

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 21-0031.01 Pierce Lively x2059

HOUSE BILL 21-1208

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN ENTERPRISE THAT IS EXEMPT FROM**
102 **THE REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE**
103 **CONSTITUTION TO ADMINISTER A FEE-BASED NATURAL DISASTER**
104 **MITIGATION GRANT PROGRAM.**

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>.)

Section 1 of the bill creates the natural disaster mitigation enterprise (enterprise). The enterprise collects a fee on insurance companies that offer certain insurance policies and uses the fee revenue

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
3rd Reading Unamended
May 13, 2021

HOUSE
Amended 2nd Reading
May 12, 2021

to finance the natural disaster mitigation grant program and provide local governments technical assistance on natural disaster mitigation. The enterprise awards natural disaster mitigation grants to assist local governments in implementing resilience and natural disaster mitigation measures and to assist entities that apply for federal grants that require matching funds and are dedicated to assisting in the implementation of pre-disaster natural disaster mitigation measures.

Section 2 sets the fee at \$1.25 of every \$1,000 in insurance premiums collected on certain policies by the insurance companies that offer those insurance policies.

The board of directors of the enterprise shall submit a report by July 1 of each year to the committees of reference of the general assembly to which the department of public safety is assigned regarding the grant program.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 24-33.5-1618** as
3 follows:

4 **24-33.5-1618. Natural disaster mitigation enterprise - fund -**
5 **goals - grant program - gifts, grants, or donations - legislative**
6 **declaration - definitions - repeal.** (1) **Legislative declaration.** THE

7 GENERAL ASSEMBLY HEREBY:

8 (a) FINDS AND DETERMINES THAT:

9 (I) INCREASED GREENHOUSE GAS EMISSIONS AND RAPIDLY RISING
10 TEMPERATURES RESULTING FROM HUMAN ACTIVITY ARE CHANGING THE
11 CLIMATE IN WAYS THAT THREATEN COLORADO'S ECONOMY, THE HEALTH
12 OF ITS RESIDENTS, AND ITS NATURAL LANDSCAPE;

13 (II) THESE TEMPERATURE INCREASES ARE ALREADY HAVING AN
14 IMPACT ON COLORADO'S ENVIRONMENT, WITH EXTREME WILDFIRES,
15 FLOODS, DROUGHT, EXTREME WEATHER EVENTS, AND HEAT WAVES
16 DRAMATICALLY INCREASING IN RECENT YEARS;

17 (III) THE ECONOMIC IMPACTS OF THESE INCREASINGLY FREQUENT

1 AND SEVERE DISASTERS ARE ENORMOUS, FOR EXAMPLE WITH THE 2020
2 WILDFIRES COSTING SEVENTY-SEVEN MILLION DOLLARS TO FIGHT
3 THROUGH AUGUST, AND THE 2012 DROUGHT RESULTING IN LOSSES OF
4 SEVEN HUNDRED TWENTY-SIX MILLION DOLLARS FOR THE AGRICULTURE
5 SECTOR ALONE;

6 (IV) LOCAL GOVERNMENTS ARE ON THE FOREFRONT OF
7 RESPONDING TO THESE CHALLENGES AND POSSESS SIGNIFICANT
8 EXPERIENCE AND EXPERTISE IN ADDRESSING THEM;

9 (V) ALTHOUGH STATE AND FEDERAL FUNDING IS ROUTINELY MADE
10 AVAILABLE TO HELP LOCAL COMMUNITIES WITH IMMEDIATE DISASTER
11 RESPONSE NEEDS, THERE IS NO LONG-TERM, CONSISTENT SOURCE OF FUNDS
12 TO SUPPORT THE INVESTMENTS NEEDED TO PREVENT DISASTERS FROM
13 HAPPENING AND TO MAKE LOCAL COMMUNITIES MORE RESILIENT AGAINST
14 FUTURE DISASTERS;

15 (VI) MAKING THESE INVESTMENTS WILL DECREASE LOSSES THAT
16 WOULD OTHERWISE BE LARGELY PAID BY INSURERS;

17 (VII) AS DOCUMENTED BY A 2019 REPORT FROM THE NATIONAL
18 INSTITUTE OF BUILDING SCIENCE, THE BENEFIT OF THESE INVESTMENTS
19 SIGNIFICANTLY EXCEED THEIR COSTS, IN SOME CASES BY RATIOS AS HIGH
20 AS TEN TO ONE;

21 (VIII) ACCORDINGLY, FUNDING FOR ONGOING [REDACTED] DISASTER
22 MITIGATION EFFORTS SHOULD BE RELATED TO PROPERTY AND CASUALTY
23 INSURANCE PRODUCTS; AND

