

**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. 21-0472.02 Thomas Morris x4218

HOUSE BILL 21-1266

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A BILL FOR AN ACT

101 **CONCERNING EFFORTS TO REDRESS THE EFFECTS OF ENVIRONMENTAL**
102 **INJUSTICE ON DISPROPORTIONATELY IMPACTED COMMUNITIES,**
103 **AND, IN 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>.)

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,

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
Amended 2nd Reading
June 7, 2021

HOUSE
3rd Reading Unamended
May 13, 2021

HOUSE
Amended 2nd Reading
May 12, 2021

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.

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

2 **SECTION 1. Short title.** The short title of this act is the
3 "Environmental Justice Act".

4 **SECTION 2. Legislative declaration.** (1) The general assembly
5 hereby:

6 (a) Finds that:

7 (I) All people have the right to breathe clean air, drink clean
8 water, participate freely in decisions that affect their environments, live
9 free of dangerous levels of toxic pollution, experience equal protection
10 provided by environmental policies, and share the benefits of a
11 prosperous and vibrant pollution-free economy;

12 (II) Certain communities, both in Colorado and internationally,
13 have historically been forced to bear a disproportionate burden of adverse

1 human health or environmental effects as documented in numerous
2 studies, including the "Toxic Wastes and Race at Twenty, 1987-2007"
3 report by the United Church of Christ Justice & Witness Ministries,
4 federal environmental protection agency annual Environmental Justice
5 Progress Reports, and a 2021 report from the "Mapping for
6 Environmental Justice" project at the Berkeley Public Policy/The
7 Goldman School that shows how the pollution burden is distributed in
8 Colorado, while also facing systemic exclusion from environmental
9 decision-making processes and enjoying fewer environmental benefits;

10 (III) Specifically, communities with residents who are Black,
11 indigenous, Latino, or people of color have faced centuries of genocide,
12 environmental racism, and predatory extraction practices; and

13 (IV) At the same time, environmental justice affects and requires
14 the participation of all Coloradans;

15 (b) Determines that:

16 (I) Federal action to address environmental justice includes the
17 federal environmental protection agency's office of environmental justice,
18 originally established in 1992, and the assignment of EPA regional
19 liaisons to minority, Tribal, and low-income communities pursuant to 42
20 U.S.C. sec. 4370i;

21 (II) States have also addressed environmental justice, with the
22 National Law Review recently noting on October 30, 2020, that "the vast
23 majority of states now address [environmental justice] in some
24 fashion-via legislation, agency policy and guidance, or advisory
25 groups-with fewer than five failing to mention the concept at all";

26 (III) Environmental justice laws that promote outreach to and
27 facilitate feedback from disproportionately impacted communities and

1 require that agencies consider that feedback have been upheld by the
2 courts as a legitimate exercise of legislative authority, such as in *Friends*
3 *of Buckingham v. State Air Pollution Control Bd.*, 947 F.3d 68 (4th Cir.
4 2020) (vacating the issuance of a permit due to the board's failure to
5 properly consider the permit's environmental justice impacts);

6 (IV) State action to correct environmental injustice is imperative,
7 and state policy can and should improve public health and the
8 environment and improve the overall well-being of all communities;

9 (V) Efforts to right past wrongs and move toward environmental
10 justice must focus on disproportionately impacted communities and the
11 voices of their residents;

12 (VI) Less-burdened communities have benefitted from
13 relationships that impose burdens on other communities, which is a
14 tangible debt that must be repaid through financial reinvestment, and
15 these relatively privileged communities have a responsibility to
16 acknowledge the harms to which they contribute and a duty to find ways
17 to give back what has been taken; and

18 (VII) Environmental justice is not a zero-sum game: The better we
19 take care of all communities, the more we all grow, and by focusing on
20 communities that are hurting the most, all communities will find
21 opportunities to heal and thrive; and

22 (c) Declares that:

23 (I) The state government has a responsibility to achieve
24 environmental justice, health equity, and climate justice for all
25 communities by avoiding and mitigating harm;

26 (II) It is necessary for disproportionately impacted communities
27 to be meaningfully engaged as partners and stakeholders in government

1 decision-making;

2 (III) Potential environmental and climate threats to communities
3 merit a higher level of engagement, review, and consent; and

4 (IV) This act is necessary to ensure that communities are not
5 forced to bear disproportionate environmental and health impacts.

