have been identified in a community wildfire protection plan. Requires the forest service to annually report to the general assembly regarding the program. Repeals the program on a specified date.

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

SECTION 1. Part 3 of article 31 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-31-309.5. High-risk communities wildfire mitigation grant program - short title - definitions - creation of high-risk communities wildfire mitigation grant program fund - use of fund - repeal. (1) **Short title.** THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE "HIGH-RISK COMMUNITIES WILDFIRE MITIGATION GRANT PROGRAM ACT".

(2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ACCREDITED COLORADO YOUTH CORPS" MEANS A YOUTH CORPS ORGANIZATION THAT IS ACCREDITED BY THE COLORADO YOUTH CORPS ASSOCIATION.

(b) "COMMUNITY WILDFIRE PROTECTION PLAN" MEANS A PLAN

APPROVED BY LOCAL GOVERNMENT ENTITIES, LOCAL FIRE DEPARTMENTS, AND THE FOREST SERVICE THAT MEETS THE DEFINITION OF A COMMUNITY WILDFIRE PROTECTION PLAN IN THE FEDERAL "HEALTHY FORESTS RESTORATION ACT OF 2003", PUB.L. 108-148, AND MEETS THE MINIMUM REQUIREMENTS OF COLLABORATION BY LOCAL AND STATE GOVERNMENT REPRESENTATIVES WITH CONSULTATION BY FEDERAL AGENCIES AND OTHER INTERESTED PARTIES, PRIORITIZED FUEL REDUCTION AREAS WITH IDENTIFIED TYPES OF TREATMENTS, AND TREATMENT OF STRUCTURAL IGNITABILITY WITH RECOMMENDATIONS TO REDUCE IGNITABILITY.

(c) "FOREST SERVICE" MEANS THE COLORADO STATE FOREST SERVICE IDENTIFIED IN SECTION 23-31-302.

(d) "FUND" MEANS THE HIGH-RISK COMMUNITIES WILDFIRE MITIGATION GRANT PROGRAM FUND CREATED IN SUBSECTION (3) OF THIS SECTION.

(e) "WILDFIRE MITIGATION MEASURES" MEANS NONEMERGENCY PREVENTIVE PROJECTS OR ACTIONS, WHICH MEET OR EXCEED FOREST SERVICE STANDARDS OR ANY OTHER APPLICABLE STATE RULES, THAT ARE DESIGNED TO REDUCE THE AMOUNT OF DAMAGE CAUSED BY WILDFIRES, INCLUDING:

(I) THE CREATION OF A DEFENSIBLE SPACE AROUND STRUCTURES;

(II) THE ESTABLISHMENT OF FUEL BREAKS;

(III) THE THINNING OF WOODY VEGETATION FOR THE PRIMARY PURPOSE OF REDUCING RISK TO STRUCTURES FROM WILD LAND FIRE;

(IV) THE SECONDARY TREATMENT OF WOODY FUELS BY LOPPING AND SCATTERING, PILING, CHIPPING, REMOVING FROM THE SITE, OR PRESCRIBED BURNING; AND

(V) OTHER NONEMERGENCY PREVENTIVE ACTIVITIES DESIGNED TO

REDUCE THE AMOUNT OF DAMAGE CAUSED BY WILDFIRES THAT THE FOREST SERVICE MAY DEEM TO BE WILDFIRE MITIGATION MEASURES.

(3) **High-risk communities wildfire mitigation grant program fund.** (a) THE HIGH-RISK COMMUNITIES WILDFIRE MITIGATION GRANT PROGRAM FUND IS HEREBY CREATED IN THE STATE TREASURY. THE GENERAL ASSEMBLY SHALL APPROPRIATE ____ ONE HUNDRED EIGHTY THOUSAND DOLLARS FROM THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND CREATED IN SECTION 39-29-109 (2) (b), C.R.S., TO THE HIGH-RISK COMMUNITIES WILDFIRE MITIGATION GRANT PROGRAM FUND FOR THE 2009-10 FISCAL YEAR AND SHALL CONSIDER MAKING ADDITIONAL APPROPRIATIONS FROM THE OPERATIONAL ACCOUNT TO THE GRANT FUND FOR SUBSEQUENT FISCAL YEARS.

(b) ALL MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE FOREST SERVICE, WHICH MAY EXPEND SUCH MONEYS ONLY FOR HIGH-RISK COMMUNITIES WILDFIRE MITIGATION GRANTS AWARDED PURSUANT TO SUBSECTION (4) OF THIS SECTION; EXCEPT THAT THE FOREST SERVICE MAY EXPEND UP TO TWO PERCENT OF EACH ANNUAL APPROPRIATION TO SHARE THE COSTS OF DEVELOPING COMMUNITY WILDFIRE PROTECTION PLANS, AND UP TO THREE PERCENT OF EACH ANNUAL APPROPRIATION FOR THE COST OF ADMINISTERING THE HIGH-RISK COMMUNITIES WILDFIRE MITIGATION GRANTS. THE FOREST SERVICE MAY SEEK AND ACCEPT GIFTS, GRANTS, REIMBURSEMENTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES AND CREDIT THE SAME TO THE FUND. ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED OR

CREDITED TO THE GENERAL FUND OR ANY OTHER FUND. UNEXPENDED MONEYS IN THE FUND ON JULY 1, 2013, SHALL BE TRANSFERRED TO THE GENERAL FUND.