24 (b) DECLARES THAT:

25 (I) THE NATURAL DISASTER MITIGATION ENTERPRISE PROVIDES
26 VALUABLE SERVICES, BENEFITS, AND USEFUL BUSINESS SERVICES TO
27 INSURERS, WHEN, IN EXCHANGE FOR PAYMENT OF THE FEE DESCRIBED IN

1 SUBSECTION (4) OF THIS SECTION, THE ENTERPRISE USES THE FEES TO:

2 (A) PROVIDE GRANTS TO LOCAL GOVERNMENTS TO IMPLEMENT

3 RESILIENCE AND NATURAL DISASTER MITIGATION MEASURES;

4 (B) ASSIST ENTITIES THAT APPLY FOR FEDERAL GRANTS

5 DEDICATED TO ASSISTING IN THE IMPLEMENTATION OF PRE-DISASTER

6 NATURAL DISASTER MITIGATION MEASURES BY ISSUING GRANTS TO HELP

7 THE ENTITIES PROVIDE THE MATCHING FUNDS REQUIRED FOR THE FEDERAL

8 GRANTS; AND

9 (C) PROVIDE LOCAL GOVERNMENTS TECHNICAL ASSISTANCE ON

10 NATURAL DISASTER MITIGATION;

11 (II) BY PROVIDING THE BENEFITS AND SERVICES SPECIFIED IN

12 SUBSECTION (1)(b)(I) OF THIS SECTION, THE NATURAL DISASTER

13 MITIGATION ENTERPRISE ENGAGES IN AN ACTIVITY CONDUCTED IN THE

14 PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD AND THEREFORE OPERATES

15 AS A BUSINESS;

16 (III) CONSISTENT WITH THE DETERMINATION OF THE COLORADO

17 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896

18 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS

19 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE

20 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL

21 ASSEMBLY THAT THE FEE IMPOSED BY THE ENTERPRISE IS A FEE, NOT A

22 TAX, BECAUSE THE FEE IS IMPOSED FOR THE SPECIFIC PURPOSE OF

23 ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE

24 BUSINESS SERVICES SPECIFIED IN SUBSECTION (1)(b)(I) OF THIS SECTION TO

25 INSURERS THAT PAY THE FEE AND THE FEE IS IMPOSED AT A RATE THAT IS

26 REASONABLY CALCULATED BASED ON THE BENEFITS RECEIVED BY THOSE

27 INSURERS;

1 (IV) SO LONG AS THE NATURAL DISASTER MITIGATION ENTERPRISE
2 QUALIFIES AS AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X
3 OF THE STATE CONSTITUTION, THE REVENUE FROM THE FEE IMPOSED BY
4 THE ENTERPRISE IS NOT STATE FISCAL YEAR SPENDING, AS DEFINED IN
5 SECTION 24-77-102 (17), OR STATE REVENUES, AS DEFINED IN SECTION
6 24-77-103.6 (6)(c), AND DOES NOT COUNT AGAINST EITHER THE STATE
7 FISCAL YEAR SPENDING LIMIT IMPOSED BY SECTION 20 OF ARTICLE X OF
8 THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS
9 DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(B); AND

10 (V) NO OTHER ENTERPRISE CREATED SIMULTANEOUSLY OR WITHIN
11 THE PRECEDING FIVE YEARS SERVES PRIMARILY THE SAME PURPOSE AS THE
12 NATURAL DISASTER MITIGATION ENTERPRISE AND THE NATURAL DISASTER
13 MITIGATION ENTERPRISE WILL GENERATE REVENUE FROM FEES AND
14 SURCHARGES OF LESS THAN ONE HUNDRED MILLION DOLLARS TOTAL IN ITS
15 FIRST FIVE FISCAL YEARS. ACCORDINGLY, THE CREATION OF THE NATURAL
16 DISASTER MITIGATION ENTERPRISE DOES NOT REQUIRE VOTER APPROVAL
17 PURSUANT TO THE PROVISIONS OF SECTION 24-77-108.

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

20 (a) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE
21 ENTERPRISE.

22 (b) "ELIGIBLE ENTITY" MEANS A GOVERNING SUBDIVISION OF THE
23 STATE, INCLUDING COUNTIES, MUNICIPALITIES, SCHOOL DISTRICTS, AND
24 SPECIAL DISTRICTS, THAT IMPLEMENTS OR INTENDS TO IMPLEMENT
25 NATURAL DISASTER MITIGATION MEASURES, OR THAT IS APPLYING FOR A
26 FEDERAL GRANT THAT BOTH REQUIRES MATCHING FUNDS AND IS
27 DEDICATED TO ASSISTING IN THE IMPLEMENTATION OF PRE-DISASTER

1 NATURAL DISASTER MITIGATION MEASURES.

2 (c) "ENTERPRISE" MEANS THE NATURAL DISASTER MITIGATION
3 ENTERPRISE CREATED IN SUBSECTION (3) OF THIS SECTION.