6 (2) The general assembly also hereby:

7 (a) Finds that prompt action is essential for Colorado to meet its
8 climate goals, given, among other things, the slow turnover of equipment,
9 vehicles, appliances, and other technologies that burn or release fossil
10 fuels. The general assembly further recognizes that climate change is a
11 cumulative emissions problem. This is because long-lived climate
12 pollutants can persist for centuries in the atmosphere, thus committing us
13 to warming for generations to come. As we continue to emit greenhouse
14 gases into the atmosphere over the next decade, and even over the next
15 few years, we will continue to exacerbate the climate damages we are
16 already seeing and increase the risk of catastrophic disruption. Therefore,
17 early action to reduce the pollutants that contribute to climate change,
18 thereby reducing overall atmospheric greenhouse gas concentrations, is
19 essential. Colorado needs to secure reductions in pollution over time in
20 amounts that align with the estimated carbon dioxide budgets identified
21 by the United Nations' intergovernmental panel on climate change
22 consistent with limiting the average global warming, in comparison to
23 accepted historical average temperatures, to one and one-half degrees
24 Celsius.

25 (b) Determines that:

26 (I) Due to historical systems and practices that intentionally
27 targeted Black, Latino, Asian American, and Indigenous people,

1 communities of color, and low-income communities, there continues to
2 be a racial and socioeconomic inequity in regard to the impacts of climate
3 change and pollution. As documented in multiple peer-reviewed scientific
4 studies, communities with predominantly Black, Latino, Asian American,
5 or Indigenous populations suffer from higher rates of air pollution and
6 damage due to changing and more severe weather and have been
7 systematically excluded from governance and decision making. It is
8 therefore the responsibility of the state to include and engage these
9 communities more fully in policymaking at every level and to ensure that
10 environmental policy works toward restorative justice and benefitting
11 these communities. The general assembly recognizes that the key to
12 addressing these historic wrongs is to rapidly reduce pollution in
13 disproportionately impacted communities, including from electric power,
14 industrial, and manufacturing sources.

15 (II) The public should have a meaningful opportunity to
16 participate in rule-making proceedings before the air quality control
17 commission. This requires that members of the public be provided with
18 timely access to information needed to understand proposed rules and to
19 develop alternative proposals;

20 (III) The commission is encouraged to use language that is
21 understandable to citizens who do not have specialized knowledge of the
22 matters before the commission; and

23 (c) Declares that:

24 (I) Nothing in this act:

25 (A) Alters the greenhouse gas emission reduction goals previously
26 established in section 25-7-102 (2)(g), C.R.S., in either amount or timing;

27 or

1 (B) Detracts from the commission's existing authority to require
2 more than the minimum greenhouse gas emission reduction goals and
3 deadlines previously established in section 25-7-102 (2)(g), C.R.S.; and

4 (II) This act adds to, but does not otherwise alter, the air quality
5 control commission's authority and obligation to publish and promulgate
6 rules pursuant to sections 25-7-105, 25-7-102 (2)(g), and 25-7-140.

7 ■ ■

8 **SECTION 3.** In Colorado Revised Statutes, **add** 24-4-109 as
9 follows:

10 **24-4-109. State engagement of disproportionately impacted**
11 **communities - definitions - repeal.** (1) **Goal.** THE GOAL OF OUTREACH
12 TO AND ENGAGEMENT OF DISPROPORTIONATELY IMPACTED COMMUNITIES
13 IS TO BUILD TRUST AND TRANSPARENCY, PROVIDE MEANINGFUL
14 OPPORTUNITIES TO INFLUENCE PUBLIC POLICY, AND MODIFY PROPOSED
15 STATE ACTION IN RESPONSE TO RECEIVED PUBLIC INPUT TO DECREASE
16 ENVIRONMENTAL BURDENS OR INCREASE ENVIRONMENTAL BENEFITS FOR
17 EACH DISPROPORTIONATELY IMPACTED COMMUNITY.

