

**The Southwestern Water Conservation District**  
West Building, 841 E. 2<sup>nd</sup> Ave.  
Durango, CO 81301

NOTICE IS HEREBY GIVEN  
A Special Board Meeting of the  
Southwestern Water Conservation District  
will be held on

**Thursday, May 6, 2021**  
**12:00 p.m. – 1:15 p.m.**

**Video:** [Click here to join Zoom](#)  
**Phone Number:** (346) 248 7799  
**Meeting ID:** 813 5451 4316  
**Passcode:** 316817

Posted and Noticed Tuesday, May 4, 2021

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**Tentative Agenda**

*Please text 970-901-1388 if you have difficulty joining the meeting. Please raise your hand to be recognized by the chair. To raise your hand by phone, dial\*9. To raise your hand by computer, please use Alt+Y (Windows) or Option+Y (Mac). To mute and unmute by phone, dial \*6.*

*Except the time indicated for when the meeting is scheduled to begin, the times noted for each agenda item are estimates and subject to change. The Board may address and act on agenda items in any order to accommodate the needs of the Board and the audience. Agenda items can also be added during the meeting at the consensus of the Board.*

- 1.0 Call to Order - Roll Call and Verification of Quorum (12:00 p.m.)**
- 2.0 Review & Approve the Agenda (12:02 p.m.)**
- 3.0 Questions/Comments from Audience (12:03 p.m.)**
- 4.0 New Business (12:05 p.m.)**
  - 4.1 State Legislative Update & Position on Bills – Chris Treese
- 5.0 Old Business (12:35 p.m.)**
  - 5.1 Discussion of guiding principles for SWCD’s exploration and consideration of demand management – Chris Treese, Beth Van Vurst
- 6.0 Adjournment (1:15 p.m.)**

**Upcoming Meetings**

Thursday, May 13, 2021	9:00 a.m.	Special Board Meeting
Thursday, May 20, 2021	9:00 a.m.	Special Board Meeting



**THE SOUTHWESTERN WATER CONSERVATION DISTRICT**

Developing and Conserving the Waters in the  
SAN JUAN AND DOLORES RIVERS AND THEIR TRIBUTARIES  
West Building – 841 East Second Avenue  
DURANGO, COLORADO 81301  
(970) 247-1302

**M E M O R A N D U M**

**May 3, 2021**

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To: Southwestern Board of Directors

From: Chris Treese, Independent Consultant

RE: **Colorado Legislative Report #8**

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***REMINDER: This week's special board meeting starts at noon, not the customary 9:00AM.***

The introduction of new bills is mirroring the spring runoff, down to a trickle. Accordingly, I only have two bills listed below to bring to your attention. I have also included some recent developments of note and will augment this memo with any last-minute developments of note at Thursday's meeting.

**Action Requested:**

[SB21-248](#)

**Ag. Loan Program**

Donovan & Simpson

McCormick & Holtorf

Summary: The bill creates the Colorado agricultural loan program in the Department of Agriculture to provide: Farm-to-market infrastructure loans to eligible applicants and low-interest loans to eligible farmers or ranchers and eligible ag-related businesses in Colorado. It funds the program with a one-time \$30 million General Fund transfer to the Dept. of Ag. with direction to provide:

- Ag processor loans; and
- Low-interest loans to eligible farmers, ranchers and ag businesses.

The Department is directed to award:

- At least \$5 million but no more than \$10 million in loans to ag processors by June 30, 2022; and

- At least \$10 million but no more than \$20 million in the form of low-interest loans to eligible farmers, ranchers, and ag-related businesses by December 31, 2022.

After January 1, 2023, the Department is directed to prioritize loans to farmers or ranchers who have owned or operated a farm or ranch for less than 10 years or represent a population that is underserved or underrepresented in Colorado agriculture.

Analysis: Although SB 248 is not noted as a companion bill to [SB21-234](#), the Ag. & Drought Resiliency Fund, it is certainly complementary and better funded. Consistent with your position on similar legislation that are one orbit out from being directly water related, I'm recommending you monitor SB 248. FYI: Your position on SB 234 is 'monitor'.

**RECOMMENDED POSITION: Monitor**

### [SB21-258](#)

### **Wildfire Grant Programs**

Ginal and Rankin

Snyder and Hanks

Summary: The bill creates two funds. First is the wildfire mitigation capacity development fund. Money for this fund is continuously appropriated to the DNR for a number of wildfire related programs. The second is the hazard mitigation fund to assist local jurisdictions in obtaining the matching funds required for certain federal grants.

The bill directs the following transfers and appropriations:

- \$5 million from the General Fund to the healthy forests and vibrant communities fund;
- \$2.5 million from the General Fund to the wildfire risk mitigation revolving fund for loans issued by the wildfire risk mitigation loan program;
- \$17.5 million from the General Fund to the wildfire mitigation capacity development fund;
- \$3 million from the wildfire preparedness fund to the hazard mitigation fund; and
- \$600,000 from the wildfire preparedness fund and \$1.2 million from the Colorado firefighting air corps fund to the wildfire emergency response fund.

Additionally, the bill allows the state forest service to issue forest restoration and wildfire risk mitigation grants for projects on federal lands. The bill also generously expands the allowable uses of the forest restoration and wildfire risk mitigation grant program by allowing the program to fund capacity-building efforts for local governments, community groups, and collaborative forestry efforts.

Analysis: This bill is targeted at securing additional wildfire fighting resources from the USDA with the goal of securing stimulus funds for wildfire fighting capacities. It generously funds the state forest service grant programs with broad, permissive uses. The eligibility of local governments and local collaborative groups should benefit southwestern Colorado in particular due to the significant groundwork laid by the regional SWIF and RMRI efforts. However, I believe consistency indicates an official board position of monitor.

**RECOMMENDED POSITION: Monitor**

Recent legislative developments:

The legislature on Friday gave final approval to the \$34.1 billion state budget for the next fiscal year, which begins July 1. SB21-205 needs only the signature of Gov. Jared Polis to become law. The Governor has the authority to veto by line item in the bill, but state budget writers say they don't expect him to use that power.

The budget calls for about \$4 billion more in spending for the 2021-22 fiscal year compared with this current year, a bump attributed to an unexpectedly swift recovery for the state's economy that plunged early in the pandemic.

Two weeks ago, the SW Board agreed with my concerns regarding the possible unintended consequences of the use of the term "trading in water and water rights" in the "Emerging Technologies in Water" bill, HB 1268. I shared the Board's concerns, and at the bill's first hearing Representative Catlin and other committee members very effectively voiced those concerns. Representative Will, one of the bill sponsors, asked me to draft an amendment addressing the expressed concerns. My draft amendment deletes all references to trading of water and adds a 'Safety Clause' that says, "nothing in this section is intended to, nor shall be construed to, encourage, authorize or endorse speculation in Colorado water or water rights." Both of the bill's sponsors are committed to adding this amendment on Second Reading when the bill goes to the House floor. It is currently unscheduled in House Appropriations.

In a precedent-breaking development, Representative Marc Catlin (R-Montrose) was named by House Democratic leadership as the co-chair of the House Agriculture, Livestock and Water Committee. This is the first time in modern history, perhaps a true first-ever, that a member of the minority party has been appointed to committee leadership. The appointment was made along with the appointment of Representative Karen McCormick (D-Boulder) as chair. McCormick was previously vice-chair to Jeni Arndt who resigned the week prior after her election as mayor of Ft. Collins. Catlin represents Montrose, San Miguel, Dolores, and Montezuma Counties.

Severance Tax revenue projections for the current year remain very low. The 8-year average of money coming to CWCB's Severance Tax Perpetual Base Fund is roughly \$35M. This current fiscal year's projection is \$2M. Next year's projection is around \$9M. These revenues support much of the operations of the CWCB and the Division of Water Resources (State Engineer's Office).

There is, however, good news regarding the CWCB's construction fund. I learned on last week's Water Congress webinar regarding the state and federal stimulus bills that the full \$33 million from the construction fund that last year was reserved for and subsequently diverted to COVID-emergency relief will, in fact, be repaid in full before the end of this fiscal year (June 30).

Shaun McGrath was named the new director of Environmental Health and Protection at CDPHE. Shaun is well known to Colorado's water community. Shaun was President Obama's Region 8 EPA Administrator. He previously held a leadership position at Western Governors Association and is a former mayor of Boulder. Most recently, Shaun was Director of Montana's Department of Environmental Quality.

In non-legislative news:

Although snowfall was above normal in Denver with foot of snow in just the last couple of weeks in April, moisture elsewhere in the state was only about 33% of normal, worsening already severe drought conditions. Meanwhile the outlook continues to dim. Most of the state is expected to have higher than normal temperatures, and most of the state is expected to have lower than normal rainfall in May.

Just after your last special meeting on April 21, Northern Water announced settlement of litigation with a handful of environmental groups related to Northern's proposed Windy Gap Firming Project and the new Chimney Hollow Reservoir. Northern agreed to a \$15 million settlement clearing the last obstacle for construction to begin on the Windy Gap Firming Project, which involves a menu of waterworks construction projects including Chimney Hollow dam near Loveland and reconnecting the Colorado River around Windy Gap Dam near Granby. This project has been almost 20 years in design and permitting. Northern previously prevailed in court against the environmentalists' legal challenge to their federal permits, but the ruling included a requirement for mediation. The settlement is the result of that mediation. This project will increase water diversions from the Colorado River basin to the Front Range; however, the Colorado River District, Grand County, and others had previously agreed to the project with its robust mitigation and operational commitments.



# SOUTHWESTERN WATER CONSERVATION DISTRICT

## 2021 State Legislative Update: [May 3, 2021](#)

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Below is a summary of 2021 water-related legislation under consideration by the Colorado General Assembly. These summaries generally apply to the bills as introduced.

Click on the bill number to view the most recent bill language and other information.

The Colorado Water Congress (CWC) State Affairs Committee met on April 26<sup>th</sup> and May 3<sup>rd</sup>. **Positions taken on bills are in red text for CWC and green text for SWCD.**

### THE FOLLOWING BILLS HAVE NOT YET BEEN CONSIDERED BY SWCD.

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#### [SB21-258](#)

#### Wildfire Risk Mitigation

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**SWCD Position:** [Discussion](#)

**CWC Position:** [Discussion](#)

**Sponsors:** Senate (Ginal/Rankin), House (Snyder/Hanks)

**Committee of Reference:** Senate Local Government

**Bill Status:** Introduced on April 29<sup>th</sup> and assigned to the Senate Local Government Committee.

**Title:** Concerning the administration of state assistance programs to mitigate the risk of wildfire, and, in connection therewith, creating the wildfire mitigation capacity development fund and the hazard mitigation fund; transferring money into specially designed wildfire funds; and making an appropriation.

**Summary:** The bill creates two funds. First is the wildfire mitigation capacity development fund. Money for this fund is continuously appropriated to the DNR for a number of wildfire related programs. The second is the hazard mitigation fund to assist local jurisdictions in obtaining the matching funds required for certain federal grants.