4 (d) "FEE" MEANS THE FEE IMPOSED BY SUBSECTION (4) OF THIS
5 SECTION AND SECTION 10-4-122;

6 (e) "FUND" MEANS THE NATURAL DISASTER MITIGATION CASH
7 FUND CREATED IN SUBSECTION (5) OF THIS SECTION.

8 (f) "GRANT PROGRAM" MEANS THE NATURAL DISASTER
9 MITIGATION GRANT PROGRAM CREATED IN SUBSECTION (7) OF THIS
10 SECTION.

11 (g) "NATURAL DISASTER MITIGATION" MEANS TAKING MEASURES
12 THAT REDUCE THE RISK OF LOSS OF LIFE AND PROPERTY FROM FUTURE
13 NATURAL HAZARD DISASTERS AND DECREASING COSTS ASSOCIATED WITH
14 DISASTER RECOVERY.

15 (3) **Enterprise.** (a) THERE IS HEREBY CREATED IN THE
16 DEPARTMENT THE NATURAL DISASTER MITIGATION ENTERPRISE. THE
17 ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED BUSINESS
18 WITHIN THE DEPARTMENT FOR THE BUSINESS PURPOSE OF IMPOSING THE
19 FEE CHARGED TO CERTAIN INSURERS, AND UTILIZING THE FEE REVENUE TO
20 ADMINISTER THE GRANT PROGRAM AND TO PROVIDE LOCAL GOVERNMENTS
21 TECHNICAL ASSISTANCE ON NATURAL DISASTER MITIGATION. THE
22 ENTERPRISE EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND
23 FUNCTIONS UNDER THE DEPARTMENT AS IF TRANSFERRED TO THE
24 DEPARTMENT BY A **TYPE 2** TRANSFER, AS DEFINED IN THE
25 "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF THIS TITLE
26 24.

27 (b) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES

1 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT
2 RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS
3 THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL
4 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT
5 CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (3)(b), THE
6 ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE
7 CONSTITUTION.

8 (c) THE ENTERPRISE'S PRIMARY POWERS AND DUTIES ARE TO:

9 (I) IMPOSE THE FEE DESCRIBED IN SUBSECTION (4) OF THIS
10 SECTION;

11 (II) PROMOTE NATURAL DISASTER MITIGATION BY ISSUING GRANTS
12 AS SPECIFIED IN SUBSECTION (7) OF THIS SECTION;

13 (III) PROVIDE LOCAL GOVERNMENTS TECHNICAL ASSISTANCE ON
14 NATURAL DISASTER MITIGATION;

15 (IV) BY RESOLUTION, AUTHORIZE AND ISSUE REVENUE BONDS
16 THAT ARE PAYABLE ONLY FROM THE MONEY IN THE FUND, WHICH REVENUE
17 BONDS MAY BE ISSUED TO PROMOTE THE HAZARD MITIGATION PURPOSES
18 SPECIFIED IN THIS SUBSECTION (3)(c);

19 (V) ADOPT, AMEND, OR REPEAL POLICIES FOR THE REGULATION OF
20 ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS CONSISTENT WITH THIS
21 SECTION, INCLUDING ESTABLISHING APPLICATION, REVIEW, APPROVAL,
22 REPORTING, AND OTHER REQUIREMENTS FOR GRANTS; AND

23 (VI) ENGAGE THE SERVICE OF CONTRACTORS, CONSULTANTS, AND
24 LEGAL COUNSEL, INCLUDING THE DEPARTMENT AND THE ATTORNEY
25 GENERAL'S OFFICE, FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND
26 ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO THE CONDUCT OF
27 THE AFFAIRS OF THE ENTERPRISE, WITHOUT REGARD TO THE

1 "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24. THE BOARD
2 SHALL ENCOURAGE DIVERSITY IN APPLICANTS FOR CONTRACTS AND SHALL
3 GENERALLY AVOID USING SINGLE-SOURCE BIDS.