18 (2) **Definitions.** (a) (I) THE ENVIRONMENTAL JUSTICE ACTION
19 TASK FORCE CREATED IN SECTION 25-1-131 WILL RECOMMEND TO THE
20 GENERAL ASSEMBLY POTENTIAL MODIFICATIONS TO THE DEFINITIONS
21 ESTABLISHED IN THIS SUBSECTION (2). THE DEFINITIONS ESTABLISHED IN
22 THIS SUBSECTION (2) APPLY UNLESS AND UNTIL THE GENERAL ASSEMBLY
23 ACTS BY BILL TO MODIFY ONE OR MORE OF THE DEFINITIONS.

24 (II) THIS SUBSECTION (2)(a) IS REPEALED, EFFECTIVE SEPTEMBER
25 1, 2024.

26 (b) AS USED IN THIS SECTION AND SECTIONS 25-1-131 AND
27 25-7-105 (1)(e), UNLESS THE CONTEXT OTHERWISE REQUIRES:

1 (I) "AGENCY" MEANS THE AIR QUALITY CONTROL COMMISSION
2 CREATED IN SECTION 25-7-104.

3 (II) "DISPROPORTIONATELY IMPACTED COMMUNITY" MEANS A
4 COMMUNITY THAT IS IN A CENSUS BLOCK GROUP, AS DETERMINED IN
5 ACCORDANCE WITH THE MOST RECENT UNITED STATES CENSUS, WHERE
6 THE PROPORTION OF HOUSEHOLDS THAT ARE LOW INCOME IS GREATER
7 THAN FORTY PERCENT, THE PROPORTION OF HOUSEHOLDS THAT IDENTIFY
8 AS MINORITY IS GREATER THAN FORTY PERCENT, OR THE PROPORTION OF
9 HOUSEHOLDS THAT ARE HOUSING COST-BURDENED IS GREATER THAN
10 FORTY PERCENT; OR IS ANY OTHER COMMUNITY AS IDENTIFIED OR
11 APPROVED BY A STATE AGENCY, IF: THE COMMUNITY HAS A HISTORY OF
12 ENVIRONMENTAL RACISM PERPETUATED THROUGH REDLINING,
13 ANTI-INDIGENOUS, ANTI-IMMIGRANT, ANTI-HISPANIC, OR ANTI-BLACK
14 LAWS; OR THE COMMUNITY IS ONE WHERE MULTIPLE FACTORS, INCLUDING
15 SOCIOECONOMIC STRESSORS, DISPROPORTIONATE ENVIRONMENTAL
16 BURDENS, VULNERABILITY TO ENVIRONMENTAL DEGRADATION, AND LACK
17 OF PUBLIC PARTICIPATION, MAY ACT CUMULATIVELY TO AFFECT HEALTH
18 AND THE ENVIRONMENT AND CONTRIBUTE TO PERSISTENT DISPARITIES. AS
19 USED IN THIS SUBSECTION (2)(b)(II), "COST-BURDENED" MEANS A
20 HOUSEHOLD THAT SPENDS MORE THAN THIRTY PERCENT OF ITS INCOME ON
21 HOUSING, AND "LOW INCOME" MEANS THE MEDIAN HOUSEHOLD INCOME IS
22 LESS THAN OR EQUAL TO TWO HUNDRED PERCENT OF THE FEDERAL
23 POVERTY GUIDELINE.

24 (III) "PROPOSED STATE ACTION" MEANS:

25 (A) RULE-MAKING PROCEEDINGS HELD PURSUANT TO SECTION
26 24-4-103;

27 (B) LICENSING PROCEEDINGS, INCLUDING THE ISSUANCE AND

1 RENEWAL OF PERMITS, HELD PURSUANT TO SECTION 24-4-104; AND
2 (C) ADJUDICATORY HEARINGS HELD PURSUANT TO SECTION
3 24-4-105.

