

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

REREVISED

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

LLS NO. 21-0031.01 Pierce Lively x2059

HOUSE BILL 21-1208

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House Committees

Energy & Environment
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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.

SENATE
3rd Reading Unamended
June 1, 2021

SENATE
Amended 2nd Reading
May 28, 2021

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 COLLECTED 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 COLLECTED AT A RATE THAT
26 IS REASONABLY CALCULATED BASED ON THE BENEFITS RECEIVED BY
27 THOSE 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 COLLECTED 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 DESCRIBED BY SUBSECTION (4) OF THIS
5 SECTION;

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 COLLECTING 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) COLLECT 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 SUBSECTION (4)(e) OF THIS SECTION
18 COVERING PROPERTY OR RISKS IN THE STATE SHALL PAY A FEE IMPOSED
19 AND COLLECTED BY THE ENTERPRISE. THE ENTERPRISE SHALL TRANSMIT
20 ANY FEE COLLECTED IN ACCORDANCE WITH THIS SUBSECTION (4) TO THE
21 STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND. ANY FEE
22 TRANSMITTED TO THE STATE TREASURER THAT IS COLLECTED ON BEHALF
23 OF THE ENTERPRISE IS EXCLUDED FROM THE STATE'S FISCAL YEAR
24 SPENDING. TO FUND THE ENTERPRISE. FOR EACH INSURER, THE AMOUNT OF
25 THE FEE MUST EQUAL TWO DOLLARS MULTIPLIED BY THE NUMBER OF
26 CERTAIN POLICIES OR CONTRACTS OF INSURANCE OF THE TYPES LISTED IN
27 SUBSECTION (4)(e) OF THIS SECTION COVERING PROPERTY OR RISKS IN THE

1 STATE.

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

3 (I) PAY THE FEE FOR THE POLICIES OR CONTRACTS OF INSURANCE
4 OF THE TYPES LISTED IN SUBSECTION (4)(e) OF THIS SECTION COVERING
5 PROPERTY OR RISKS IN THE STATE FROM MARCH 1, 2022, THROUGH
6 DECEMBER 31, 2022, AND HELD BY THE INSURER FROM MARCH 1, 2022,
7 THROUGH DECEMBER 31, 2022; AND

8 (II) REPORT TO THE ENTERPRISE THE NUMBER OF POLICIES OR
9 CONTRACTS OF INSURANCE OF THE TYPES LISTED IN SUBSECTION (4)(e) OF
10 THIS SECTION COVERING PROPERTY OR RISKS IN THE STATE FROM MARCH
11 1, 2022, THROUGH DECEMBER 31, 2022, AND HELD BY THE INSURER FROM
12 MARCH 1, 2022, THROUGH DECEMBER 31, 2022.

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

15 (I) PAY THE FEE FOR THE POLICIES OR CONTRACTS OF INSURANCE
16 OF THE TYPES LISTED IN SUBSECTION (4)(e) OF THIS SECTION COVERING
17 PROPERTY OR RISKS IN THE STATE DURING THE PREVIOUS CALENDAR YEAR
18 AND HELD BY THE INSURER IN THE PREVIOUS CALENDAR YEAR; AND

19 (II) REPORT TO THE ENTERPRISE THE NUMBER OF POLICIES OR
20 CONTRACTS OF INSURANCE OF THE TYPES LISTED IN SUBSECTION (4)(e) OF
21 THIS SECTION COVERING PROPERTY OR RISKS IN THE STATE DURING THE
22 PREVIOUS CALENDAR YEAR AND HELD BY THE INSURER IN THE PREVIOUS
23 CALENDAR YEAR.