4 (d) THE ENTERPRISE IS GOVERNED BY A BOARD OF DIRECTORS. THE
5 BOARD CONSISTS OF THE FOLLOWING THIRTEEN MEMBERS APPOINTED BY
6 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY:

7 (I) ONE MEMBER REPRESENTING THE DEPARTMENT OF PUBLIC
8 SAFETY;

9 (II) ONE MEMBER REPRESENTING THE DEPARTMENT OF PUBLIC
10 HEALTH AND ENVIRONMENT;

11 (III) ONE MEMBER OF THE COLORADO RESILIENCY OFFICE;

12 (IV) ONE MEMBER WHO HAS EXPERIENCE IN ENVIRONMENTAL
13 JUSTICE AND REPRESENTING UNDERSERVED COMMUNITIES;

14 (V) FOUR MEMBERS WHO ARE REPRESENTATIVES OF LOCAL
15 GOVERNMENTS AT LEAST ONE OF WHOM REPRESENTS A COUNTY, ONE OF
16 WHOM REPRESENTS A MUNICIPALITY, AND ALL OF WHOM, TAKEN AS A
17 WHOLE AND TO THE GREATEST EXTENT POSSIBLE, REPRESENT THE
18 GEOGRAPHIC DIVERSITY OF THE STATE;

19 (VI) TWO MEMBERS WHO ARE SCIENTISTS WITH EXPERTISE IN
20 CLIMATE-INDUCED WEATHER HAZARDS, RESILIENCE PLANNING, OR
21 DISASTER MITIGATION; AND

22 (VII) THREE MEMBERS REPRESENTING THE INSURANCE INDUSTRY.

23 (e) THE MEMBER APPOINTED PURSUANT TO SUBSECTION (3)(d)(I)
24 OF THIS SECTION SHALL CALL THE FIRST MEETING OF THE BOARD. THE
25 BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS TO SERVE FOR
26 A TERM NOT TO EXCEED TWO YEARS, AS DETERMINED BY THE BOARD.

27 (f) THE TERM OF OFFICE OF BOARD MEMBERS IS FOUR YEARS;

1 EXCEPT THAT THE EXECUTIVE DIRECTOR SHALL DESIGNATE TWO MEMBERS
2 APPOINTED PURSUANT TO SUBSECTION (3)(d)(V) OF THIS SECTION, ONE OF
3 THE MEMBERS APPOINTED PURSUANT TO SUBSECTION (3)(d)(VI) OF THIS
4 SECTION, AND THREE OF THE MEMBERS APPOINTED TO SUBSECTIONS
5 (3)(d)(I), (3)(d)(II), (3)(d)(IV), AND (3)(d)(VII) TO SERVE INITIAL TERMS
6 OF TWO YEARS.

7 (g) A VACANCY ON THE BOARD IS FILLED IN THE SAME MANNER AS
8 THE ORIGINAL APPOINTMENT WAS MADE. A PERSON APPOINTED TO FILL A
9 VACANCY SERVES FOR THE REMAINDER OF THE UNEXPIRED TERM.

10 (h) THE BOARD SHALL MEET AT LEAST QUARTERLY AND THE CHAIR
11 MAY CALL ADDITIONAL MEETINGS AS NECESSARY FOR THE BOARD TO
12 COMPLETE ITS DUTIES.

13 (i) EACH MEMBER OF THE BOARD IS ENTITLED TO RECEIVE FROM
14 MONEY IN THE FUND A PER DIEM ALLOWANCE OF FIFTY DOLLARS FOR EACH
15 DAY SPENT ATTENDING OFFICIAL BOARD MEETINGS.

16 (4) **Fee.** (a) EACH INSURER THAT HAS A POLICY OR CONTRACT OF
17 INSURANCE OF THE TYPES LISTED IN SECTION 10-4-122 (2) COVERING
18 PROPERTY OR RISKS IN THE STATE SHALL PAY A FEE IMPOSED BY THE
19 ENTERPRISE TO FUND THE ENTERPRISE. FOR EACH INSURER, THE AMOUNT
20 OF THE FEE MUST EQUAL TWO DOLLARS MULTIPLIED BY THE NUMBER OF
21 CERTAIN POLICIES OR CONTRACTS OF INSURANCE OF THE TYPES LISTED IN
22 SECTION 10-4-122 (2) COVERING PROPERTY OR RISKS IN THE STATE.

23 (b) ON OR BEFORE JULY 1, 2023, AN INSURER SHALL:

24 (I) PAY THE FEE FOR THE POLICIES OR CONTRACTS OF INSURANCE
25 OF THE TYPES LISTED IN SECTION 10-4-122 (2) COVERING PROPERTY OR
26 RISKS IN THE STATE FROM MARCH 1, 2022, THROUGH DECEMBER 31, 2022,
27 AND HELD BY THE INSURER FROM MARCH 1, 2022, THROUGH DECEMBER

1 31, 2022; AND

2 (II) REPORT TO THE DIVISION OF INSURANCE THE NUMBER OF
3 POLICIES OR CONTRACTS OF INSURANCE OF THE TYPES LISTED IN SECTION
4 10-4-122 (2) COVERING PROPERTY OR RISKS IN THE STATE FROM MARCH
5 1, 2022, THROUGH DECEMBER 31, 2022, AND HELD BY THE INSURER FROM
6 MARCH 1, 2022, THROUGH DECEMBER 31, 2022.