4 (3) **Engagement.** (a) TO PROMOTE THE GOAL OF STATE
5 ENGAGEMENT OF DISPROPORTIONATELY IMPACTED COMMUNITIES, AN
6 AGENCY SHALL STRIVE TO CREATE NEW WAYS TO GATHER INPUT FROM
7 COMMUNITIES ACROSS THE STATE, USING MULTIPLE LANGUAGES AND
8 MULTIPLE FORMATS AND TRANSPARENTLY SHARING INFORMATION ABOUT
9 ADVERSE ENVIRONMENTAL EFFECTS FROM ITS PROPOSED STATE ACTION.

10 (b) WHEN CONDUCTING OUTREACH TO AND ENGAGEMENT OF
11 DISPROPORTIONATELY IMPACTED COMMUNITIES REGARDING A PROPOSED
12 STATE ACTION, THE AGENCY SHALL:

13 (I) SCHEDULE VARIABLE TIMES OF DAY AND DAYS OF THE WEEK
14 FOR OPPORTUNITIES FOR PUBLIC INPUT ON THE PROPOSED STATE ACTION,
15 INCLUDING AT LEAST ONE WEEKEND TIME, ONE EVENING TIME, AND ONE
16 MORNING TIME FOR PUBLIC INPUT;

17 (II) PROVIDE NOTICE AT LEAST THIRTY DAYS BEFORE ANY PUBLIC
18 INPUT OPPORTUNITY OR BEFORE THE START OF ANY PUBLIC COMMENT
19 PERIOD;

20 (III) UTILIZE SEVERAL DIFFERENT METHODS OF OUTREACH AND
21 WAYS TO PUBLICIZE THE PROPOSED STATE ACTION, INCLUDING
22 DISSEMINATING INFORMATION THROUGH SCHOOLS, CLINICS, SOCIAL
23 MEDIA, SOCIAL AND ACTIVITY CLUBS, LOCAL GOVERNMENTS, TRIBAL
24 GOVERNMENTS, LIBRARIES, RELIGIOUS ORGANIZATIONS, CIVIC
25 ASSOCIATIONS, COMMUNITY-BASED ENVIRONMENTAL JUSTICE
26 ORGANIZATIONS, OR OTHER LOCAL SERVICES;

27 (IV) PROVIDE SEVERAL METHODS FOR THE PUBLIC TO GIVE INPUT,

1 SUCH AS IN-PERSON MEETINGS, VIRTUAL AND ONLINE MEETINGS, ONLINE
2 COMMENT PORTALS OR E-MAIL, AND CALL-IN MEETINGS;

3 (V) CONSIDER USING A VARIETY OF LOCATIONS FOR PUBLIC INPUT
4 ON THE PROPOSED STATE ACTION, INCLUDING MEETING LOCATIONS IN
5 URBAN CENTERS, IN NEIGHBORHOODS WHOSE POPULATIONS ARE
6 PREDOMINANTLY BLACK, INDIGENOUS, OR PEOPLE OF COLOR AND HAVE AN
7 AVERAGE INCOME BELOW THE STATE'S AVERAGE, AND IN RURAL
8 LOCATIONS IN VARIOUS REGIONS OF THE STATE; AND

9 (VI) CREATE OUTREACH MATERIALS CONCERNING THE PROPOSED
10 STATE ACTION IN LAYPERSON'S TERMS, TRANSLATED INTO THE TOP TWO
11 LANGUAGES SPOKEN IN A COMMUNITY, THAT INFORM PEOPLE OF
12 OPPORTUNITIES TO PROVIDE INPUT ON THE PROPOSED STATE ACTION, THEIR
13 RIGHTS, THE POSSIBLE OUTCOMES, AND THE UPCOMING PUBLIC INPUT
14 PROCESS.

15 **SECTION 4.** In Colorado Revised Statutes, **add** 25-1-131 as
16 follows:

17 **25-1-131. Environmental justice action task force - report -**
18 **repeal. (1) Creation. (a)** THERE IS HEREBY CREATED IN THE
19 DEPARTMENT THE ENVIRONMENTAL JUSTICE ACTION TASK FORCE TO
20 RECOMMEND AND PROMOTE STRATEGIES FOR INCORPORATING
21 ENVIRONMENTAL JUSTICE AND EQUITY INTO HOW STATE AGENCIES
22 DISCHARGE THEIR RESPONSIBILITIES.