(4) **High-risk communities wildfire mitigation grant program.** (a) THE FOREST SERVICE SHALL DEVELOP AND IMPLEMENT A PROGRAM TO PROVIDE HIGH-RISK COMMUNITIES WILDFIRE MITIGATION GRANTS FROM THE FUND TO LOCAL GOVERNMENTS, THE STATE, THE FEDERAL GOVERNMENT, FIRE PROTECTION DISTRICTS, AGENCIES THEREOF, AND, IN THE SOLE DISCRETION OF THE FOREST SERVICE, HOMEOWNERS' ASSOCIATIONS FOR THE PURPOSE OF FUNDING WILDFIRE MITIGATION MEASURES. A WILDFIRE MITIGATION MEASURE OR UNIFIED PACKAGE OF WILDFIRE MITIGATION MEASURES SHALL BE ELIGIBLE FOR A GRANT ONLY IF:

(I) THE MEASURE OR MEASURES WILL BE TAKEN IN A WILD LAND-URBAN INTERFACE AREA AND HAVE BEEN IDENTIFIED IN A COMMUNITY WILDFIRE PROTECTION PLAN ADOPTED BY A LOCAL GOVERNMENT WITHIN THE INTERFACE AREA THAT MEETS THE MINIMUM CRITERIA AND STANDARDS OF THE FOREST SERVICE;

(II) THE GRANT RECIPIENT OR RECIPIENTS AGREE TO COVER AT LEAST FORTY PERCENT OF THE TOTAL COST OF THE MEASURE OR MEASURES THROUGH CASH CONTRIBUTIONS, IN-KIND CONTRIBUTIONS, INCLUDING BUT NOT LIMITED TO LOCALLY-PROVIDED LABOR, OR BOTH; AND

(III) THE GRANT RECIPIENT OR RECIPIENTS AGREE TO, WHENEVER FEASIBLE, CONTRACT WITH THE COLORADO YOUTH CORPS ASSOCIATION OR AN ACCREDITED COLORADO YOUTH CORPS TO PROVIDE LABOR FOR THE WILDLIFE MITIGATION MEASURE OR MEASURES.

(b) THE FOREST SERVICE MAY SPECIFY ANY GRANT APPLICATION PROCEDURES, ADDITIONAL GRANT ELIGIBILITY REQUIREMENTS, OR GRANT PRIORITIZATION CRITERIA THAT IT DEEMS APPROPRIATE AND THAT ARE NOT INCONSISTENT WITH THE PROVISIONS OF THIS SECTION. THE FOREST SERVICE SHALL PUBLISH ANY SUCH PROCEDURES, REQUIREMENTS, OR CRITERIA, INCLUDING ANY METRICS THAT MAY BE USED TO HELP THE FOREST SERVICE PRIORITIZE GRANTS, ON ITS INTERNET WEB SITE.

(5) **Report.** NO LATER THAN JANUARY 15, 2010, AND NO LATER THAN EACH JANUARY 15 THEREAFTER THROUGH JANUARY 15, 2013, THE FOREST SERVICE SHALL REPORT TO THE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, REGARDING THE HIGH-RISK COMMUNITIES WILDFIRE MITIGATION GRANT PROGRAM. THE REPORT SHALL INCLUDE A DESCRIPTION OF EACH GRANT AWARDED THAT IDENTIFIES THE GRANT RECIPIENT OR RECIPIENTS, THE AMOUNT OF THE GRANT, THE AMOUNT OF MATCHING CONTRIBUTIONS PROVIDED BY THE GRANT RECIPIENT OR RECIPIENTS, AND THE WILDFIRE MITIGATION MEASURE OR MEASURES FUNDED BY THE GRANT. THE REPORT SHALL ALSO INCLUDE AN OVERALL ASSESSMENT OF THE PROGRAM, INCLUDING BUT NOT LIMITED TO AN ASSESSMENT OF THE EXTENT TO WHICH WILDFIRE MITIGATION MEASURES FUNDED HAVE REDUCED OR ARE EXPECTED TO REDUCE THE AMOUNT OF DAMAGE CAUSED BY WILDFIRES AND THE EXTENT TO WHICH ANY ADDITIONAL FUNDING FOR SUCH MEASURES MAY BE NEEDED.

(6) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2013.

SECTION 2. 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.