7 (c) ON OR BEFORE JULY 1, 2024, AND ON OR BEFORE JULY 1 OF
8 EACH YEAR THEREAFTER THROUGH 2029, AN INSURER SHALL:

9 (I) PAY THE FEE FOR THE POLICIES OR CONTRACTS OF INSURANCE
10 OF THE TYPES LISTED IN SECTION 10-4-122 (2) COVERING PROPERTY OR
11 RISKS IN THE STATE DURING THE PREVIOUS CALENDAR YEAR AND HELD BY
12 THE INSURER IN THE PREVIOUS CALENDAR YEAR; AND

13 (II) REPORT TO THE DIVISION OF INSURANCE THE NUMBER OF
14 POLICIES OR CONTRACTS OF INSURANCE OF THE TYPES LISTED IN SECTION
15 10-4-122 (2) COVERING PROPERTY OR RISKS IN THE STATE DURING THE
16 PREVIOUS CALENDAR YEAR AND HELD BY THE INSURER IN THE PREVIOUS
17 CALENDAR YEAR.

18 (d) ON OR BEFORE DECEMBER 31, 2023, AND ON OR BEFORE
19 DECEMBER 31 EACH YEAR THEREAFTER THROUGH 2029, THE DIVISION OF
20 INSURANCE SHALL COMPARE THE LIST OF INSURERS WHO PAID THE FEE
21 WITH THE LIST OF THOSE INSURERS THAT HAVE POLICIES OR CONTRACTS OF
22 THE TYPES LISTED IN SECTION 10-4-122 (2) COVERING PROPERTY OR RISKS
23 IN THE STATE. IF AN INSURER FAILS TO PAY THE FEE OR PAYS AN
24 INSUFFICIENT AMOUNT, THE DIVISION OF INSURANCE SHALL NOTIFY THE
25 INSURER OF THE REQUIREMENT TO PAY THE FEE AND THE AMOUNT OF ANY
26 DEFICIENCY. IF THE INSURER FAILS TO PAY THE FEE WITHIN FIFTEEN DAYS
27 AFTER RECEIVING THE NOTICE, THE DIVISION OF INSURANCE MAY IMPOSE

1 A CIVIL PENALTY OF NOT MORE THAN ONE HUNDRED TWENTY PERCENT OF
2 THE AMOUNT DUE. THE INSURER SHALL PAY THE CIVIL PENALTY TO THE
3 DIVISION OF INSURANCE. THE DIVISION OF INSURANCE SHALL TRANSFER
4 THE AMOUNT RECEIVED TO THE STATE TREASURER WHO SHALL CREDIT THE
5 SAME TO THE FUND.

6 (e) EACH INSURER SUBJECT TO THE PROVISIONS OF THIS
7 SUBSECTION (4) IS AUTHORIZED TO RECOUP THE FEE DESCRIBED IN THIS
8 SUBSECTION (4) FROM ITS POLICY HOLDERS.

9 (f) EACH INSURER SUBJECT TO THE PROVISIONS OF THIS
10 SUBSECTION (4) SHALL NOT RAISE ITS PREMIUMS BASED ON THE FEE
11 DESCRIBED IN THIS SUBSECTION (4).

12 (g) THE FEE DESCRIBED IN THIS SUBSECTION (4) MUST NOT BE
13 CONSIDERED A PREMIUM FOR ANY PURPOSE, INCLUDING THE COMPUTATION
14 OF THE GROSS PREMIUM TAX DESCRIBED IN SECTION 10-3-209 OR THE
15 PRODUCER'S COMMISSION.

16 (h) THE ENTERPRISE SHALL ALSO ENSURE, BY LOWERING THE FEE
17 IMPOSED BY THIS SUBSECTION (4) TO THE EXTENT NECESSARY, THAT THE
18 TOTAL AMOUNT OF FEE REVENUE DOES NOT EXCEED ONE HUNDRED
19 MILLION DOLLARS OVER THE FIRST FIVE FISCAL YEARS OF THE
20 ENTERPRISE'S EXISTENCE.

21 (5) **Fund.** (a) THERE IS HEREBY CREATED IN THE STATE TREASURY
22 THE NATURAL DISASTER MITIGATION CASH FUND. THE FUND CONSISTS OF
23 MONEY CREDITED TO THE FUND PURSUANT TO SECTION 10-4-122 AND ANY
24 OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR
25 TRANSFER TO THE FUND.