24 (d) ON OR BEFORE DECEMBER 31, 2023, AND ON OR BEFORE
25 DECEMBER 31 EACH YEAR THEREAFTER THROUGH 2029, THE ENTERPRISE
26 SHALL COMPARE THE LIST OF INSURERS WHO PAID THE FEE WITH A LIST
27 COMPILED BY THE DIVISION OF INSURANCE OF THOSE INSURERS THAT HAVE

1 POLICIES OR CONTRACTS OF THE TYPES LISTED IN SUBSECTION (4)(e) OF
2 THIS SECTION COVERING PROPERTY OR RISKS IN THE STATE AND SHALL
3 NOTIFY THE DIVISION OF INSURANCE OF ANY INSURER'S FAILURE TO PAY
4 THE FEE DESCRIBED IN THIS SUBSECTION (4). UPON RECEIVING NOTICE OF
5 AN INSURER'S FAILURE TO PAY THE FEE, THE DIVISION OF INSURANCE
6 SHALL NOTIFY THE INSURER OF THE FEE REQUIREMENT. IF THE INSURER
7 FAILS TO PAY THE FEE WITHIN FIFTEEN DAYS AFTER RECEIVING THE
8 NOTICE, THE DIVISION OF INSURANCE MAY IMPOSE A CIVIL PENALTY OF
9 NOT MORE THAN ONE HUNDRED TWENTY PERCENT OF THE AMOUNT DUE.
10 THE INSURER SHALL PAY THE CIVIL PENALTY TO THE DIVISION OF
11 INSURANCE. THE DIVISION OF INSURANCE SHALL TRANSFER THE AMOUNT
12 RECEIVED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE
13 FUND.

14 (e) INSURANCE COMPANIES ARE LIABLE FOR THE FEE ON POLICIES
15 OR CONTRACTS COVERING PROPERTY OR RISKS IN THE STATE OF THE
16 FOLLOWING TYPES:

- 17 (I) FIRE;
- 18 (II) ALLIED LINES;
- 19 (III) PRIVATE CROP;
- 20 (IV) FARMERS MULTIPLE PERIL;
- 21 (V) HOMEOWNERS MULTIPLE PERIL; OR
- 22 (VI) COMMERCIAL MULTIPLE PERIL.

23 (f) EACH INSURER SUBJECT TO THE PROVISIONS OF THIS
24 SUBSECTION (4) IS AUTHORIZED TO RECOUP THE FEE DESCRIBED IN THIS
25 SUBSECTION (4) FROM ITS POLICY HOLDERS.

26 (g) EACH INSURER SUBJECT TO THE PROVISIONS OF THIS
27 SUBSECTION (4) SHALL NOT RAISE ITS PREMIUMS BASED ON THE FEE

1 DESCRIBED IN THIS SUBSECTION (4).

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

6 (i) THE ENTERPRISE SHALL ALSO ENSURE, BY LOWERING THE FEE
7 IMPOSED BY THIS SUBSECTION (4) TO THE EXTENT NECESSARY, THAT THE
8 TOTAL AMOUNT OF FEE REVENUE DOES NOT EXCEED ONE HUNDRED
9 MILLION DOLLARS OVER THE FIRST FIVE FISCAL YEARS OF THE
10 ENTERPRISE'S EXISTENCE.

11 (5) Fund. (a) THERE IS HEREBY CREATED IN THE STATE TREASURY
12 THE NATURAL DISASTER MITIGATION CASH FUND. THE FUND CONSISTS OF
13 MONEY CREDITED TO THE FUND PURSUANT TO SUBSECTION (4) OF THIS
14 SECTION AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY
15 APPROPRIATE OR TRANSFER TO THE FUND.

16 (b) THE MONEY IN THE FUND SHALL NOT BE DEPOSITED IN OR
17 TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. THE STATE
18 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE
19 DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. ANY
20 UNENCUMBERED MONEY IN THE FUND SHALL REMAIN IN THE FUND AND
21 SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR
22 ANOTHER FUND.

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

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

27 (II) PROVIDING LOCAL GOVERNMENTS TECHNICAL ASSISTANCE ON

1 NATURAL DISASTER MITIGATION; AND

2 (III) FOR ANY DIRECT AND INDIRECT ADMINISTRATIVE EXPENSES
3 INCURRED BY THE ENTERPRISE.

