

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 21-0888.01 Duane Gall x4335

SENATE BILL 21-235

SENATE SPONSORSHIP

Jaquez Lewis and Priola, Bridges, Donovan, Fenberg, Garcia, Ginal, Gonzales, Kolker, Moreno, Pettersen, Rodriguez, Simpson, Winter

HOUSE SPONSORSHIP

Bernett and McCormick,

Senate Committees

Agriculture & Natural Resources
Appropriations

House Committees

Agriculture, Livestock, & Water
Appropriations

A BILL FOR AN ACT

101 **CONCERNING ADDITIONAL FUNDING FOR PROGRAMS OF THE**
102 **DEPARTMENT OF AGRICULTURE TO SUPPORT INCREASED**
103 **EFFICIENCY IN AGRICULTURAL OPERATIONS, AND, IN**
104 **CONNECTION THEREWITH, 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 directs the state treasurer to make an immediate, one-time transfer of \$3 million from the general fund to the agriculture value-added cash fund to augment the department of agriculture's ongoing advancing

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.

HOUSE
2nd Reading Unamended
June 1, 2021

SENATE
3rd Reading Unamended
May 24, 2021

SENATE
Amended 2nd Reading
May 21, 2021

Colorado's renewable energy and energy efficiency (ACRE³) program. The bill also appropriates \$2 million from the general fund to the conservation services division within the department of agriculture for the purpose of administering voluntary soil health programs.

The bill requires the department of agriculture to periodically report on its expenditures to the office of state planning and budgeting and the general assembly.

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

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

4 (a) The Colorado department of agriculture's advancing
5 Colorado's renewable energy and energy efficiency program, also known
6 as "ACRE³", promotes the development and implementation of renewable
7 energy and energy efficiency projects for Colorado's agricultural
8 producers and processors;

9 (b) ACRE³ is Colorado's principal source of state-level support for
10 agricultural energy management, providing financial and technical
11 assistance and education to help agricultural producers and processors cut
12 energy costs, develop their own energy resources, and create markets for
13 agriculturally derived energy and fuels;

14 (c) Energy efficiency measures and renewable energy
15 technologies are effective strategies to make Colorado's agricultural
16 businesses more economically competitive and sustainable;

17 (d) Healthy soils support rural communities by increasing the
18 prosperity of farming and ranching families and supporting the local food
19 and agricultural businesses upon which they rely;

20 (e) Healthy soils have important environmental benefits, including
21 improved air and water quality, soil structural integrity, erosion
22 prevention, and nutrient cycling; increased biological and microbiological

1 diversity; and carbon sequestration;

2 (f) Healthy soils can increase the profitability of agricultural
3 producers by reducing labor and supply costs and increasing yields and
4 resilience to extreme weather events, including drought and heat;

5 (g) Supporting voluntary soil health, renewable energy, and
6 energy efficiency projects is vital to a strong and prosperous future for
7 Colorado's food and agricultural industry, generating an estimated
8 forty-seven billion dollars of economic activity annually and supporting
9 nearly one hundred ninety-five thousand jobs; and

10 (h) Therefore, it is in the public interest to enhance the level of
11 financial support provided to both the ACRE³ program and the
12 department's soil health programs.

13 **SECTION 2.** In Colorado Revised Statutes, 35-1-104, **add** (1)(ff)
14 as follows:

15 **35-1-104. Functions, powers, and duties - rules - repeal.**

16 (1) The department has and shall exercise the following functions,
17 powers, and duties:

18 (ff) (I) TO IMPLEMENT VOLUNTARY SOIL HEALTH PROGRAMS.