26 (b) THE MONEY IN THE FUND SHALL NOT BE DEPOSITED IN OR
27 TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. THE STATE

1 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE
2 DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. ANY
3 UNENCUMBERED MONEY IN THE FUND SHALL REMAIN IN THE FUND AND
4 SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR
5 ANOTHER FUND.

6 (c) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
7 ENTERPRISE FOR THE PURPOSES OF:

8 (I) ADMINISTERING THE GRANT PROGRAM AND AWARDING GRANTS
9 IN ACCORDANCE WITH SUBSECTION (7) OF THIS SECTION;

10 (II) PROVIDING LOCAL GOVERNMENTS TECHNICAL ASSISTANCE ON
11 NATURAL DISASTER MITIGATION; AND

12 (III) FOR ANY DIRECT AND INDIRECT ADMINISTRATIVE EXPENSES
13 INCURRED BY THE ENTERPRISE.

14 (d) THE BOARD MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS,
15 OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF
16 THIS SECTION, SO LONG AS THE COMBINATION OF GRANTS FROM THE STATE
17 AND LOCAL GOVERNMENTS IS LESS THAN TEN PERCENT OF THE
18 ENTERPRISE'S TOTAL REVENUE.

19 (6) **Natural disaster mitigation goals.** THE ENTERPRISE SHALL
20 ADMINISTER THE GRANT PROGRAM AND AWARD GRANTS AND PROVIDE
21 LOCAL GOVERNMENTS TECHNICAL ASSISTANCE ON NATURAL DISASTER
22 MITIGATION TO ACHIEVE THE FOLLOWING NATURAL DISASTER MITIGATION
23 GOALS:

24 (a) REDUCE THE NEGATIVE IMPACTS FROM FUTURE DISASTERS ON
25 LIVES, PROPERTY, AND THE ECONOMY;

26 (b) IMPROVE THE RESILIENCE OF LOCAL COMMUNITIES GIVEN THE
27 INCREASED FREQUENCY AND INTENSITY OF SEVERE WEATHER EVENTS

1 RESULTING FROM CLIMATE CHANGE;

2 (c) ENGAGE IN MITIGATION ACTIVITIES THAT DIRECTLY REDUCE
3 RISKS TO LIVES AND PROPERTY, ARE COST-EFFECTIVE, TECHNICALLY
4 FEASIBLE, SCIENCE-BASED, ECOLOGICALLY SOUND, AND
5 ENVIRONMENTALLY SOUND AS WELL AS ALLOWING STRATEGIC
6 INVESTMENT OF LIMITED RESOURCES AND NOT HARMING UNDERSERVED
7 COMMUNITIES;

8 (d) REDUCE REPETITIVE LOSSES;

9 (e) UTILIZE FEDERAL FUNDING AVAILABLE FOR NATURAL DISASTER
10 MITIGATION PROJECTS; AND

11 (f) SUPPORT COMMUNITIES WITH LIMITED CAPACITY TO PLAN,
12 PREPARE, AND SUBMIT GRANT PROPOSALS UNDER SUBSECTION (7) OF THIS
13 SECTION.

14 (7) **Grant program.** (a) THE ENTERPRISE SHALL ADMINISTER THE
15 NATURAL DISASTER MITIGATION GRANT PROGRAM AND, SUBJECT TO
16 AVAILABLE APPROPRIATIONS AND REVENUES, SHALL AWARD GRANTS
17 FROM THE FUND AS PROVIDED IN THIS SUBSECTION (7).

18 (b) THE PURPOSE OF THE GRANT PROGRAM IS TO ACHIEVE THE
19 GOALS SPECIFIED IN SUBSECTION (6) OF THIS SECTION BY ASSISTING
20 ENTITIES THAT ARE IMPLEMENTING DISASTER MITIGATION MEASURES,
21 OR THAT HAVE APPLIED FOR FEDERAL GRANTS THAT BOTH REQUIRE
22 MATCHING FUNDS AND ARE DEDICATED TO ASSISTING IN THE
23 IMPLEMENTATION OF PRE-DISASTER NATURAL DISASTER MITIGATION
24 MEASURES. THE BOARD MAY NOT AWARD GRANTS FOR RENEWABLE
25 ENERGY GENERATION PROJECTS, RESOURCES, OR TECHNOLOGIES. THE
26 BOARD MAY AWARD GRANTS FOR PROJECTS THAT INCLUDE SLOPE
27 STABILIZATION, WATERSHED RESTORATION, FUELS MITIGATION, DROUGHT