The bill directs the following transfers and appropriations:

- \$5 million from the General Fund to the healthy forests and vibrant communities fund;
- \$2.5 million from the General Fund to the wildfire risk mitigation revolving fund for loans issued by the wildfire risk mitigation loan program;
- \$17.5 million from the General Fund to the wildfire mitigation capacity development fund;
- \$3 million from the wildfire preparedness fund to the hazard mitigation fund; and
- \$600,000 from the wildfire preparedness fund and \$1.2 million from the Colorado firefighting air corps fund to the wildfire emergency response fund.

Additionally, the bill allows the state forest service to issue forest restoration and wildfire risk mitigation grants for projects on federal lands. The bill also generously expands the allowable uses of the forest restoration and wildfire risk mitigation grant program by allowing the program to fund capacity-building efforts for local governments, community groups, and collaborative forestry efforts.

**Comments:**

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**SB21-248**      **Loan Program for Colorado Agriculture**

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**SWCD Position:**    **No Discussion****CWC Position:**    **Discussion****Sponsors:**        Senate (Donovan/Simpson), House (McCormick/Holtorf)**Committee of Reference:**    Senate Agriculture & Natural Resources**Bill Status:**        Scheduled for consideration by Senate Agriculture & Natural Resources Committee on May 5<sup>th</sup>.**Title:**                Concerning assistance for agriculture in Colorado, and, in connection therewith, establishing a loan program in the Department of Agriculture and transferring money from the general fund to a new agricultural future loan program cash fund to be used for the loan program.**Summary:**            The bill creates the Colorado agricultural loan program in the Department of Agriculture to provide: Farm-to-market infrastructure loans to eligible applicants and low-interest loans to eligible farmers or ranchers and eligible ag-related businesses in Colorado. It funds the program with a one-time \$30 million General Fund transfer to the Dept. of Ag. with direction to provide:

- Ag processor loans; and
- Low-interest loans to eligible farmers, ranchers and ag businesses.

The Department is directed to award:

- At least \$5 million but no more than \$10 million in loans to ag processors by June 30, 2022; and
- At least \$10 million but no more than \$20 million in the form of low-interest loans to eligible farmers, ranchers, and ag-related businesses by December 31, 2022.

After January 1, 2023, the Department is directed to prioritize loans to farmers or ranchers who have owned or operated a farm or ranch for less than 10 years or represent a population that is underserved or underrepresented in Colorado agriculture.

**Comments:****THE FOLLOWING BILLS HAVE ALREADY BEEN CONSIDERED BY SWCD.**

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**SB21-034**      **Water Resources Financing Enterprise (POSTPONED INDEFINITELY)**

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**SWCD Position:**    **Monitor****CWC Position:**    **No Position****Sponsors:**        Senate (Coram)**Committee of Reference:**    Senate Agriculture & Natural Resources**Bill Status:**        Postponed indefinitely by the Senate Agriculture and Natural Resources Committee.**Title:**                Concerning the creation of an enterprise that is exempt from the requirements of section 20 of article X of the state constitution to administer a fee-based water resources financing program.**Summary:**            This bill creates the water resources financing enterprise. The board of the enterprise would consist of the combined boards of the Colorado Water Resources and Power Development Authority and the Colorado Water Conservation Board. The enterprise will provide financing (including grants and low interest loans) to drinking water suppliers, wastewater treaters, and

raw water suppliers. "Raw water suppliers" are limited to those providing raw water for treatment and use as drinking water.

The enterprise would be funded with a \$0.25/1000 gal. fee above 4,000 gal./mo. minimum on drinking water bills. The fee would be collected by drinking water utilities and remitted to the state. As a fee-based enterprise, new revenues collected would not be included in any TABOR calculations for state budget caps. Fees may be adjusted annually for inflation and to address "certain equity concerns."

Although clearly established as an enterprise fund, voters will be asked in November 2022 to authorize the creation of the enterprise.

**Comments:**

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**SB21-054 Transfers for Wildfire Mitigation and Response (PASSED & SIGNED BY GOVERNOR)**

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**SWCD Position:** Support

**CWC Position:** Support

**Sponsors:** Senate (Hansen/Rankin) House (McCluskie)

**Committee of Reference:** Senate Appropriations

**Bill Status:** Passed and signed by the governor.

**Title:** Concerning transfers from the general fund to cash funds to be used to address wildland fires, and, in connection therewith, making an appropriation.

**Summary:** SB 54 transfers from the General Fund \$13 million to three cash funds for wildfire preparedness and post-fire mitigation.

- Section 1 transfers \$6 million to the forest restoration and wildfire risk mitigation grant program cash fund.
- Section 2 transfers \$3 million from the general fund to the wildfire preparedness fund. The division of homeland security and emergency management will use these funds as
  - State match for federal hazard mitigation assistance grants to local governments that are used to mitigate wildland fire hazards; and
  - To provide local governments that are eligible to receive the federal grants with strategic planning assistance for wildland fire hazard mitigation.
- Section 3 transfers \$4 million to CWCB construction for the watershed restoration program.

**Comments:**

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**SB21-087 Agricultural Workers' Rights**

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**SWCD Position:** Oppose

**CWC Position:** Has not discussed

**Sponsors:** Senate (Danielson), House (McCormick, Caraveo)

**Committee of Reference:** Senate Business, Labor & Technology; Senate Appropriations

**Bill Status:** Passed out of Senate Business, Labor & Technology as amended on March 17<sup>th</sup> and referred to Senate Appropriations.

**Title:** Concerning agricultural workers' rights.



**Summary:** This lengthy and detailed bill removes the historical exemption of agricultural labor from state and local labor and minimum wage laws. It also provides detailed directions and limitations on farm-labor operations including, among others:

- Specifies meal breaks and rest periods,
- Even specifically prohibits use of the short-handled or long-handled hoes,
- Creates an agricultural work advisory committee to study and analyze agricultural wages and working conditions and
- Creates an appeal process and enforcement actions, including minimum penalties, for aggrieved agricultural employees, whistleblowers, and key service providers.

**Comments:**

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**SB21-164**      **Uniform Easement Relocation Act (POSTPONED INDEFINITELY)**

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**SWCD Position:** **Oppose**

**CWC Position:** **Oppose**

**Sponsors:** Senate (Gardner)

**Committee of Reference:** Senate Agriculture & Natural Resources

**Bill Status:** Postponed indefinitely by Senate Agriculture and Natural Resources.

**Title:** Concerning the "Uniform Easement Relocation Act".

**Summary:** The bill would enact the "Uniform Easement Relocation Act," drafted by the Uniform Law Commission. The bill sets procedures to relocate most easements. Nearly half of this lengthy bill outlines what must not be done in order to relocate an easement.

**Comments:**

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**SB21-189**      **Colorado Water Conservation Board Construction Fund Project**

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**SWCD Position:** **Support**

**CWC Position:** **Support**

**Sponsors:** Senate (Donovan), House (Arndt)

**Committee of Reference:** Senate Agriculture and Natural Resources

**Bill Status:** Passed out of the Senate and assigned to the House Agriculture, Livestock and Water Committee.

**Title:** Concerning the funding of Colorado Water Conservation Board projects, and, in connection therewith, making an appropriation.

**Summary:** SB 189 is the annual construction fund bill for CWCB projects' authorizations. In addition to a pared-down list of authorized operations expenditures (e.g., weather modification, flood plain mapping), this year's bill allows a transfer of up to \$2,000,000 to the interstate litigation fund. It also authorizes the CWCB to make a loan up to \$3,000,000 to assist the confined aquifer recovery project in the San Luis Valley. Finally, in a much shorter than normal projects' bill, Section 7 conditionally reinstates funding for the water efficiency grant program with \$550,000 annually if the general assembly chooses not to spend 100% of the money in the operational fund on core departmental programs.

**Comments:**

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**SB21-220**      **Reverse Transfers from Severance Tax Operational Fund**  
**(PASSED & SIGNED BY GOVERNOR)**

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**SWCD Position:** Support  
**CWC Position:** Discussion  
**Sponsors:** Senate (Hansen, Rankin), House (Herod)  
**Committee of Reference:** Senate Appropriations

**Bill Status:** Passed out of Senate unamended and awaiting House Third Reading.

**Title:** Concerning the stabilization of revenue in the severance tax operational fund by returning money that was transferred to natural resources and energy grant programs.

**Summary:** Money in the severance tax operational fund is primarily used for two purposes. The General Assembly annually appropriates money from the operational fund for several core departmental programs. If money remains after these core appropriations and the reserve requirement for the core programs is met, then the state treasurer transfers money to several funds that support natural resources and energy grant programs. (These used to be called “Tier II” programs.)

Based on recent forecasts, there will be insufficient revenue in the operational fund for even the core departmental programs. To avoid a fund deficit in the operational fund, this JBC bill reverses five transfers made in the following amounts:

\$1,998,205 for the Species Conservation Trust Fund (SCTF);  
\$1,600,964 for CPW’s aquatic nuisance species (ANS) fund;  
\$219,803 for the CWCB’s water efficiency grant program cash fund;  
\$297,759 for the Inter-Basin Compact Committee’s (IBCC) operating fund; and  
\$3,996,410 for the water supply reserve fund (WSRF).

**Comments:**

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**SB21-234**      **General Fund Transfer Agriculture and Drought Resiliency**

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**SWCD Position:** Support  
**CWC Position:** Discussion  
**Sponsors:** Senate (Lewis, Sonnenberg), House (Cutter, Holtorf)  
**Committee of Reference:** Senate Agriculture & Natural Resources

**Bill Status:** Introduced on April 6<sup>th</sup> and assigned to Senate Agriculture and Natural Resources Committee.

**Title:** Concerning creation of the agriculture and drought resiliency fund, and, in connection therewith, transferring money from the general fund to the fund and making an appropriation.

**Summary:** SB 234 creates a short-lived agriculture and drought resiliency fund in the Colorado Department of Agriculture with a one-time \$3 million General Fund transfer from the current fiscal year’s budget. The Department of Agriculture would use the fund to anticipate, prepare for, mitigate, adapt to, or respond to events, trends, or climatological disturbances related to drought or climate.” The bill directs the development of a “hay bank” to provide “adequate resources for livestock in times of drought” and “supporting recovery of grazing lands following wildfire(s).” The fund is repealed September 1, 2022.

**Comments:**

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**SB21-237 Create Forest Health Council in Department of Natural Resources**

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**SWCD Position:** Monitor

**CWC Position:** Discussion

**Sponsors:** Senate (Donovan), House (McCluskie)

**Committee of Reference:** Senate Agriculture & Natural Resources

**Bill Status:** Passed out of Senate Agriculture and Natural Resources Committee as amended, scheduled for Third Reading on May 4<sup>th</sup>.

**Title:** Concerning creation of the Colorado Forest Health Council in the Department of Natural Resources, and, in connection therewith, repealing the forest health advisory council within the state forest service.

**Summary:** Under current law, the forest health advisory council was created within the state forest service, which is within Colorado state university. Section 4 of the bill repeals the forest health advisory council and section 2 creates the Colorado forest health council within the division of forestry within the department of natural resources and specifies the new council's membership and duties. Section 1 schedules the new council for sunset review in 2026.