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

9 (6) **Natural disaster mitigation goals.** THE ENTERPRISE SHALL
10 ADMINISTER THE GRANT PROGRAM AND AWARD GRANTS AND PROVIDE
11 LOCAL GOVERNMENTS TECHNICAL ASSISTANCE ON NATURAL DISASTER
12 MITIGATION TO ACHIEVE THE FOLLOWING NATURAL DISASTER MITIGATION
13 GOALS:

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

16 (b) IMPROVE THE RESILIENCE OF LOCAL COMMUNITIES GIVEN THE
17 INCREASED FREQUENCY AND INTENSITY OF SEVERE WEATHER EVENTS
18 RESULTING FROM CLIMATE CHANGE;

19 (c) ENGAGE IN MITIGATION ACTIVITIES THAT DIRECTLY REDUCE
20 RISKS TO LIVES AND PROPERTY, ARE COST-EFFECTIVE, TECHNICALLY
21 FEASIBLE, SCIENCE-BASED, ECOLOGICALLY SOUND, AND
22 ENVIRONMENTALLY SOUND AS WELL AS ALLOWING STRATEGIC
23 INVESTMENT OF LIMITED RESOURCES AND NOT HARMING UNDERSERVED
24 COMMUNITIES;

25 (d) REDUCE REPETITIVE LOSSES;

26 (e) UTILIZE FEDERAL FUNDING AVAILABLE FOR NATURAL DISASTER
27 MITIGATION PROJECTS; AND

1 (f) SUPPORT COMMUNITIES WITH LIMITED CAPACITY TO PLAN,
2 PREPARE, AND SUBMIT GRANT PROPOSALS UNDER SUBSECTION (7) OF THIS
3 SECTION.

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

8 (b) THE PURPOSE OF THE GRANT PROGRAM IS TO ACHIEVE THE
9 GOALS SPECIFIED IN SUBSECTION (6) OF THIS SECTION BY ASSISTING
10 ENTITIES THAT ARE IMPLEMENTING DISASTER MITIGATION MEASURES,
11 OR THAT HAVE APPLIED FOR FEDERAL GRANTS THAT BOTH REQUIRE
12 MATCHING FUNDS AND ARE DEDICATED TO ASSISTING IN THE
13 IMPLEMENTATION OF PRE-DISASTER NATURAL DISASTER MITIGATION
14 MEASURES. THE BOARD MAY NOT AWARD GRANTS FOR RENEWABLE
15 ENERGY GENERATION PROJECTS, RESOURCES, OR TECHNOLOGIES. THE
16 BOARD MAY AWARD GRANTS FOR PROJECTS THAT INCLUDE SLOPE
17 STABILIZATION, WATERSHED RESTORATION, FUELS MITIGATION, DROUGHT
18 MITIGATION, AND SIMILAR ACTIVITIES THAT DIRECTLY REDUCE RISKS TO
19 COMMUNITIES, LIVES, AND PROPERTY. THE BOARD SHALL ESTABLISH
20 CRITERIA TO EVALUATE AND PRIORITIZE APPLICATIONS FOR GRANTS,
21 BASED ON:

22 (I) IN THE CASE OF AN ELIGIBLE ENTITY THAT IS APPLYING FOR A
23 FEDERAL GRANT THAT BOTH REQUIRES MATCHING FUNDS AND IS
24 DEDICATED TO ASSISTING IN THE IMPLEMENTATION OF PRE-DISASTER
25 NATURAL DISASTER MITIGATION MEASURES, THE FEDERAL EMERGENCY
26 MANAGEMENT AGENCY'S STANDARDIZED BENEFIT-COST ANALYSIS IN
27 ACCORDANCE WITH CURRENT PUBLISHED FEDERAL GUIDANCE; A

1 DIFFERENT METHODOLOGY MAY ONLY BE USED WHEN IT ADDRESSES A
2 NONCORRECTABLE FLAW IN THE FEDERAL EMERGENCY MANAGEMENT
3 AGENCY'S APPROVED METHODOLOGY, AS IDENTIFIED BY THE BOARD;

4 (II) THE FINANCIAL NEED OF THE ELIGIBLE ENTITY; █

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

7 (IV) THE DEGREE TO WHICH THE ELIGIBLE ENTITY'S PROPOSAL
8 DEMONSTRATES CONSULTATION AND COLLABORATION WITH
9 UNDERSERVED COMMUNITIES.