1 MITIGATION, AND SIMILAR ACTIVITIES THAT DIRECTLY REDUCE RISKS TO
2 COMMUNITIES, LIVES, AND PROPERTY. THE BOARD SHALL ESTABLISH
3 CRITERIA TO EVALUATE AND PRIORITIZE APPLICATIONS FOR GRANTS,
4 BASED ON:

5 (I) IN THE CASE OF AN ELIGIBLE ENTITY THAT IS APPLYING FOR A
6 FEDERAL GRANT THAT BOTH REQUIRES MATCHING FUNDS AND IS
7 DEDICATED TO ASSISTING IN THE IMPLEMENTATION OF PRE-DISASTER
8 NATURAL DISASTER MITIGATION MEASURES, THE FEDERAL EMERGENCY
9 MANAGEMENT AGENCY'S STANDARDIZED BENEFIT-COST ANALYSIS IN
10 ACCORDANCE WITH CURRENT PUBLISHED FEDERAL GUIDANCE; A
11 DIFFERENT METHODOLOGY MAY ONLY BE USED WHEN IT ADDRESSES A
12 NONCORRECTABLE FLAW IN THE FEDERAL EMERGENCY MANAGEMENT
13 AGENCY'S APPROVED METHODOLOGY, AS IDENTIFIED BY THE BOARD;

14 (II) THE FINANCIAL NEED OF THE ELIGIBLE ENTITY; [REDACTED]

15 (III) THE DEGREE TO WHICH THE ELIGIBLE ENTITY'S PROPOSAL
16 DEMONSTRATES BENEFITS TO UNDERSERVED COMMUNITIES; AND

17 (IV) THE DEGREE TO WHICH THE ELIGIBLE ENTITY'S PROPOSAL
18 DEMONSTRATES CONSULTATION AND COLLABORATION WITH
19 UNDERSERVED COMMUNITIES.

20 (c) AN ELIGIBLE ENTITY MAY SUBMIT AN APPLICATION TO THE
21 ENTERPRISE FOR A GRANT PURSUANT TO THE POLICIES AND PROCEDURES
22 SPECIFIED BY THE BOARD.

23 (d) GRANT RECIPIENTS SHALL ONLY USE THE MONEY RECEIVED
24 THROUGH THE GRANT PROGRAM FOR IMPLEMENTING [REDACTED] DISASTER
25 MITIGATION MEASURES, OR TO OFFSET THE RECIPIENT'S FEDERAL MATCH
26 REQUIREMENT FOR FEDERAL GRANTS DEDICATED TO ASSISTING IN THE
27 IMPLEMENTATION OF PRE-DISASTER NATURAL DISASTER MITIGATION

1 MEASURES.

2 (e) THE BOARD SHALL REVIEW THE APPLICATIONS RECEIVED
3 PURSUANT TO THIS SECTION AND SHALL AWARD:

4 (I) NO LESS THAN EIGHTY-FIVE PERCENT OF THE ANNUAL FUND
5 REVENUE FOR GRANT AWARDS NOR AWARD MORE THAN FIFTEEN PERCENT
6 OF THE ANNUAL REVENUE IN ANY SINGLE GRANT AWARD; EXCEPT THAT,
7 BY UNANIMOUS VOTE OF THE BOARD, GRANTS OF UP TO TWENTY-FIVE
8 PERCENT OF THE ANNUAL REVENUE CAN BE AWARDED IN EXCEPTIONAL
9 CIRCUMSTANCES;

10 (II) NO MORE THAN TEN PERCENT OF THE ANNUAL FUND REVENUE
11 FOR TECHNICAL ASSISTANCE TO SUPPORT COMMUNITIES WITH LIMITED
12 CAPACITY TO PLAN, PREPARE, AND SUBMIT GRANT PROPOSALS; AND

13 (III) NO MORE THAN FIVE PERCENT OF THE ANNUAL FUND REVENUE
14 FOR ADMINISTERING THE GRANT PROGRAM AND AWARDED GRANTS IN
15 ACCORDANCE WITH THIS SUBSECTION (7).

16 (f) (I) A GRANTEE SHALL REPORT QUARTERLY TO THE BOARD ON
17 THE PROGRESS OF THE PROJECT FINANCED BY THE GRANT PURSUANT TO
18 TERMS SPECIFIED IN THE GRANT AWARD AGREEMENT.

19 (II) THE BOARD SHALL DEVELOP A POLICY REGARDING A
20 GRANTEE'S NONCOMPLIANCE WITH THE GRANT AGREEMENT ENTERED INTO
21 BY THE GRANTEE AND THE BOARD, WHICH POLICY MAY INCLUDE A
22 MECHANISM FOR THE BOARD TO CONVERT THE GRANTEE'S GRANT TO A
23 LOAN WITH INTEREST.