**Comments:**

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**SB21-240 Watershed Restoration Grant Program Stimulus**

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**SWCD Position:** Support

**CWC Position:** Support

**Sponsors:** Senate (Danielson, Simpson), House (Kipp, Catlin)

**Committee of Reference:** Senate Agriculture & Natural Resources

**Bill Status:** Passed out of Senate Agriculture and Natural Resources Committee unamended and referred to Senate Appropriations Committee.

**Title:** Concerning the transfer of money from the general fund to the Colorado water conservation board construction fund for watershed protection programs, and, in connection therewith, making an appropriation.

**Summary:** The bill transfers \$15 million from the general fund to the Colorado Water Conservation Board construction fund for use by the Colorado water conservation board (CWCB) to protect watersheds against the impacts of wildfires through the existing watershed restoration grant program and for conducting a statewide watershed analysis to investigate the susceptibility of life, safety, infrastructure, and water supplies to wildfire impacts. The CWCB can use up to 5% of the money to administer the grant program and up to 10% to provide technical engineering services to grantees. The CWCB is directed to:

- Spend up to \$500,000 by December 31, 2022, to conduct the analysis; and
- Award at least \$10 million dollars in grants under the grant program by July 1, 2022, and award the remaining money, less the money the CWCB uses to administer the grant program and provide technical engineering services, in grants by December 31, 2022.

*(Note: This summary applies to this bill as introduced.)*

**Comments:**

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**HJR21-1002 Water Projects Eligibility Lists (PASSED & SIGNED BY THE GOVERNOR)**

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**SWCD Position:** Support

**CWC Position:** Support

**Sponsors:** House (Arndt), Senate (Donovan)

**Committee of Reference:** House Agriculture, Livestock & Water

**Bill Status:** Passed and signed by the governor.

**Title:** Concerning approval of water project revolving fund eligibility lists administered by the Colorado water resources and power development authority.

**Summary:** See bill text for full fund eligibility lists.

**Comments:**

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**HB21-1008 Forest Health Project Financing (PASSED & AWAITING GOVERNOR'S CONSIDERATION)**

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**SWCD Position:** Support as amended

**CWC Position:** Support

**Sponsors:** House (Arndt/Catlin), Senate (Cooke/Hansen)

**Committee of Reference:** House Agriculture, Livestock & Water, House Finance

**Bill Status:** Passed out of the House, out of Senate Ag and Natural Resources and awaiting Senate First reading on April 20<sup>th</sup>.

**Title:** Concerning increased options for financing forest health projects, and, in connection therewith, financing wildfire mitigation treatments.

**Summary:** HB 1008 provides additional options for financing forest health projects by authorizing:

- Creation of special improvement districts by a combination of local governments,
- Special assessments on property specially benefited by the improvement district, including forest health projects,
- Specifically authorizing counties, municipalities, special districts, water conservancy districts, the Colorado River District, and the Southwestern Water Conservation District to participate in and finance forest health projects; and
- A forest improvement district to use sales tax revenue for forest health projects.

The bill also extends the statutory sunset of the Colorado Water Resources Power and Development Authority to issue bonds to fund watershed protection and forest health projects from July 1, 2023, to July 1, 2033.

**Comments:**

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**HB21-1043 Study Underground Water Storage Maximum Beneficial Use**

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**SWCD Position:** Monitor

**CWC Position:** Support

**Sponsors:** House (Holtorf), Senate (Sonnenberg)

**Committee of Reference:** House Agriculture, Livestock & Water

**Bill Status:** Passed as amended out of House Agriculture, Livestock and Water Committee and House Finance Committee, and referred to House Appropriations.

**Title:** Concerning a study of underground water storage to maximize the beneficial use of water within Colorado.

**Summary:** This bill directs the CWCB, in consultation with the state engineer, to sponsor a study of underground water storage for later recovery. The study must identify:

- Specific aquifers that are hydrologically and legally available to be used for underground storage and subsequent beneficial use;
- Sources of revenue that could be used to pay for underground storage projects;
- Planned, potential or existing underground storage projects that meet the objectives identified in the study; and
- Recommend legislative changes needed to implement underground storage projects.

The bill directs the study be submitted to the Water Resources Review Committee by August 1, 2022, including recommended legislation to implement the study's recommendations

**Comments:**

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**HB21-1046**      **Water Share Right Mutual Ditch Corporation**  
**(PASSED & AWAITING GOVERNOR'S CONSIDERATION)**

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**SWCD Position:** Monitor

**CWC Position:** Support

**Sponsors:** House (Arndt/Catlin), Senate (Fields/Sonnenberg)

**Committee of Reference:** House Agriculture, Livestock & Water

**Bill Status:** Passed as amended out of the House and Senate Ag and Natural Resources Committee, awaiting Senate First Reading on April 20<sup>th</sup>.

**Title:** Concerning the use of a water right obtained through a mutual ditch corporation.

**Summary:** The House Ag. Committee unanimously voted to adopt the sponsors' amendment rewriting the entirety of HB21-1046. The strike below (SBEC) amendment resulted from extensive stakeholder outreach and collaboration at the State Affairs Committee of CWC. The resulting SBEC amendment reflects a consensus compromise for a workable bill addressing the most troubling elements of recent water court rulings. The amended bill clarifies that, subject to the Articles of Incorporation and Bylaws of the corporation:

- When stockholder demand exceeds supply, mutual ditch corporations may limit or otherwise rotate delivery of water ratably among the stockholders;
- When a stockholder is not using some of or all of the available water under the stockholder's shares, the remaining stockholders taking delivery of water through the ditch may use any unused portion of the water that would otherwise have been available to that stockholder's shares, absent certain exceptions; and
- The provision is not intended to prevent a stockholder from changing the use of the water rights represented by the stockholder's shares, create any impediments to changes in use, affect storage water rights, or change the standards for water court approval to change a water right.

**Comments:**

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**HB21-1105**      **Low-Income Utility Payment Assistance Contributions**

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**SWCD Position:** Support

**CWC Position:** No action

**Sponsors:** House (Kennedy), Senate (Hansen)

**Committee of Reference:** House Finance

**Bill Status:** Passed out of House Finance Committee as amended and referred to House Appropriations.

**Title:** Concerning utility customers' financial contributions for low-income utility assistance.

**Summary:** This 17-section bill has several water-related elements. Section 1 removes the low-income energy assistance program (LEAP) from the "tier 2" severance tax operational fund money, something the water community has advocated for years. Later sections provide for voluntary, opt-in charges that a water utility may offer its customers to help finance a water utility bill payment assistance program. Alternatively, HB 1105 allows a water utility to implement its own water utility bill payment assistance program.

**Comments:**

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**HB21-1226**      **More Robust Check Station Aquatic Nuisance Species**

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**SWCD Position:** Support

**CWC Position:** Support

**Sponsors:** House (Esgar, Will), Senate (Coram, Donovan)

**Committee of Reference:** House Agriculture, Livestock & Water

**Bill Status:** Passed out of Senate Committee on Agriculture and Natural Resources and scheduled for Senate second reading on May 4<sup>th</sup>.

**Title:** Concerning additional measures to control aquatic nuisance species, and, in connection therewith, prohibiting a person from refusing to stop at a check station and directing the division of parks and wildlife to report to the general assembly regarding implementation of the act.

**Summary:** Current law allows qualified peace officers to stop a conveyance, including a boat trailer and a boat, and inspect the conveyance for the presence of aquatic nuisance species before the boat is launched onto waters of the state and before departing from the waters of the state or a vessel staging area, and to impound and quarantine a conveyance that is contaminated until it is decontaminated. Authorized agents can detain and inspect conveyances but cannot impound or quarantine conveyances. Section 1 of the bill directs the division of parks and wildlife in the department of natural resources to investigate the methods that other states are using with respect to the location and operation of check stations and report regarding its investigation and the operation of check stations pursuant to the bill to the general assembly's committees with jurisdiction over wildlife. Section 2 authorizes a qualified peace officer to stop and inspect for the presence of aquatic nuisance species a conveyance that has encountered an aquatic nuisance species check station. Section 3 prohibits a person who encounters a check station from failing or refusing to stop at the check station while transporting a conveyance during the check station's hours of operation without presenting the conveyance for inspection.

*(Note: This summary applies to this bill as introduced.)*

**Comments:**

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**[HB21-1233](#) Conservation Easement Tax Credit Modifications**

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**SWCD Position:** Monitor

**CWC Position:** Discussion

**Sponsors:** House (Roberts, Will), Senate (Donovan, Winter)

**Committee of Reference:** House Agriculture, Livestock & Water

**Bill Status:** Passed out of House Agriculture, Livestock, and Water Committee and House Finance Committee and referred as amended to House Appropriations.

**Title:** Concerning modifications to the requirements for claiming an income tax credit for the donation of a perpetual conservation easement.

**Summary:** HB 1233 makes numerous changes affecting claims for an income tax credit for the donation of a perpetual conservation easement. The proposed changes are generally favorable and clarifying for potential easement donors.

**Comments:**

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**[HB21-1260](#) General Fund Transfer Implement State Water Plan**

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**SWCD Position:** Support

**CWC Position:** Support

**Sponsors:** House (Garnett/Catlin), Senate (Donovan/Simpson)

**Committee of Reference:** House Agriculture, Livestock & Water

**Bill Status:** Passed out of the House and scheduled for consideration by Senate Committee on Agriculture and Natural Resources on May 6<sup>th</sup>.

**Title:** Concerning transfers of money from the general fund to implement the state water plan, and, in connection therewith, making an appropriation.

**Summary:** The bill allocates \$20 million from the general fund to the Colorado water conservation board (CWCB) to be spent to implement the state water plan as follows:

- \$15 million, which is transferred to the water plan implementation cash fund for expenditures and grants administered by the CWCB to implement the state water plan; and
- \$5 million, which is transferred to the water supply reserve fund for CWCB to disperse to the basin roundtables.

**Comments:**

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**[HB21-1266](#) Environmental Justice Disproportionate Impacted Community**

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**SWCD Position:** Monitor

**CWC Position:** Discussion

**Sponsors:** House (Jackson), Senate (Winter, Buckner)

**Committee of Reference:** House Energy & Environment

**Bill Status:** Passed out of House Committee on Energy and Environment and House Finance Committee, and referred as amended to the House Appropriations Committee.

**Title:** Concerning efforts to redress the effects of environmental injustice on disproportionately impacted communities.

**Summary:** Section 3 of the bill defines "disproportionately impacted community". Section 4 requires the air quality control commission to promote outreach to and engage with disproportionately impacted communities by creating new ways to gather input from communities across the state, using multiple languages and multiple formats, and transparently sharing information about adverse effects resulting from its proposed actions. Section 5 creates the environmental justice action task force (task force) in the department of public health and environment (department), the goal of which is to propose recommendations to the general assembly regarding practical means of addressing environmental justice inequities. The task force will:

- Hold meetings to solicit public comment concerning the development of a state agency-wide environmental justice strategy and a plan to implement that strategy, including ways to address data gaps and data sharing between state agencies and the engagement of disproportionately impacted communities;
- Evaluate and propose recommended revisions to the definition of "disproportionately impacted community" and the state agencies and their proposed actions that are subject to section 3; and
- File a final report by November 14, 2022, regarding its recommendations.