23 (b) THE TASK FORCE CONSISTS OF TWENTY-SEVEN MEMBERS
24 APPOINTED PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION.

25 (c) THE MEMBERSHIP OF THE TASK FORCE AND APPOINTING
26 AUTHORITIES ARE AS FOLLOWS:

27 (I) THE GOVERNOR SHALL APPOINT THE FOLLOWING NINE

1 MEMBERS:

2 (A) THREE REPRESENTATIVES FROM THE DEPARTMENT OF PUBLIC
3 HEALTH AND ENVIRONMENT, ONE WITH EXPERTISE IN AIR QUALITY, ONE
4 WITH EXPERTISE IN WATER QUALITY, AND ONE WITH EXPERTISE IN HEALTH
5 EQUITY;

6 (B) ONE REPRESENTATIVE OF THE DEPARTMENT OF NATURAL
7 RESOURCES;

8 (C) ONE REPRESENTATIVE OF THE DEPARTMENT OF
9 TRANSPORTATION;

10 (D) ONE REPRESENTATIVE OF THE COLORADO ENERGY OFFICE;

11 (E) ONE REPRESENTATIVE OF THE PUBLIC UTILITIES COMMISSION;

12 (F) ONE REPRESENTATIVE OF THE DEPARTMENT OF AGRICULTURE;

13 AND

14 (G) ONE REPRESENTATIVE OF THE GOVERNOR'S OFFICE;

15 (II) TWO MEMBERS, ONE APPOINTED BY THE CHAIR OF THE
16 SOUTHERN UTE INDIAN TRIBE TRIBAL COUNCIL AND ONE APPOINTED BY
17 THE CHAIR OF THE UTE MOUNTAIN UTE TRIBE TRIBAL COUNCIL;

18 (III) SIXTEEN MEMBERS APPOINTED BY THE PRESIDENT OF THE
19 SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE
20 HOUSE OF REPRESENTATIVES, AND THE MINORITY LEADER OF THE HOUSE
21 OF REPRESENTATIVES, WITH ONE MEMBER APPOINTED BY EACH
22 APPOINTING AUTHORITY FROM SUBSECTION (1)(c)(III)(A) OF THIS SECTION
23 AND THREE MEMBERS EACH FROM SUBSECTION (1)(c)(III)(B) OF THIS
24 SECTION:

25 (A) FOUR MEMBERS WHO REPRESENT DISPROPORTIONATELY
26 IMPACTED COMMUNITIES LOCATED, TO THE EXTENT PRACTICABLE, IN
27 DIFFERENT CONGRESSIONAL DISTRICTS OF THE STATE; AND

1 (B) THE FOLLOWING NUMBER OF MEMBERS OF DIFFERENT
2 ORGANIZATIONS THAT: CARRY OUT INITIATIVES RELATING TO
3 ENVIRONMENTAL JUSTICE, THREE MEMBERS; REPRESENT WORKER
4 INTERESTS IN DISPROPORTIONATELY IMPACTED COMMUNITIES, ONE
5 MEMBER; REPRESENT THE INTEREST OF PEOPLE OF COLOR, FOUR MEMBERS;
6 REPRESENT THE RENEWABLE ENERGY INDUSTRY, ONE MEMBER; REPRESENT
7 THE NONRENEWABLE ENERGY INDUSTRY, ONE MEMBER; REPRESENT LOCAL
8 GOVERNMENT IN DISPROPORTIONATELY IMPACTED COMMUNITIES, ONE
9 MEMBER; AND WORK TO SUPPORT PUBLIC HEALTH, ONE MEMBER, WHO
10 MUST BE AN ENVIRONMENTAL TOXICOLOGIST.