19 (II) NO LATER THAN JANUARY 31 OF EACH YEAR, THE
20 DEPARTMENT SHALL PREPARE AND MAKE AVAILABLE TO THE PUBLIC A
21 REPORT ON ITS OFFICIAL WEBSITE THAT MUST CONTAIN THE FOLLOWING
22 INFORMATION FOR THE PREVIOUS YEAR:

23 (A) AN ACCOUNTING OF ALL MONEY RECEIVED AND SPENT FOR THE
24 PURPOSE ENUMERATED IN SUBSECTION (1)(ff)(I) OF THIS SECTION; AND

25 (B) A DESCRIPTION OF ACTIVITIES UNDERTAKEN, INCLUDING THE
26 NUMBER AND TYPE OF GRANT-FUNDED PROJECTS AND THE EDUCATIONAL
27 AND STAKEHOLDER ENGAGEMENT ACTIVITIES.

1 (III) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I):

2 (A) NO LATER THAN JANUARY 31 OF EACH YEAR, THE
3 DEPARTMENT SHALL SUBMIT THE REPORT PREPARED IN ACCORDANCE WITH
4 SUBSECTION (1)(ff)(II) OF THIS SECTION TO THE AGRICULTURE AND
5 NATURAL RESOURCES COMMITTEE OF THE SENATE AND THE AGRICULTURE,
6 LIVESTOCK, AND WATER COMMITTEE OF THE HOUSE OF REPRESENTATIVES,
7 OR ANY SUCCESSOR COMMITTEES; AND

8 (B) THE DEPARTMENT SHALL ANNUALLY REPORT ON ITS
9 ACTIVITIES UNDER THIS SUBSECTION (1)(ff) AT THE HEARING REQUIRED BY
10 THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
11 TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF
12 TITLE 2.

13 (IV) THIS SUBSECTION (1)(ff) IS REPEALED, EFFECTIVE DECEMBER
14 31, 2022.

15 **SECTION 3.** In Colorado Revised Statutes, 35-75-205, amend
16 (1); and add (4) as follows:

17 **35-75-205. Grants, loans and loan guarantees, and equity**
18 **investments - agriculture value-added cash fund - created - definition**
19 **= repeal. (1) (a) Moneys MONEY received by the board from public or**
20 **private gifts, grants, or donations or from any other source shall be**
21 **forwarded to the state treasurer and shall be credited to the agriculture**
22 **value-added cash fund, which fund is hereby created. Moneys MONEY in**
23 **the fund are IS continuously appropriated to the board and shall be used**
24 **for the purpose of preparing criteria and reviewing applications as**
25 **provided in section 35-75-204 and for financial or technical assistance to**
26 **agricultural projects, project concepts, and research as approved by the**
27 **board. All interest earned on the investment of moneys MONEY in the fund**

1 shall be credited to the fund. The board may provide or facilitate grants,
2 loans and loan guarantees, and equity investments for agricultural
3 projects, project concepts, or research; except that such grants, loans and
4 loan guarantees, and equity investments shall be limited to two million
5 dollars per project AND, OF THE MONEY TRANSFERRED TO THE FUND
6 PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, THE BOARD SHALL
7 ALLOCATE AT LEAST ONE HUNDRED FIFTY THOUSAND DOLLARS TO
8 RESEARCH, GUIDANCE, TECHNICAL ASSISTANCE, FEASIBILITY STUDIES, AND
9 PROJECTS RELATED TO AGRIVOLTAICS. Grants, loans and loan guarantees,
10 and equity investments may only be provided to feasible projects and for
11 an amount that is the least amount necessary to cause the project to occur,
12 as determined by the board. The board may structure the grants, loans and
13 loan guarantees, and equity investments in a way that facilitates the
14 project and also provides for a compensatory return on investment or loan
15 payment to the board based on the risk of the project. Any moneys MONEY
16 credited to the agriculture value-added cash fund and unexpended at the
17 end of any given fiscal year shall remain in the fund and shall not revert
18 to the general fund or any other fund.