The department will report on the task force during the department's "SMART Act" presentations.  
*(Note: This summary applies to this bill as introduced.)*

**Comments:**

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**[HB21-1268](#) Study Emerging Technologies for Water Management**

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**SWCD Position:** Monitor

**CWC Position:** Discussion

**Sponsors:** House (Titone), Senate (Will)

**Committee of Reference:** House Agriculture, Livestock and Water

**Bill Status:** Passed out of House Committee on Agriculture, Livestock and Water and referred as amended to the House Appropriations Committee.

**Title:** Concerning a requirement that Colorado institutions of higher education study potential uses of emerging technologies to more effectively manage Colorado's water supply, and, in connection therewith, making an appropriation conditioned on the receipt of matching funds from gifts, grants, and donations.

**Summary:** The bill declares that new technologies, such as blockchain, telemetry, improved sensors, and advanced aerial observation platforms, can improve monitoring, management, conservation, and trading of water and enhance confidence in the reliability of data underlying water rights transactions. To advance the potential use of these new technologies, the bill:

- Authorizes and directs the university of Colorado and Colorado state university, in collaboration with the Colorado water institute at Colorado state university, to conduct feasibility studies and pilot deployments of these new technologies to improve water management in Colorado; and



- Appropriates \$20,000 to each university from the general fund, contingent on the universities' receipt of a matching \$40,000 in gifts, grants, and donations, for the purpose of funding the feasibility studies and pilot deployments.

*(Note: This summary applies to this bill as introduced.)*

**Comments:**

Monitoring legislation is integral to keeping a finger on the pulse of dynamic water policy in the state. On behalf of its diverse constituents in southwestern Colorado, the Southwestern Water Conservation District (SWCD) tracks state water legislation closely. Beth Van Vurst, SWCD General Counsel, and Chris Treese, lobbyist, ensure the views and priorities of southwestern Colorado are considered as the State legislature enacts new laws affecting water resources.

SWCD staff provides this written summary of water-related legislation, updated throughout the session via email to interested stakeholders and public. To be added to the list, please contact [lauras@swwcd.org](mailto:lauras@swwcd.org). We hope that you find the updates beneficial and informative.

First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0887.01 Richard Sweetman x4333

SENATE BILL 21-248

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SENATE SPONSORSHIP

Donovan and Simpson,

HOUSE SPONSORSHIP

(None),

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Senate Committees

Agriculture & Natural Resources

House Committees

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A BILL FOR AN ACT

101      **CONCERNING ASSISTANCE FOR AGRICULTURE IN COLORADO, AND, IN**  
102           **CONNECTION THEREWITH, ESTABLISHING A LOAN PROGRAM IN**  
103           **THE DEPARTMENT OF AGRICULTURE AND TRANSFERRING MONEY**  
104           **FROM THE GENERAL FUND TO A NEW AGRICULTURAL FUTURE**  
105           **LOAN PROGRAM CASH FUND TO BE USED FOR THE LOAN**  
106           **PROGRAM.**

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**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://leg.colorado.gov>.)*

The bill creates the Colorado agricultural future loan program

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

(loan program) in the department of agriculture (department) to provide:

- Farm-to-market infrastructure loans to eligible applicants; and
- Low-interest loans to eligible farmers or ranchers and eligible businesses in Colorado.

The department shall administer the loan program and provide loans from the Colorado agricultural future loan program cash fund (fund), which is also created in the bill.

In administering the loan program, the department, to the extent practicable, shall attempt to award:

- A total of at least \$5 million but no more than \$10 million in the form of farm-to-market infrastructure loans by June 30, 2022; and
- A total of at least \$10 million but no more than \$20 million in the form of low-interest loans to eligible farmers or ranchers and eligible businesses by December 31, 2022.

In administering the loan program on and after January 1, 2023, to the extent practicable, the department shall prioritize the provision of loans to eligible farmers or ranchers who apply for loans from the loan program and who have owned or operated a farm or ranch for less than 10 years or represent a population that is underserved or underrepresented in Colorado agriculture.

The commissioner of agriculture is required to promulgate rules to implement the loan program, and the department is required to submit an annual report to the general assembly concerning the loan program.

The bill requires the state treasurer to transfer \$30 million from the general fund to the fund for use by the department to implement and administer the loan program. The money in the fund is continuously appropriated to the department to expend for the loan program.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** article 1.2 to title  
3 35 as follows:

4   **ARTICLE 1.2**

5   **Colorado Agricultural Future Loan Program**

6           **35-1.2-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 1.2 IS  
7 THE "COLORADO AGRICULTURAL FUTURE LOAN PROGRAM ACT".

8           **35-1.2-102. Definitions - repeal.** AS USED IN THIS ARTICLE 1.2,

1 UNLESS THE CONTEXT OTHERWISE REQUIRES:

2 (1) "AGRICULTURAL PROCESSING" MEANS THE TRANSFORMING,  
3 PACKAGING, SORTING, OR GRADING OF COLORADO LIVESTOCK, LIVESTOCK  
4 PRODUCTS, AGRICULTURAL COMMODITIES, PLANTS, OR PLANT PRODUCTS.

5 (2) "AGRICULTURE" HAS THE SAME MEANING AS SET FORTH IN  
6 SECTION 35-1-102 (1).

7 (3) "COMMISSIONER" MEANS THE COMMISSIONER OF  
8 AGRICULTURE.

9 (4) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE  
10 CREATED IN SECTION 35-1-103.

11 (5) "ELIGIBLE BUSINESS" MEANS A BUSINESS THAT:

12 (a) EARNS A MAJORITY OF ITS REVENUE FROM AGRICULTURAL  
13 PROCESSING; AND

14 (b) IN THE JUDGMENT OF THE DEPARTMENT:

15 (I) HAS MANAGERS AND EMPLOYEES WHO POSSESS SUFFICIENT  
16 EDUCATION, TRAINING, AND EXPERIENCE TO OPERATE THE BUSINESS; AND

17 (II) PROVIDES AN ECONOMIC BENEFIT TO COLORADO FARMERS OR  
18 RANCHERS.

19 (6) "ELIGIBLE FARMER OR RANCHER" MEANS AN INDIVIDUAL WHO:

20 (a) IS AT LEAST EIGHTEEN YEARS OF AGE;

21 (b) IS A RESIDENT OF COLORADO;

22 (c) IS AN OWNER OR OPERATOR IN FACT OF A FARM OR RANCH; AND

23 (d) IN THE JUDGMENT OF THE DEPARTMENT:

24 (I) POSSESSES SUFFICIENT EDUCATION, TRAINING, AND EXPERIENCE  
25 TO OPERATE THE FARM OR RANCH; AND

26 (II) POSSESSES OR HAS ACCESS TO SUFFICIENT WORKING CAPITAL,  
27 FARM MACHINERY, LIVESTOCK, OR LAND TO OPERATE THE FARM OR

1 RANCH.

2 (7) (a) "FARM-TO-MARKET INFRASTRUCTURE LOAN" MEANS A  
3 LOAN FROM THE LOAN PROGRAM, WHICH LOAN IS USED FOR THE PURPOSE  
4 OF AGRICULTURAL PROCESSING.

5 (b) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE JANUARY 2,  
6 2023.

7 (8) "FUND" MEANS THE COLORADO AGRICULTURAL FUTURE LOAN  
8 PROGRAM CASH FUND CREATED IN SECTION 35-1.2-105.

9 (9) "LIVESTOCK" HAS THE SAME MEANING AS SET FORTH IN  
10 SECTION 35-1-102 (6).

11 (10) "LOAN PROGRAM" MEANS THE COLORADO AGRICULTURAL  
12 FUTURE LOAN PROGRAM CREATED IN SECTION 35-1.2-103.

13 **35-1.2-103. Colorado agricultural future loan program -**  
14 **created - application - criteria - awards - rules - repeal.** (1) THERE IS  
15 HEREBY CREATED IN THE DEPARTMENT THE COLORADO AGRICULTURAL  
16 FUTURE LOAN PROGRAM TO PROVIDE LOANS AS DESCRIBED IN THIS  
17 SECTION. THE DEPARTMENT SHALL ADMINISTER THE LOAN PROGRAM AND,  
18 BEGINNING ON OR BEFORE JANUARY 1, 2022, SHALL AWARD LOANS FROM  
19 THE LOAN PROGRAM AS PROVIDED IN THIS ARTICLE 1.2. LOANS SHALL BE  
20 PAID OUT OF THE FUND.

21 (2) (a) (I) BEGINNING ON OR BEFORE JANUARY 1, 2022, AND UNTIL  
22 JANUARY 1, 2023, THE DEPARTMENT SHALL AWARD FARM-TO-MARKET  
23 INFRASTRUCTURE LOANS FROM THE LOAN PROGRAM TO APPLICANTS WHO  
24 SATISFY THE REQUIREMENTS ESTABLISHED BY RULES PROMULGATED BY  
25 THE COMMISSIONER PURSUANT TO SUBSECTION (8) OF THIS SECTION.

26 (II) THIS SUBSECTION (2)(a) IS REPEALED, EFFECTIVE JANUARY 2,  
27 2023.

1 (b) BEGINNING ON OR BEFORE JANUARY 1, 2022, THE DEPARTMENT  
2 SHALL AWARD LOW-INTEREST LOANS FROM THE LOAN PROGRAM TO  
3 ELIGIBLE FARMERS OR RANCHERS AND ELIGIBLE BUSINESSES THAT SATISFY  
4 THE REQUIREMENTS ESTABLISHED BY RULES PROMULGATED BY THE  
5 COMMISSIONER PURSUANT TO SUBSECTION (8) OF THIS SECTION.

6 (3) IN ADMINISTERING THE LOAN PROGRAM, THE DEPARTMENT, TO  
7 THE EXTENT PRACTICABLE, SHALL ATTEMPT TO AWARD:

8 (a) (I) A TOTAL OF AT LEAST FIVE MILLION DOLLARS BUT NO MORE  
9 THAN TEN MILLION DOLLARS IN THE FORM OF FARM-TO-MARKET  
10 INFRASTRUCTURE LOANS BY JUNE 30, 2022.

11 (II) THIS SUBSECTION (3)(a) IS REPEALED, EFFECTIVE JULY 1, 2022.

12 (b) (I) A TOTAL OF AT LEAST TEN MILLION DOLLARS BUT NO MORE  
13 THAN TWENTY MILLION DOLLARS IN THE FORM OF LOW-INTEREST LOANS  
14 TO ELIGIBLE FARMERS OR RANCHERS AND ELIGIBLE BUSINESSES BY  
15 DECEMBER 31, 2022.

16 (II) THIS SUBSECTION (3)(b) IS REPEALED, EFFECTIVE JANUARY 1,  
17 2023.