11 (d) THE APPOINTING AUTHORITIES SHALL FILL A VACANCY AS SOON
12 AS POSSIBLE. IN MAKING APPOINTMENTS TO THE TASK FORCE, THE
13 APPOINTING AUTHORITIES SHALL ENSURE THAT THE MEMBERSHIP OF THE
14 TASK FORCE REFLECTS THE RACIAL, ETHNIC, CULTURAL, AND GENDER
15 DIVERSITY OF THE STATE, INCLUDING REPRESENTATION OF ALL AREAS OF
16 THE STATE.

17 (2) **Mission of the task force.** THE MISSION OF THE TASK FORCE
18 IS TO PROPOSE RECOMMENDATIONS TO THE GENERAL ASSEMBLY
19 REGARDING PRACTICAL MEANS OF ADDRESSING ENVIRONMENTAL JUSTICE
20 INEQUITIES BY:

21 (a) PROMOTING ENVIRONMENTAL JUSTICE ACROSS STATE
22 AGENCIES AND IMPROVING COLLABORATION AMONG STATE AGENCIES IN
23 IDENTIFYING AND ADDRESSING THE HUMAN HEALTH AND ENVIRONMENTAL
24 EFFECTS OF PROGRAMS, POLICIES, PRACTICES, AND ACTIVITIES ON
25 DISPROPORTIONATELY IMPACTED COMMUNITIES;

26 (b) IMPROVING COOPERATION ON ENVIRONMENTAL JUSTICE
27 INITIATIVES BETWEEN THE STATE GOVERNMENT, TRIBAL GOVERNMENTS,

1 AND LOCAL GOVERNMENTS;

2 (c) ENSURING MEANINGFUL INVOLVEMENT AND DUE PROCESS IN
3 THE DEVELOPMENT, IMPLEMENTATION, AND ENFORCEMENT OF
4 ENVIRONMENTAL LAWS AND POLICIES; AND

5 (d) ADDRESSING ENVIRONMENTAL HEALTH, POLLUTION, AND
6 PUBLIC HEALTH BURDENS IN DISPROPORTIONATELY IMPACTED
7 COMMUNITIES AND BUILDING HEALTHY, SUSTAINABLE, AND RESILIENT
8 COMMUNITIES.

9 (3) **Duties of the task force.** THE TASK FORCE SHALL CONSIDER
10 PROPOSING RECOMMENDATIONS CONCERNING THE FOLLOWING:

11 (a) DEVELOPING A STATE AGENCY-WIDE ENVIRONMENTAL JUSTICE
12 STRATEGY AND A PLAN TO IMPLEMENT THAT STRATEGY, WHICH COULD
13 INCLUDE:

14 (I) RECOMMENDATIONS FOR CREATING AND IMPLEMENTING
15 EQUITY ANALYSIS INTO ALL SIGNIFICANT PLANNING, RULE-MAKING,
16 ADJUDICATIONS, ORDERS, PROGRAMMATIC AND POLICY DECISION-MAKING,
17 AND INVESTMENTS;

18 (II) A POTENTIAL REQUIREMENT THAT AGENCIES PREPARE AN
19 ENVIRONMENTAL EQUITY ANALYSIS FOR ANY STATE ACTION THAT HAS THE
20 POTENTIAL TO CAUSE NEGATIVE ENVIRONMENTAL OR PUBLIC HEALTH
21 IMPACTS TO A DISPROPORTIONATELY IMPACTED COMMUNITY, WHICH
22 ANALYSIS COULD INCLUDE A PROCESS FOR IDENTIFYING AND DESCRIBING
23 CUMULATIVE IMPACTS TO THE HEALTH AND ENVIRONMENT OF
24 DISPROPORTIONATELY IMPACTED COMMUNITIES;

25 (III) A POTENTIAL REQUIREMENT THAT FOR ANY STATE ACTION
26 THAT MAY CAUSE ADVERSE ENVIRONMENTAL OR PUBLIC HEALTH IMPACTS
27 TO A DISPROPORTIONATELY IMPACTED COMMUNITY, THE ADVERSE

1 ENVIRONMENTAL OR PUBLIC HEALTH MUST BE AVOIDED, AND IF THE
2 EFFECTS CANNOT BE AVOIDED, THEY MUST BE MINIMIZED AND MITIGATED;