24 (g) FOR GRANTEES BEING AWARDED FUNDS FOR USE AS A FEDERAL
25 MATCH, THE AWARD OF ANY GRANT UNDER THIS SUBSECTION (7) IS
26 CONTINGENT UPON THE APPLICANT BEING AWARDED THE FEDERAL GRANT
27 THAT THE APPLICANT SOUGHT ASSISTANCE WITH IN ITS GRANT

1 APPLICATION. GRANTEES MUST COMPLY WITH THE REQUIREMENTS OF ANY
2 FEDERAL GRANTS THEY RECEIVE PURSUANT TO THIS SECTION.

3 (8) **Reporting.** NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I),
4 THE BOARD SHALL SUBMIT A REPORT BY JULY 1 OF EACH YEAR TO THE
5 COMMITTEES OF REFERENCE OF THE GENERAL ASSEMBLY TO WHICH THE
6 DEPARTMENT IS ASSIGNED PURSUANT TO SECTION 2-7-204 (1). THE
7 REPORT MUST INCLUDE:

8 (a) THE UNOBLIGATED BALANCE OF THE FUND, THE NUMBER OF
9 GRANT APPLICATIONS, AND THE NUMBER AND VALUE OF GRANTS
10 AWARDED;

11 (b) THE ELIGIBLE ENTITIES THAT HAVE APPLIED FOR A GRANT, THE
12 ACTIONS TAKEN BY EACH GRANTEE, OTHER MEASUREMENTS OF SUCCESS,
13 AND THE AMOUNT OF GRANT MONEY DISTRIBUTED TO EACH GRANTEE;

14 (c) THE PROGRESS TOWARD ACHIEVEMENT OF THE NATURAL
15 DISASTER MITIGATION GOALS SPECIFIED IN SUBSECTION (6) OF THIS
16 SECTION AND THE PRIMARY FACTORS FACILITATING AND INHIBITING THAT
17 PROGRESS; AND

18 (d) ANY SUGGESTED LEGISLATION OR POLICY CHANGES.

19 (9) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1,
20 2030.

21 **SECTION 2.** In Colorado Revised Statutes, **add** 10-4-122 as
22 follows:

23 **10-4-122. Insurers - fee - natural disaster mitigation enterprise**
24 **- repeal.** (1) THE DIVISION SHALL COLLECT, ON BEHALF OF THE NATURAL
25 DISASTER MITIGATION ENTERPRISE CREATED IN SECTION 24-33.5-1618(3),
26 THE FEE IMPOSED BY THE ENTERPRISE PURSUANT TO SECTION
27 24-33.5-1618 (4) TO FUND THE ENTERPRISE.

1 (2) ONLY THE INSURANCE COMPANIES, AS LISTED IN THE DIVISION'S
2 COLORADO INSURANCE INDUSTRY STATISTICAL REPORT, THAT PROVIDE
3 ANY OR ALL OF THE FOLLOWING TYPES OF INSURANCE ARE LIABLE FOR THE
4 FEE IMPOSED BY THE NATURAL DISASTER MITIGATION ENTERPRISE
5 PURSUANT TO SECTION 24-33.5-1618 (3)(c)(I):

- 6 (a) FIRE;
- 7 (b) ALLIED LINES;
- 8 [REDACTED]
- 9 (c) PRIVATE CROP;
- 10 [REDACTED]
- 11 (d) FARMERS MULTIPLE PERIL;
- 12 (e) HOMEOWNERS MULTIPLE PERIL; OR
- 13 (f) COMMERCIAL MULTIPLE PERIL.
- 14 [REDACTED]

15 (3) THE DIVISION SHALL TRANSMIT ANY FEE COLLECTED IN
16 ACCORDANCE WITH THIS SECTION TO THE STATE TREASURER, WHO SHALL
17 CREDIT THE SAME TO THE NATURAL DISASTER MITIGATION CASH FUND
18 CREATED IN SECTION 24-33.5-1618 (5) ANY FEE TRANSMITTED TO THE
19 STATE TREASURER THAT IS COLLECTED ON BEHALF OF THE NATURAL
20 DISASTER MITIGATION ENTERPRISE IS EXCLUDED FROM THE STATE'S FISCAL
21 YEAR SPENDING.

22 (4) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2030.

23 **SECTION 3. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly; except
26 that, if a referendum petition is filed pursuant to section 1 (3) of article V
27 of the state constitution against this act or an item, section, or part of this

1 act within such period, then the act, item, section, or part will not take
2 effect unless approved by the people at the general election to be held in
3 November 2022 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.