18 (4) THE DEPARTMENT MAY CONTRACT WITH A NONPROFIT  
19 ORGANIZATION FOR THE PURPOSE OF HELPING THE DEPARTMENT  
20 ADMINISTER THE LOAN PROGRAM. IF THE DEPARTMENT CONTRACTS WITH  
21 A NONPROFIT ORGANIZATION PURSUANT TO THIS SUBSECTION (4), THE  
22 DEPARTMENT SHALL PROMPTLY NOTIFY THE AGRICULTURE AND NATURAL  
23 RESOURCES COMMITTEE OF THE SENATE AND THE AGRICULTURE,  
24 LIVESTOCK, AND WATER COMMITTEE OF THE HOUSE OF REPRESENTATIVES,  
25 OR ANY SUCCESSOR COMMITTEES, OF SUCH FACT.

26 (5) IN ADMINISTERING THE LOAN PROGRAM, THE DEPARTMENT  
27 SHALL:

1 (a) ACCEPT LOAN APPLICATIONS FROM APPLICANTS AT ALL TIMES  
2 DURING THE YEAR; EXCEPT THAT THE DEPARTMENT IS REQUIRED TO  
3 ACCEPT WRITTEN APPLICATIONS ONLY DURING REGULAR OFFICE HOURS;

4 (b) ON AND AFTER JANUARY 1, 2023, TO THE EXTENT  
5 PRACTICABLE, PRIORITIZE THE PROVISION OF LOANS TO ELIGIBLE FARMERS  
6 OR RANCHERS WHO APPLY FOR LOANS FROM THE LOAN PROGRAM AND  
7 WHO:

8 (I) HAVE OWNED OR OPERATED A FARM OR RANCH FOR LESS THAN  
9 TEN YEARS; OR

10 (II) REPRESENT A POPULATION THAT IS UNDERSERVED OR  
11 UNDERREPRESENTED IN COLORADO AGRICULTURE.

12 (6) TO RECEIVE A LOAN, AN APPLICANT MUST SUBMIT AN  
13 APPLICATION TO THE DEPARTMENT IN THE FORM ESTABLISHED BY THE  
14 COMMISSIONER PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION.

15 (7) THE DEPARTMENT SHALL REVIEW APPLICATIONS RECEIVED  
16 PURSUANT TO THIS SECTION. IN AWARDING LOANS, THE DEPARTMENT  
17 SHALL CONSIDER ANY CRITERIA ESTABLISHED PURSUANT TO RULES  
18 PROMULGATED BY THE COMMISSIONER PURSUANT TO SUBSECTION (8) OF  
19 THIS SECTION.

20 (8) PURSUANT TO ARTICLE 4 OF TITLE 24, THE COMMISSIONER  
21 SHALL PROMULGATE SUCH RULES AS ARE REQUIRED IN THIS ARTICLE 1.2  
22 AND SUCH ADDITIONAL RULES AS MAY BE NECESSARY TO IMPLEMENT THE  
23 LOAN PROGRAM. AT A MINIMUM, THE RULES MUST SPECIFY:

24 (a) THE FORM OF THE LOAN PROGRAM APPLICATION;

25 (b) THE TIME FRAMES FOR DISTRIBUTING LOAN MONEY;

26 (c) CRITERIA FOR THE DEPARTMENT TO USE IN CONSIDERING  
27 APPLICATIONS AND AWARDING LOANS;

- 1 (d) THE MAXIMUM AMOUNT OF A LOAN FROM THE LOAN PROGRAM;
- 2 (e) INTEREST RATES ON LOANS;
- 3 (f) REPAYMENT TERMS OF LOANS; AND
- 4 (g) PERMISSIBLE USES OF MONEY AWARDED AS LOW-INTEREST
- 5 LOANS TO ELIGIBLE FARMERS OR RANCHERS AND ELIGIBLE BUSINESSES,
- 6 WHICH USES MAY INCLUDE:
  - 7 (I) THE ACQUISITION OF PROPERTY AND EQUIPMENT;
  - 8 (II) PAYING COSTS ASSOCIATED WITH PURCHASING BREEDING
  - 9 LIVESTOCK;
  - 10 (III) VALUE-ADDED IMPROVEMENTS TO REAL OR PERSONAL
  - 11 PROPERTY ON A FARM OR RANCH;
  - 12 (IV) OPERATING EXPENSES;
  - 13 (V) CONSERVATION PROJECTS; AND
  - 14 (VI) SUCH OTHER USES AS THE COMMISSIONER MAY IDENTIFY.

15 **35-1.2-104. Report.** NOTWITHSTANDING SECTION 24-1-136  
16 (11)(a)(I), ON OR BEFORE DECEMBER 15, 2021, AND ON OR BEFORE  
17 DECEMBER 15 EACH YEAR THEREAFTER, THE DEPARTMENT SHALL SUBMIT  
18 A SUMMARIZED REPORT TO THE AGRICULTURE AND NATURAL RESOURCES  
19 COMMITTEE OF THE SENATE AND THE AGRICULTURE, LIVESTOCK, AND  
20 WATER COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY  
21 SUCCESSOR COMMITTEES, CONCERNING THE LOAN PROGRAM.

22 **35-1.2-105. Colorado agricultural future loan program cash**  
23 **fund - created.** (1) THE COLORADO AGRICULTURAL FUTURE LOAN  
24 PROGRAM CASH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE  
25 FUND CONSISTS OF:

- 26 (a) MONEY CREDITED TO THE FUND PURSUANT TO SECTION
- 27 35-1.2-106;



1 (b) MONEY RECEIVED AS LOAN PAYMENTS ON LOANS ISSUED FROM  
2 THE LOAN PROGRAM, INCLUDING INTEREST; AND

3 (c) ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY  
4 APPROPRIATE OR TRANSFER TO THE FUND.

5 (2) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND  
6 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE  
7 FUND TO THE FUND.

8 (3) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING  
9 IN THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE FUND.

10 (4) THE MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO  
11 THE DEPARTMENT TO EXPEND FOR THE PURPOSES OF THIS ARTICLE 1.2.

12 **35-1.2-106. Funding for loan program - repeal.** (1) WITHIN  
13 THREE DAYS AFTER THE EFFECTIVE DATE OF THIS ARTICLE 1.2, THE STATE  
14 TREASURER SHALL TRANSFER THIRTY MILLION DOLLARS FROM THE  
15 GENERAL FUND TO THE FUND TO IMPLEMENT AND ADMINISTER THE LOAN  
16 PROGRAM. THE DEPARTMENT MAY USE UP TO ONE AND ONE-HALF PERCENT  
17 OF THE MONEY TO SET UP THE LOAN PROGRAM AND UP TO ONE PERCENT OF  
18 THE MONEY TO PAY THE DIRECT AND INDIRECT COSTS THAT THE  
19 DEPARTMENT INCURS IN ADMINISTERING THE LOAN PROGRAM.

20 (2) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2022.

21 **SECTION 2. Safety clause.** The general assembly hereby finds,  
22 determines, and declares that this act is necessary for the immediate  
23 preservation of the public peace, health, or safety.

First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0883.01 Pierce Lively x2059

SENATE BILL 21-258

---

SENATE SPONSORSHIP

Ginal and Rankin,

HOUSE SPONSORSHIP

Snyder and Hanks,

---

Senate Committees  
Local Government

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE ADMINISTRATION OF STATE ASSISTANCE PROGRAMS  
102 TO MITIGATE THE RISK OF WILDFIRE, AND, IN CONNECTION  
103 THEREWITH, CREATING THE WILDFIRE MITIGATION CAPACITY  
104 DEVELOPMENT FUND AND THE HAZARD MITIGATION FUND;  
105 TRANSFERRING MONEY INTO SPECIALLY DESIGNED WILDFIRE  
106 FUNDS; AND MAKING AN APPROPRIATION.

---

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://leg.colorado.gov>.)*

The bill allows the forest service to issue forest restoration and

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

wildfire risk mitigation grants for projects on federal lands, so long as the project maintains continuity across a landscape including federal lands and the area of federal lands does not exceed the combined area of the nonfederal lands involved in the project.

The bill increases the amount that the forest service may use for the direct and indirect costs in administering the forest restoration and wildfire risk mitigation grant program from 3% to 7% of any amounts appropriated in any fiscal year.

The bill allows for the technical advisory panel that evaluates the proposals for forest restoration and wildfire risk mitigation grants to scale up and down in size.

The bill expands the allowable uses of the forest restoration and wildfire risk mitigation grant program by allowing the grant program to fund capacity-building efforts to provide local governments, community groups, and collaborative forestry groups with the resources and staffing necessary to plan and implement forest restoration and wildfire risk mitigation projects, including community and partner outreach and engagement, identifying priority project areas, prescription planning, and acquiring community equipment for use by landowners.

The bill allows for the forest service to hire nontemporary additional field capacity to support the implementation and monitoring of fuels mitigation grant awards and wildfire risk mitigation program grant awards and to hire full-time, nontemporary staff for developing, revising, and implementing community wildfire protection plans and collaborative landscape level prioritization plans; developing and implementing risk mitigation and watershed restoration plans; strengthening the responsible use of prescribed fire; and supporting economically beneficial uses of woody biomass.

The bill also creates 2 funds. First, the bill creates the wildfire mitigation capacity development fund. Money from the wildfire mitigation capacity development fund is continuously appropriated to the department of natural resources to support a number of wildfire related areas administered by the department. Second, the bill creates the hazard mitigation fund to assist local jurisdictions in obtaining the matching funds required for certain federal hazard mitigation grants.

Finally, the bill requires the following transfers:

- \$5 million from the general fund to the healthy forests and vibrant communities fund;
- \$2.5 million from the general fund to the wildfire risk mitigation revolving fund for loans issued by the wildfire risk mitigation loan program;
- \$17.5 million from the general fund to the wildfire mitigation capacity development fund;
- \$3 million from the wildfire preparedness fund to the hazard mitigation fund; and

- \$600,000 from the wildfire preparedness fund and \$1.2 million from the Colorado firefighting air corps fund to the wildfire emergency response fund.

---

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4 (a) Colorado's wildfire crisis is at a pivotal point and immediate  
5 decisive action is necessary to protect lives, homes, businesses, and  
6 critical infrastructure;

7 (b) In 2020, Colorado experienced the three largest wildfires in its  
8 history;

9 (c) These three wildfires burned over six hundred thousand acres,  
10 caused significant displacement, devastated communities, and ultimately  
11 resulted in hundreds of millions of dollars in property loss and damage;

12 (d) Although Colorado has been and remains committed to taking  
13 meaningful action to mitigate wildfires, past efforts have lacked the  
14 coordination and landscape-scale focus required to properly address the  
15 size and behavior of catastrophic wildfires;

16 (e) A comprehensive, statewide analysis of wildfire risk will help  
17 the state identify, prioritize, and take strategic actions to address  
18 Colorado's critical forest health and wildfire mitigation preparedness  
19 needs;

20 (f) Increasing funding for wildfire mitigation will prevent the  
21 future devastation of Colorado communities, critical watershed and water  
22 supply assets, and key ecological and wildlife resources;

23 (g) Increasing Colorado's capacity and workforce to conduct  
24 critical forest restoration and wildfire mitigation work will help prepare

1 the state to prevent and respond to wildfires;

2 (h) Forest products businesses are key partners in maintaining  
3 healthy forests and supporting local communities;

4 (i) Local communities and governments play a vital role in  
5 identifying, preparing for, and implementing wildfire mitigation actions;  
6 and

7 (j) Therefore, it is in the public interest to create the wildfire  
8 mitigation capacity development fund, increase funding for the wildfire  
9 risk mitigation loan program for forest-based businesses, and increase  
10 funding for the healthy forest and vibrant communities fund.