3 (IV) A POTENTIAL REQUIREMENT THAT PERMITS MUST BE ISSUED
4 AND RENEWED ONLY AFTER AN ENVIRONMENTAL EQUITY ANALYSIS
5 DETERMINES THAT THE TERMS AND CONDITIONS OF THE PERMIT OR
6 RENEWAL ARE SUFFICIENT TO ENSURE, TO A REASONABLE CERTAINTY,
7 THAT ANY HARM TO THE HEALTH AND ENVIRONMENT OF
8 DISPROPORTIONATELY IMPACTED COMMUNITIES IS EITHER:

9 (A) AVOIDED; OR

10 (B) MINIMIZED TO THE EXTENT PRACTICABLE AND, TO THE EXTENT
11 ANY HARM REMAINS, IS MITIGATED;

12 (V) A POTENTIAL REQUIREMENT THAT ALL ENVIRONMENTAL
13 PROJECTS DEVELOPED AS PART OF A SETTLEMENT RELATING TO
14 VIOLATIONS IN A DISPROPORTIONATELY IMPACTED COMMUNITY ARE
15 DEVELOPED IN CONSULTATION WITH AND THROUGH MEANINGFUL
16 PARTICIPATION OF INDIVIDUALS IN THE DISPROPORTIONATELY IMPACTED
17 COMMUNITY AND RESULT IN IMPROVEMENT TO THE HEALTH AND
18 ENVIRONMENT OF THE AFFECTED DISPROPORTIONATELY IMPACTED
19 COMMUNITY; AND

20 (VI) RECOMMENDATIONS FOR ESTABLISHING MEASURABLE GOALS
21 FOR REDUCING ENVIRONMENTAL HEALTH DISPARITIES FOR
22 DISPROPORTIONATELY IMPACTED COMMUNITIES;

23 (b) ADOPTION OF A PLAN THAT ADDRESSES THE LACK OF DATA AND
24 LACK OF DATA SHARING BETWEEN STATE AGENCIES ABOUT POTENTIAL
25 EXPOSURE TO ENVIRONMENTAL HAZARDS AND IMPROVES RESEARCH AND
26 DATA COLLECTION EFFORTS RELATED TO THE HEALTH AND ENVIRONMENT
27 OF DISPROPORTIONATELY IMPACTED COMMUNITIES, CLIMATE CHANGE,

1 AND THE INEQUITABLE DISTRIBUTION OF BURDENS AND BENEFITS OF THE
2 MANAGEMENT AND USE OF NATURAL RESOURCES;

3 (c) THE PROVISIONS OF SECTION 24-4-109 REGARDING
4 ENGAGEMENT OF DISPROPORTIONATELY IMPACTED COMMUNITIES, TAKING
5 INTO ACCOUNT BARRIERS TO PARTICIPATION THAT MAY ARISE DUE TO
6 RACE, COLOR, ETHNICITY, RELIGION, INCOME, OR EDUCATION LEVEL; AND

7 (d) EVALUATING AND PROPOSING RECOMMENDATIONS OR
8 REVISIONS TO THE FOLLOWING DEFINITIONS:

9 (I) "DISPROPORTIONATELY IMPACTED COMMUNITY" AS DEFINED IN
10 SECTION 24-4-109 (2)(b)(II);

11 (II) "PROPOSED STATE ACTION" AS DEFINED IN SECTION 24-4-109
12 (2)(b)(III); AND

13 (III) "AGENCY" AS DEFINED IN SECTION 24-4-109 (2)(b)(I). IN
14 FORMULATING ITS RECOMMENDATION, THE TASK FORCE SHALL CONSIDER
15 INCLUDING WITHIN THE DEFINITION AT LEAST THE STATE ENTITIES
16 SPECIFIED IN SUBSECTION (1)(c)(I) OF THIS SECTION.