10 (c) AN ELIGIBLE ENTITY MAY SUBMIT AN APPLICATION TO THE
11 ENTERPRISE FOR A GRANT PURSUANT TO THE POLICIES AND PROCEDURES
12 SPECIFIED BY THE BOARD.

13 (d) GRANT RECIPIENTS SHALL ONLY USE THE MONEY RECEIVED
14 THROUGH THE GRANT PROGRAM FOR IMPLEMENTING █ DISASTER
15 MITIGATION MEASURES, OR TO OFFSET THE RECIPIENT'S FEDERAL MATCH
16 REQUIREMENT FOR FEDERAL GRANTS DEDICATED TO ASSISTING IN THE
17 IMPLEMENTATION OF PRE-DISASTER NATURAL DISASTER MITIGATION
18 MEASURES.

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

21 (I) NO LESS THAN EIGHTY-FIVE PERCENT OF THE ANNUAL FUND
22 REVENUE FOR GRANT AWARDS NOR AWARD MORE THAN FIFTEEN PERCENT
23 OF THE ANNUAL REVENUE IN ANY SINGLE GRANT AWARD; EXCEPT THAT,
24 BY UNANIMOUS VOTE OF THE BOARD, GRANTS OF UP TO TWENTY-FIVE
25 PERCENT OF THE ANNUAL REVENUE CAN BE AWARDED IN EXCEPTIONAL
26 CIRCUMSTANCES;

27 (II) NO MORE THAN TEN PERCENT OF THE ANNUAL FUND REVENUE

1 FOR TECHNICAL ASSISTANCE TO SUPPORT COMMUNITIES WITH LIMITED
2 CAPACITY TO PLAN, PREPARE, AND SUBMIT GRANT PROPOSALS; AND

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

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

9 (II) THE BOARD SHALL DEVELOP A POLICY REGARDING A
10 GRANTEE'S NONCOMPLIANCE WITH THE GRANT AGREEMENT ENTERED INTO
11 BY THE GRANTEE AND THE BOARD, WHICH POLICY MAY INCLUDE A
12 MECHANISM FOR THE BOARD TO CONVERT THE GRANTEE'S GRANT TO A
13 LOAN WITH INTEREST.

14 (g) FOR GRANTEES BEING AWARDED FUNDS FOR USE AS A FEDERAL
15 MATCH, THE AWARD OF ANY GRANT UNDER THIS SUBSECTION (7) IS
16 CONTINGENT UPON THE APPLICANT BEING AWARDED THE FEDERAL GRANT
17 THAT THE APPLICANT SOUGHT ASSISTANCE WITH IN ITS GRANT
18 APPLICATION. GRANTEES MUST COMPLY WITH THE REQUIREMENTS OF ANY
19 FEDERAL GRANTS THEY RECEIVE PURSUANT TO THIS SECTION.

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

25 (a) THE UNOBLIGATED BALANCE OF THE FUND, THE NUMBER OF
26 GRANT APPLICATIONS, AND THE NUMBER AND VALUE OF GRANTS
27 AWARDED;

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

4 (c) THE PROGRESS TOWARD ACHIEVEMENT OF THE NATURAL
5 DISASTER MITIGATION GOALS SPECIFIED IN SUBSECTION (6) OF THIS
6 SECTION AND THE PRIMARY FACTORS FACILITATING AND INHIBITING THAT
7 PROGRESS; AND

8 (d) ANY SUGGESTED LEGISLATION OR POLICY CHANGES.

9 (9) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1,
10 2030.

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12 **SECTION 2. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly; except
15 that, if a referendum petition is filed pursuant to section 1 (3) of article V
16 of the state constitution against this act or an item, section, or part of this
17 act within such period, then the act, item, section, or part will not take
18 effect unless approved by the people at the general election to be held in
19 November 2022 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.