11 **SECTION 2.** In Colorado Revised Statutes, 23-31-310, **amend**  
12 (3), (5) introductory portion, (8), (8.2)(a)(I), (8.2)(b)(II), and (8.3)(a)(I)  
13 as follows:

14 **23-31-310. Forest restoration and wildfire risk mitigation**  
15 **grant program - technical advisory panel - legislative declaration -**  
16 **definitions - repeal.** (3) **Grant projects.** The forest service shall issue  
17 a statewide request for proposals for cost-share grants for projects that are  
18 designed through a collaborative community process. The projects may  
19 be entirely on, or on any combination of, private, state, county, or  
20 municipal forest lands. PROJECTS MAY ALSO BE ON FEDERAL LANDS, SO  
21 LONG AS THE PROJECT MAINTAINS CONTINUITY ACROSS A LANDSCAPE  
22 INCLUDING FEDERAL LANDS AND THE AREA OF THE FEDERAL LANDS DOES  
23 NOT EXCEED THE COMBINED AREA OF THE NONFEDERAL LANDS INVOLVED  
24 IN THE PROJECT. The grant share of an individual project cost must not  
25 exceed fifty percent of the total cost of the project or exceed one million  
26 dollars per project. In the case of a project that is located in an area with  
27 fewer economic resources, the grant share of an individual project cost

1 must not exceed seventy-five percent of the total cost of the project or  
2 exceed one million dollars per project. The remaining portion of the  
3 project's funding may be in the form of cash, stumpage, or in-kind  
4 contribution. In meeting the match requirements under this subsection (3),  
5 a project may be funded, in whole or in part, from gifts, grants, or  
6 donations received from any organization, entity, or individual. In  
7 measuring an in-kind contribution for purposes of meeting the fifty  
8 percent and twenty-five percent matches required by this subsection (3),  
9 "in-kind contribution" may include volunteer hours provided by the staff  
10 of an entity or organization applying for grant funding and the time for  
11 which staff receives monetary compensation in the form of salary or other  
12 financial benefits. Such compensated time that counts toward the in-kind  
13 contribution is limited to the estimated time of paid staff in planning and  
14 implementing the mitigation project. The forest service shall establish a  
15 policy that specifies the criteria by which a particular project will satisfy  
16 the requirement of this subsection (3) that it is located in an area with  
17 fewer economic resources, as applicable.

18 (5) **Technical advisory panel.** The director shall convene a  
19 technical advisory panel to evaluate the proposals for forest restoration  
20 and wildfire risk mitigation grants and provide recommendations  
21 regarding which proposals would best meet the objectives of this section.  
22 The panel shall consider eligibility criteria established in subsections (4)  
23 and (4.5) of this section, a project's effect on long-term forest  
24 management, and the number of acres treated for state dollars spent and  
25 seek to use a consensus-based decision-making process to develop such  
26 recommendations. A panel member shall recuse himself or herself if he  
27 or she has an actual or potential conflict of interest with respect to a grant

1 applicant. The panel is composed of ~~ten to eleven~~ members to be  
2 appointed by the director. The composition of the panel includes AT  
3 LEAST:

4 (8) **Administrative costs.** The forest service may utilize no more  
5 than ~~three~~ SEVEN percent of any amounts appropriated in any fiscal year  
6 for its direct and indirect costs in administering the program.

7 (8.2) **Community watershed restoration and wildfire risk**  
8 **mitigation.** (a) In order to support communities and land managers in  
9 efforts to reduce risk to people and property and in support of long-term  
10 ecological restoration so that the underlying condition of Colorado's  
11 forests supports a variety of values, particularly public water supply and  
12 high-quality wildlife habitat, the forest service shall:

13 (I) Hire additional ~~temporary~~ field capacity to support the  
14 implementation of forest restoration and wildfire risk mitigation program  
15 grants awarded pursuant to this section;

16 (b) (II) This subsection (8.2)(b) is repealed, effective ~~September~~  
17 ~~1, 2023~~ SEPTEMBER 1, 2028.

18 (8.3) **Grant program.** (a) The forest service shall develop and  
19 administer the program in consultation with the technical advisory panel  
20 created in subsection (5) of this section. In developing the program, the  
21 forest service shall:

22 (I) Dedicate up to twenty-five percent of the money available in  
23 the forest restoration and wildfire risk mitigation grant program cash  
24 fund, created in subsection (8.5) of this section, to fund capacity-building  
25 efforts to provide local governments, community groups, and  
26 collaborative forestry groups with the resources AND STAFFING necessary  
27 to ~~provide site-based hazardous fuel reduction treatments~~, PLAN AND

1 IMPLEMENT FOREST RESTORATION AND WILDFIRE RISK MITIGATION  
2 PROJECTS, including ~~neighborhood slash piles~~, COMMUNITY AND PARTNER  
3 OUTREACH AND ENGAGEMENT, IDENTIFYING PRIORITY PROJECT AREAS,  
4 PRESCRIPTION PLANNING, and ACQUIRING community equipment for use  
5 by landowners;

6 **SECTION 3.** In Colorado Revised Statutes, 23-31-313, **amend**  
7 (5)(b) and (9)(a); and **add** (8)(e) and (10)(a)(III) as follows:

8 **23-31-313. Healthy forests - vibrant communities - funds**  
9 **created - repeal. (5) Community wildfire risk mitigation.** To help  
10 communities address the urgent need to reduce wildfire risks by  
11 supporting implementation of risk mitigation treatments that focus on  
12 protecting lives, homes, and essential community infrastructure, and by  
13 improving inventory and monitoring of forest conditions, the forest  
14 service shall:

15 (b) Hire additional ~~temporary~~ field capacity to support the  
16 implementation and monitoring of fuels mitigation grant awards;

17 (8) **Wildfire risk mitigation loan program.** (e) ON THE  
18 EFFECTIVE DATE OF THIS SUBSECTION (8)(e), OR AS SOON AS POSSIBLE  
19 THEREAFTER, THE STATE TREASURER SHALL TRANSFER TWO MILLION FIVE  
20 HUNDRED THOUSAND DOLLARS FROM THE GENERAL FUND TO THE  
21 WILDFIRE RISK MITIGATION REVOLVING FUND.

22 (9) **Improved outreach and technical assistance.** In order to  
23 ensure that the forest service has the capacity to deliver key funding and  
24 technical assistance that will be needed to guide and support  
25 implementation of wildfire preparedness, risk mitigation, watershed  
26 restoration, and economic development initiatives in a way that adds  
27 value to these efforts at the state level and across community boundaries,



1 the forest service shall:

2 (a) Secure full-time ~~temporary~~ staff for developing, revising, and  
3 implementing CWPPs AND COLLABORATIVE LANDSCAPE LEVEL  
4 PRIORITIZATION PLANS; developing and implementing risk mitigation and  
5 watershed restoration plans; strengthening the responsible use of  
6 prescribed fire; and supporting economically beneficial uses of woody  
7 biomass;

8 (10) **Healthy forests and vibrant communities fund.**

9 (a) (III) ON THE EFFECTIVE DATE OF THIS SUBSECTION (10)(a)(III), OR AS  
10 SOON AS POSSIBLE THEREAFTER, THE STATE TREASURER SHALL TRANSFER  
11 FIVE MILLION DOLLARS FROM THE GENERAL FUND TO THE HEALTHY  
12 FORESTS AND VIBRANT COMMUNITIES FUND.

13 **SECTION 4.** In Colorado Revised Statutes, **add** 24-33.5-706.5  
14 as follows:

15 **24-33.5-706.5. Hazard mitigation fund - established - financing**  
16 **- legislative intent.** (1) THE HAZARD MITIGATION FUND IS HEREBY  
17 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY  
18 TRANSFERRED TO THE FUND PURSUANT TO SUBSECTION (4) OF THIS  
19 SECTION AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY  
20 APPROPRIATE OR TRANSFER TO THE FUND.

21 (2) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND  
22 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE  
23 HAZARD MITIGATION FUND TO THE FUND.

24 (3) MONEY IN THE HAZARD MITIGATION FUND IS CONTINUOUSLY  
25 APPROPRIATED TO THE DEPARTMENT TO ASSIST LOCAL JURISDICTIONS IN  
26 OBTAINING THE MATCHING FUNDS REQUIRED FOR CERTAIN FEDERAL  
27 HAZARD MITIGATION GRANTS.

1 (4) ON THE EFFECTIVE DATE OF THIS SUBSECTION (4), IF POSSIBLE,  
2 OR AS SOON AS POSSIBLE THEREAFTER, THE STATE TREASURER SHALL  
3 TRANSFER THREE MILLION DOLLARS FROM THE WILDFIRE PREPAREDNESS  
4 FUNDESTABLISHED IN SECTION 24-33.5-1227 TO THE HAZARD MITIGATION  
5 FUND.

6 **SECTION 5.** In Colorado Revised Statutes, **add** 24-33-117 as  
7 follows:

8 **24-33-117. Wildfire mitigation capacity development fund -**  
9 **established - financing - legislative intent - repeal.** (1) THE WILDFIRE  
10 MITIGATION CAPACITY DEVELOPMENT FUND IS HEREBY CREATED IN THE  
11 STATE TREASURY. THE FUND CONSISTS OF MONEY TRANSFERRED TO THE  
12 FUND PURSUANT TO SUBSECTION (5) OF THIS SECTION AND ANY OTHER  
13 MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER  
14 TO THE FUND.

15 (2) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND  
16 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE  
17 WILDFIRE MITIGATION CAPACITY DEVELOPMENT FUND TO THE FUND.

18 (3) MONEY IN THE WILDFIRE MITIGATION CAPACITY DEVELOPMENT  
19 FUND IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT OF NATURAL  
20 RESOURCES AND MAY BE USED BY THE DEPARTMENT FOR THE FOLLOWING  
21 PURPOSES:

22 (a) INITIATING A FEDERAL NATIONAL INCIDENT MANAGEMENT  
23 ORGANIZATION COMPREHENSIVE RISK ANALYSIS BY JUNE 15, 2021, TO  
24 IDENTIFY THE MOST STRATEGIC LANDSCAPES IN THE STATE FOR WILDFIRE  
25 MITIGATION AND FUEL REDUCTION PROJECTS;

26 (b) SUPPORTING WILDFIRE MITIGATION WORKFORCE DEVELOPMENT  
27 INCLUDING THE ENGAGEMENT OF CONSERVATION CORPS AND THE

1 DEPARTMENT OF CORRECTIONS STATE WILDLAND INMATE FIRE TEAMS IN  
2 PRIORITY WILDFIRE MITIGATION PROJECTS INCLUDING THOSE PROJECTS  
3 IDENTIFIED BY THE FEDERAL NATIONAL INCIDENT MANAGEMENT  
4 ORGANIZATION COMPREHENSIVE RISK ANALYSIS CONDUCTED PURSUANT  
5 TO SUBSECTION (3)(a) OF THIS SECTION;

6 (c) HIRING STAFF RESOURCES TO COORDINATE CROSS-BOUNDARY  
7 WILDFIRE MITIGATION EFFORTS, FACILITATE ENGAGEMENT, AND CONNECT  
8 PRIORITY WILDFIRE MITIGATION PROJECTS WITH AVAILABLE RESOURCES.  
9 THESE STAFF SHALL CONSULT WITH STAKEHOLDERS INCLUDING FEDERAL  
10 AND STATE AGENCIES, LOCAL GOVERNMENTS, TRIBES, COMMUNITIES,  
11 FOREST COLLABORATIVE GROUPS, AND OTHER ENTITIES TO IDENTIFY AND  
12 IMPLEMENT PRIORITY WILDFIRE MITIGATION PROJECTS ON MUNICIPAL,  
13 COUNTY, TRIBAL, STATE, STATE-OPERATED, FEDERAL, AND PRIVATE  
14 LANDS, AS APPROPRIATE.