19 (b) AS USED IN THIS SECTION, "AGRIVOLTAICS" MEANS ONE OR
20 MORE SOLAR ENERGY GENERATION FACILITIES CO-LOCATED ON THE SAME
21 PARCEL OF LAND AS AGRICULTURAL PRODUCTION, INCLUDING CROP
22 PRODUCTION, GRAZING, APIARIES, OR OTHER PRODUCTION OF
23 AGRICULTURAL COMMODITIES FOR SALE IN THE RETAIL OR WHOLESALE
24 MARKET.

25 (4) (a) WITHIN THREE DAYS AFTER THE EFFECTIVE DATE OF THIS
26 SUBSECTION (4), THE STATE TREASURER SHALL TRANSFER THREE MILLION
27 DOLLARS FROM THE GENERAL FUND TO THE AGRICULTURE VALUE-ADDED

1 CASH FUND. THE BOARD SHALL USE THE MONEY TRANSFERRED UNDER THIS
2 SUBSECTION (4)(a) IN A MANNER CONSISTENT WITH SUBSECTIONS (2) AND
3 (3) OF THIS SECTION; EXCEPT THAT THE BOARD MAY RETAIN UP TO TWO
4 PERCENT OF THE MONEY TO DEFRAY THE DEPARTMENT'S COSTS OF
5 ADMINISTRATION.

6 (b) (I) ON JANUARY 15, 2022, AND SEMIANNUALLY FOR TWO
7 YEARS AFTER THE DATE OF THE FIRST GRANT AWARDED OR LOAN ISSUED
8 USING MONEY TRANSFERRED UNDER SUBSECTION (4)(a) OF THIS SECTION,
9 THE DEPARTMENT SHALL REPORT THE AMOUNTS OF ALL SUCH GRANTS AND
10 LOANS AND THE PURPOSES TO WHICH THE PROCEEDS WERE DEDICATED:

11 (A) TO THE OFFICE OF STATE PLANNING AND BUDGETING, THE
12 AGRICULTURE AND NATURAL RESOURCES COMMITTEE OF THE SENATE, AND
13 THE AGRICULTURE, LIVESTOCK, AND WATER COMMITTEE OF THE HOUSE OF
14 REPRESENTATIVES, OR THE SUCCESSORS TO THOSE ENTITIES; AND

15 (B) TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH SECTION
16 24-1-136 (9).

17 (II) IN ADDITION TO MAKING THE REPORTS SPECIFIED IN
18 SUBSECTION (4)(b)(I) OF THIS SECTION, THE DEPARTMENT SHALL
19 INCORPORATE THE INFORMATION CONTAINED IN THOSE REPORTS INTO ITS
20 ANNUAL PRESENTATION UNDER THE "STATE MEASUREMENT FOR
21 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
22 GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

23 (c) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2023.

24 **SECTION 4. Appropriations.** (1) For the 2020-21 state fiscal
25 year, \$3,000,000 is appropriated to the department of agriculture for use
26 by the commissioner's office. This appropriation is from the agriculture
27 value-added cash fund created in section 35-75-205 (1), C.R.S. To

1 implement this act, the commissioner may use this appropriation to make
2 grants to implement renewable energy and energy efficiency projects,
3 conduct energy audits, and provide technical assistance. Any money
4 appropriated in this subsection (1) not expended prior to July 1, 2021, is
5 further appropriated to the department for the 2021-22 state fiscal year for
6 the same purpose.

7 (2) For the 2020-21 state fiscal year, \$2,000,000 is appropriated
8 to the department of agriculture for use by the conservation services
9 division. This appropriation is from the general fund. The division may
10 use this appropriation in accordance with section 35-1-104 (1)(ff), C.R.S.
11 Any money appropriated in this subsection (2) not expended prior to July
12 1, 2021, is further appropriated to the department for the 2021-22 and
13 2022-23 state fiscal years for the same purposes; except that the
14 department of agriculture shall expend all of the money thus appropriated
15 on or before December 31, 2022, and, of the total amount expended by
16 that date, the department shall expend at least \$1,000,000 in grants to
17 conservation districts.

18 **SECTION 5. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.