15 (d) CONDUCTING AN ASSESSMENT OF WILDFIRE MITIGATION  
16 EFFORTS UNDERTAKEN OR SUPPORTED BY THE STATE TO DETERMINE THE  
17 MOST EFFICIENT AND EFFECTIVE ORGANIZATIONAL STRUCTURE FOR THOSE  
18 EFFORTS;

19 (e) FUNDING PROJECTS OR GRANTS TO SUPPORT THE PLANNING AND  
20 IMPLEMENTATION OF FUEL REDUCTION AND WILDFIRE MITIGATION  
21 PROJECTS AT LANDSCAPE-SCALE TO REDUCE THE RISK OF CATASTROPHIC  
22 WILDFIRE IN PRIORITY AREAS, INCLUDING THOSE IDENTIFIED BY THE  
23 ANALYSIS IN SUBSECTION (3)(a) OF THIS SECTION; AND

24 (f) FUNDING THE DIRECT AND INDIRECT COSTS OF ADMINISTERING  
25 THE ACTIVITIES DESCRIBED IN THIS SUBSECTION (3).

26 (4) TO THE EXTENT PRACTICABLE, WHEN SUPPORTING OR FUNDING  
27 PROJECTS OR GRANTS FOR THE PLANNING AND IMPLEMENTATION OF FUEL

1 REDUCTION AND WILDFIRE MITIGATION PROJECTS IN ACCORDANCE WITH  
2 SUBSECTIONS (3)(b) AND (3)(e) OF THIS SECTION, THE DEPARTMENT OF  
3 NATURAL RESOURCES SHALL PRIORITIZE THOSE PROJECTS WITH THE  
4 GREATEST POTENTIAL TO PROTECT LIFE, PROPERTY, AND INFRASTRUCTURE.

5 (5) ON THE EFFECTIVE DATE OF THIS SUBSECTION (5), IF POSSIBLE,  
6 OR AS SOON AS POSSIBLE THEREAFTER, THE STATE TREASURER SHALL  
7 TRANSFER SEVENTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS FROM  
8 THE GENERAL FUND TO THE WILDFIRE MITIGATION CAPACITY  
9 DEVELOPMENT FUND. THE MONEY TRANSFERRED PURSUANT TO THIS  
10 SUBSECTION (5) MUST BE ALLOCATED TO SUPPORTED AREAS  
11 ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES AS  
12 FOLLOWS:

13 (a) UP TO TWO HUNDRED THOUSAND DOLLARS FOR THE FEDERAL  
14 NATIONAL INCIDENT MANAGEMENT ORGANIZATION STATEWIDE RISK  
15 ASSESSMENT DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION;

16 (b) FOR THE WILDFIRE MITIGATION WORKFORCE DEVELOPMENT  
17 DESCRIBED IN SUBSECTION (3)(b) OF THIS SECTION;

18 (c) UP TO FIVE HUNDRED FIFTY THOUSAND DOLLARS FOR THE  
19 WILDFIRE MITIGATION PROJECT COORDINATION DESCRIBED IN SUBSECTION  
20 (3)(c) OF THIS SECTION;

21 (d) UP TO FIVE HUNDRED THOUSAND DOLLARS FOR THE WILDFIRE  
22 MITIGATION ORGANIZATIONAL PLANNING DESCRIBED IN SUBSECTION (3)(d)  
23 OF THIS SECTION;

24 (e) FOR THE LANDSCAPE WILDFIRE MITIGATION PROJECTS  
25 DESCRIBED IN SUBSECTION (3)(e) OF THIS SECTION;

26 (f) UP TO FIVE PERCENT OF THE FUNDS TRANSFERRED PURSUANT  
27 TO SUBSECTION (5)(b) OF THIS SECTION MAY BE USED FOR BOTH THE

1 DIRECT AND INDIRECT ADMINISTRATIVE COSTS ASSOCIATED WITH THE  
2 WILDFIRE MITIGATION WORKFORCE DEVELOPMENT FUNDED BY  
3 SUBSECTION (5)(b) OF THIS SECTION; AND

4 (g) UP TO FIVE PERCENT OF THE FUNDS TRANSFERRED PURSUANT  
5 TO SUBSECTION (5)(e) OF THIS SECTION MAY BE USED FOR BOTH THE  
6 DIRECT AND INDIRECT ADMINISTRATIVE COSTS ASSOCIATED WITH THE  
7 LANDSCAPE WILDFIRE MITIGATION PROJECTS FUNDED BY SUBSECTION  
8 (5)(e) OF THIS SECTION.

9 (6) ON JUNE 30, 2023, THE STATE TREASURER SHALL TRANSFER  
10 ANY UNEXPENDED AND UNENCUMBERED MONEY IN THE WILDFIRE  
11 MITIGATION CAPACITY DEVELOPMENT FUND THAT WAS TRANSFERRED BY  
12 THE STATE TREASURER TO THE WILDFIRE MITIGATION CAPACITY  
13 DEVELOPMENT FUND PURSUANT TO SUBSECTION (5) OF THIS SECTION TO  
14 THE GENERAL FUND, EXCEPT FOR THE MONEY ALLOCATED BY THE  
15 DEPARTMENT OF NATURAL RESOURCES PURSUANT TO SUBSECTIONS (5)(c),  
16 (5)(f), AND (5)(g) OF THIS SECTION.

17 (7) TO IMPLEMENT THIS SECTION, THE DEPARTMENT OF NATURAL  
18 RESOURCES SHALL COORDINATE WITH THE DIVISION OF FIRE PREVENTION  
19 AND CONTROL IN THE DEPARTMENT OF PUBLIC SAFETY AND WITH THE  
20 COLORADO STATE FOREST SERVICE AT THE DEPARTMENT OF HIGHER  
21 EDUCATION AND ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH  
22 SUCH AGENCIES TO DIRECT THE IMPLEMENTATION OF THIS SECTION.

23 **SECTION 6.** In Colorado Revised Statutes, 24-33.5-1226, **add**  
24 (6) as follows:

25 **24-33.5-1226. Wildfire emergency response fund - creation -**  
26 **gifts, grants, and donations authorized.** (6) (a) ON THE EFFECTIVE  
27 DATE OF THIS SUBSECTION (6), IF POSSIBLE, OR AS SOON AS POSSIBLE

1       THEREAFTER, THE STATE TREASURER SHALL TRANSFER SIX HUNDRED  
2       THOUSAND DOLLARS FROM THE WILDFIRE PREPAREDNESS FUND CREATED  
3       IN SECTION 24-33.5-1227 AND ONE MILLION TWO HUNDRED THOUSAND  
4       DOLLARS FROM THE COLORADO FIREFIGHTING AIR CORPS FUND CREATED  
5       IN SECTION 24-33.5-1228 TO THE WILDFIRE EMERGENCY RESPONSE FUND.

6               (b) ON JULY 1, 2021, THE STATE TREASURER SHALL TRANSFER SIX  
7       HUNDRED THOUSAND DOLLARS FROM THE WILDFIRE PREPAREDNESS FUND  
8       CREATED IN SECTION 24-33.5-1227 AND ONE MILLION TWO HUNDRED  
9       THOUSAND DOLLARS FROM THE COLORADO FIREFIGHTING AIR CORPS FUND  
10       CREATED IN SECTION 24-33.5-1228 TO THE WILDFIRE EMERGENCY  
11       RESPONSE FUND.

12               **SECTION 7. Safety clause.** The general assembly hereby finds,  
13       determines, and declares that this act is necessary for the immediate  
14       preservation of the public peace, health, or safety.

# Colorado Water Congress 2021 Bill Status Sheet

Bill No.	Short Title	CWC Position	Introduced	1st Committee	2nd Committee	2nd Reading	3rd Reading	Introduced	1st Committee	2nd Reading	3rd Reading	First House Repass	Conference Committee	Governor
HB21-1008	Forest Health Project Financing	8-Mar	16-Feb	2/22 Ag	04-Mar F	9-Mar	10-Mar	12-Mar	15-Apr Ag	20-Apr	21-Apr			
HB21-1043	Study Underground Water Storage Maximum Beneficial Use	1-Mar	16-Feb	3/1 Ag	01-Apr F									
HB21-1046	Water Share Right Mutual Ditch Corporation	15-Mar	16-Feb	3/17 Ag		22-Mar	23-Mar	24-Mar	15-Apr Ag	21-Apr	21-Apr			
HB21-1105	Low-income Utility Payment Assistance Contributions	22-Mar	16-Feb	4/1 F	Ap									
HB21-1168	Historically Underutilized Businesses Local Government Procurement	29-Mar	4-Mar	3/31 TLG	4/19 F	23-Apr	26-Apr	27-Apr Ag	Ag					
HB21-1181	Agricultural Soil Health Program	26-Apr	4-Mar	3/22 Ag	5/4 Ap	7-Apr	8-Apr	9-Apr	Ag					
HB21-1226	More Robust Check Station Aquatic Nuisance Species	5-Apr	18-Mar	4/8 Ag		15-Apr	19-Apr	20-Apr	29-Apr Ag					
HB21-1233	Conservation Easement Tax Credit Modifications		19-Mar	4/5 Ag	4/22 F									

Bill No.	Short Title	CWC Position	Introduced	1st Committee	2nd Committee	2nd Reading	3rd Reading	Introduced	1st Committee	2nd Reading	3rd Reading	First House Repass	Conference Committee	Governor
HB21-1242	Create Agricultural Drought and Climate Resilience Office	12-Apr	24-Mar	4/5 Ag		15-Apr	21-Apr	26-Apr	Ag					
HB21-1260	General Fund Transfer Implement State Water	19-Apr	6-Apr	4/19 Ag	4/28 Ap	28-Apr	29-Apr	30-Apr	Ag					
HB21-1266	Environmental Justice Disproportionate Impacted Community	3-May	6-Apr	4/22 EE	F									
HB21-1268	Study Emerging Technologies for Water Management	3-May	9-Apr	4/26 Ag	Ap									
HB21-1292	Report Revenues From Sports Betting Activity		22-Apr	BAL										
SB21-028	Promulgation of Public Health Rules and Orders	1-Mar	16-Feb	3/2 SVMA										
SB21-034	Water Resource Financing Enterprise		16-Feb	3/11 Ag										
SB21-054	Transfers for Wildfire Mitigation and Response	1-Mar	16-Feb	2/23 Ap		25-Feb	26-Feb	26-Feb	02-Mar Ap	4-Mar	5-Mar	11-Mar	11-Mar	11-Mar





Bill No.	Short Title	CWC Position	Introduced	1st Committee	2nd Committee	2nd Reading	3rd Reading	Introduced	1st Committee	2nd Reading	3rd Reading	First House Repass	Conference Committee	Governor
SB21-202	Public School Air Quality Improvement Grants	3-May	31-Mar	4/15 E	4/30 Ap	30-Apr								
SB21-220	Reverse Transfers From Severance Tax Operational Fund		5-Apr	4/6 Ap		8-Apr	9-Apr	9-Apr	13-Apr Ap	15-Apr	19-Apr	21-Apr	21-Apr	22-Apr
SB21-225	Repay Cash Funds for 2020 Transfers		5-Apr	4/6 Ap		8-Apr	9-Apr	9-Apr	13-Apr Ap	15-Apr	15-Apr	20-Apr	20-Apr	29-Apr
SB21-234	General Fund Transfer Agriculture and Drought Resiliency		6-Apr	Ag										
SB21-237	Create Forest Health Council in Department of Natural Resources	3-May	6-Apr	4/28 Ag										
SB21-240	Waterwhed Restoration Grant Program Stimulus	26-Apr	12-Apr	4/29 Ag	Ap									
SB21-249	Keep Colorado Wild Annual Pass		23-Apr	Ag										
SB21-258	Wildfire Risk Mitigation		29-Apr	LG										
HJR21-1002	Water Projects Eligibility Lists	16-Feb	15-Jan	2/18 Ag			24-Feb	23-Feb	04-Mar Ag		10-Mar	11-Mar	11-Mar	21-Mar

<b>BILL STATUS</b>	<b>ABBREVIATIONS</b>
Bill scheduled for action at next SA meeting (yellow)	Ag = Agriculture, Livestock & Water
Bill not calendared (no fill)	Ap = Appropriations Committee
Bill Passed, date of action (green)	BLEW = Business, Labor, Economic and Workforce Development Committee
Bill no longer active (gray)	CC = Conference Committee
Bill did not go to second committee or no action required (black)	F = Finance Committee
<b><u>CWC POSITION</u></b>	HIE= Health, Insurance, and Environment
Bill scheduled for activity in CWC State Affairs (yellow)	J = Judiciary
Support (green)	TLG = Transportation & Local Government
Oppose (orange)	SVMA = State, Veterans, and Military Affairs Committee
Amend (blue)	EE = Energy & Environment
Monitor, Neutral, No Position	UA = Upon Adjournment
No Motions Made	UR = Upon Recess

Ag = Agriculture and Natural Resources Committee
CD = Capital Development
TE = Transportation & Energy
E = Education
BAL = Business Affairs & Labor



## THE SOUTHWESTERN WATER CONSERVATION DISTRICT

Developing and Conserving the Waters in the  
SAN JUAN AND DOLORES RIVERS AND THEIR TRIBUTARIES  
West Building – 841 East Second Avenue  
DURANGO, COLORADO 81301  
(970) 247-1302

### MEMORANDUM

May 3, 2021

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To: Southwestern Board of Directors

From: Chris Treese, Independent Consultant  
Beth Van Vurst, General Counsel

RE: Demand Management Guidance, Round II

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Directors, recall that you reviewed and provided valuable input on our initial draft of SWCD's "Demand Management: Preliminary Guiding Principles" document in early April that will be used to inform staff and consultants in our various participations regarding the state's continued exploration of Demand Management. Based on Board input, further reflection by both of us, and constructive conversations with CWCB staff and Colorado River District staff, attached is a revised draft of the proposed Preliminary Guiding Principles document. For ease of reference, substantive additions or changes that have been made to the original draft are highlighted in yellow.

We would like to review the revised draft at this Thursday's special meeting, which begins at 12:00 pm (instead of our typical 9 am start time). We suggest at Thursday's meeting, that Chris walk through the document point by point as we did in April. We are asking only for additional input to this draft, no action. Recall that the Board committed to not taking final action on this document until, at the earliest, its regular meeting in June (6/9-10). The evolving nature of Demand Management dictates that any action you take in June or later should not be considered final. These guiding principles should be reviewed and revised periodically as the State's and the Upper Colorado River Commission's investigations into potential Demand Management programs evolve. We have drafted these as 'guidelines' to indicate they are not as fixed or final as a 'policy' might otherwise indicate.

In addition to input on this revised draft, we would appreciate Board direction on the type and extent of public outreach you prefer between now and the June meeting. Public outreach options include, but are not limited to:

- (1) publishing the draft on SWCD's web site and providing the opportunity for the electronic submission of written comments;
- (2) individual outreach to director-designated representatives in each county, river sub-basin or water use sector;
- (3) district-wide public meeting(s) seeking input on demand management, the Board's preliminary guiding principles and receive public input;
- (4) formation of a citizens' advisory committee (one that would likely continue to meet beyond the Board's June meeting) comprised of designated representatives throughout SWCD's boundaries; and
- (5) requesting time on the Roundtable's agenda seeking input and feedback..

As it considers these and other options, the Board should indicate if it wishes to engage a professional facilitator to assist in the public outreach effort(s) that you direct. The Board may also wish to set a time and/or dollar amount it is willing to invest related to Demand Management outreach that will be conducted between now and the June Board meeting, as well as after that meeting.

# DEMAND MANAGEMENT: Preliminary Guiding Principles

REVISED DRAFT April 2021

## **Purpose:**

This document outlines the principal goals and concerns of the Southwestern Water Conservation District (SWCD) regarding formation of a potential Demand Management program in Colorado. The principles outlined below are intended to guide SWCD in its evaluation of and input to any DM program the state of Colorado may advance.

SWCD was created by the General Assembly in 1941 to lead in the conservation, use and development of the water resources of the San Juan and Dolores river basins, both of which are tributary to the Colorado River. SWCD's organic act also includes the charge "to safeguard for Colorado, all waters to which the state of Colorado is equitably entitled." Demand management is a novel concept that, if implemented, has the potential to alter water use and administration within the Upper Basin and, on a more local level, within SWCD's boundaries. Accordingly, SWCD will remain involved in the evaluation and potential formation and implementation of any DM program Colorado may pursue.

## **Background:**

Demand Management (DM) is a broad term employed to describe the voluntary reduction of historically consumptively used (HCU) water within the Upper Basin in order to assist with Colorado River Compact compliance. Exploration of DM is just one component of the Upper Basin's Drought Contingency Plan.

At least since the turn of the century, the security and sustainability of Colorado River water supply has been in question. The basin is currently experiencing one of the worst hydrologic cycles in recorded history. Continuing drought, resulting in worsening supply and storage conditions, threatens continued compliance with the Colorado River Compact.

## **DRAFT Guiding Principles:**

The foundational elements of any DM program must be voluntary, temporary, and compensated contributions of water that were beneficially used under existing rights that otherwise would have depleted Colorado River basin flows within the Upper Basin.

SWCD pledges to evaluate DM as a potential opportunity:

- to monetize agriculture's valuable water assets without being forced to sell;
- to provide needed investment in water efficiency infrastructure;
- to improve the health of our forested lands;
- to assist in removal of invasive phreatophytes; and
- to provide flexibility and margin of safety in maintaining Compact compliance.

SWCD will participate in the exploration and potential formation of any Colorado DM program to ensure a proposed program is capable of achieving its stated objectives and that adverse consequences are avoided, minimized, or fully mitigated.

Any DM program must operate within Colorado's Prior Appropriation Doctrine. The creation, storage, delivery and use of DM water must not injure the water rights of others within Colorado.

Before deciding whether it would be feasible to adopt, let alone implement, a DM program within Colorado, the State must commit to developing the technical platform necessary to demonstrate that a program can be accomplished without injury to other users within Colorado, at a sufficient scale, and that any conserved water can ultimately be conserved, protected, and ultimately delivered for Compact compliance.

Any DM program must ensure equitable and proportional participation from all basins consuming Colorado River water as well as all regions and sectors of Colorado's economy.

Transmountain diverters of Colorado River water must participate in DM using water that was historically diverted and beneficially used under decreed transmountain water rights. Transmountain diverters must not be allowed to purchase or otherwise rely upon other water supplies that originate in the Colorado River Basin in order to accomplish their proportional participation in DM.

DM is not a panacea. Additional options and alternatives (e.g., forest management, groundwater storage, out-of-basin imports, and others) should be fully explored as we work towards the goal of supply security and sustainability in the Colorado River basin. Exploration of DM must be just one part of a comprehensive, basin-wide Drought Contingency Plan addressing short- and long-term water supply and demand imbalance.

A successful DM program can help ensure the safety and economic health of all Coloradans. Accordingly, funding for any DM program must not target water right holders or other specific groups.

Colorado's DM program, if any, must be designed and implemented to support and aid sustaining Colorado's predominantly family- and locally-owned agriculture.

Storage of DM "savings" should be in CRSPA Initial Units that are located as high in the system as practicable.

Releases of DM water from storage should only be made by the Upper Colorado River Commission for the purpose of helping the Upper Division States assure continued compliance with Article III of the Colorado River Compact. Such releases should be timed, to the extent practicable, to provide the greatest economic, environmental, and recreational benefits.

Any DM program must be designed to avoid encouraging or rewarding speculation in Colorado water resources.

Any DM program must recognize there will be impacts resulting from implementation of DM, and that impacts, both positive and negative, will be neither equally nor equitably distributed.

Any DM program must include adequate mitigation for those individuals, water districts and companies, as well as communities disproportionately impacted by implementation of the program.

DM mitigation should be designed to provide a net benefit to participating individuals, water projects, and their communities.

The evaluation of DM's feasibility, appropriateness, and whether DM is worthwhile must be approached without prejudice. In other words, a determination of infeasibility, inappropriateness or unworthiness must be honestly evaluated.



In order to 'test' DM and to allow for incremental implementation and accrual of meaningful DM savings, SWCD recognizes that initial implementation of DM may be required at a pilot or demonstration scale. However, any pilot or demonstration DM program must be conducted without injury to other water users and without prejudice regarding its conclusions or consequences. As it continues to evaluate the appropriateness of DM, SWCD will remain mindful of the severe consequences of failure to address the threat of Compact Administration, which could force dramatic, long-term, involuntary, and uncompensated water curtailments that could, in turn, result in greater unforeseen impacts to certain regions across the State.

SWCD will continue to reach out to water districts, Tribes, and other interested parties in its on-going evaluation and assessment of DM.

SWCD will collaborate closely with the Colorado River District in order to maintain, to the greatest extent possible, harmony on DM between the two districts.

SWCD appreciates the CWCB's outreach and inclusivity in its evaluations process to date. SWCD pledges its continued, constructive participation with the state in its DM investigations.

DRAFT