17 (4) THE TASK FORCE SHALL:

18 (a) HOLD AT LEAST SIX MEETINGS, WHICH MAY BE ONLINE OR IN
19 PERSON, TO SEEK INPUT FROM, PRESENT ITS WORK PLAN AND PROPOSALS
20 TO, AND RECEIVE FEEDBACK FROM COMMUNITIES THROUGHOUT THE
21 STATE;

22 (b) SUBMIT A FINAL REPORT OF ITS FINDINGS AND
23 RECOMMENDATIONS TO THE GOVERNOR, THE DEPARTMENT, THE HOUSE OF
24 REPRESENTATIVES AGRICULTURE, LIVESTOCK, AND WATER, ENERGY AND
25 ENVIRONMENT, AND HEALTH AND INSURANCE COMMITTEES, AND THE
26 SENATE AGRICULTURE AND NATURAL RESOURCES, HEALTH AND HUMAN
27 SERVICES, AND TRANSPORTATION AND ENERGY COMMITTEES, OR THEIR

1 SUCCESSOR COMMITTEES, BY NOVEMBER 14, 2022; AND

2 (c) POST SUMMARIES OF ITS MEETINGS, DRAFT
3 RECOMMENDATIONS, AND THE FINAL REPORT, WHICH MUST BE AVAILABLE
4 AS A PUBLIC RECORD ON THE HOME PAGE OF THE DEPARTMENT'S WEBSITE.

5 (5) THE DEPARTMENT SHALL INCLUDE UPDATES REGARDING THE
6 TASK FORCE'S ACTIVITIES, INCLUDING ITS FINAL REPORT, IN ITS
7 DEPARTMENTAL PRESENTATION TO LEGISLATIVE COMMITTEES OF
8 REFERENCE PURSUANT TO SECTION 2-7-203.

9 (6) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

10 **SECTION 5.** In Colorado Revised Statutes, 25-7-105, **amend**
11 (1)(e)(III) as follows:

12 **25-7-105. Duties of commission - rules - legislative declaration**
13 **- definitions.** (1) Except as provided in sections 25-7-130 and 25-7-131,
14 the commission shall promulgate such rules and regulations as are
15 consistent with the legislative declaration set forth in section 25-7-102
16 and necessary for the proper implementation and administration of this
17 article 7, including, but not limited to:

18 (e) (III) The commission will identify AND ENGAGE WITH
19 disproportionately impacted communities ~~In identifying these~~
20 ~~communities, the commission will consider: Minority, low-income, tribal,~~
21 ~~or indigenous populations in the state that potentially experience~~
22 ~~disproportionate environmental harms and risks. This disproportionality~~
23 ~~can be a result of increased vulnerability to environmental degradation,~~
24 ~~lack of opportunity for public participation, or other factors. Increased~~
25 ~~vulnerability may be attributable to an accumulation of negative or lack~~
26 ~~of positive environmental, health, economic, or social conditions within~~
27 ~~these populations. "Disproportionately impacted communities" describes~~

1 ~~situations where multiple factors, including both environmental and~~
2 ~~socioeconomic stressors, may act cumulatively to affect health and the~~
3 ~~environment and contribute to persistent environmental health disparities~~
4 AS SPECIFIED IN SECTION 24-4-109.

5 **SECTION 6.** In Colorado Revised Statutes, 25-7-114.1, amend
6 (1), (2), and (3) introductory portion as follows:

7 **25-7-114.1. Air pollutant emission notices - rules.** (1) (a) No
8 person shall permit emission of air pollutants from, or construction or
9 alteration of, any facility, process, or activity except residential structures
10 from which air pollutants are, or are to be, emitted unless and until an air
11 pollutant emission notice has been filed with the division with respect to
12 such emission. THE COMMISSION MAY REQUIRE THAT AIR POLLUTANT
13 EMISSION NOTICES FOR GREENHOUSE GAS, AS DEFINED IN SECTION
14 25-7-140 (6), REPORT THE PREVIOUS CALENDAR YEAR'S EMISSIONS OF
15 GREENHOUSE GAS IN THE FORM OF CARBON DIOXIDE EQUIVALENT. An air
16 pollutant emission notice shall be IS valid for a period of NO MORE THAN
17 five years.

18 (b) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL
19 21-1266:

20 (I) NOTHING:

21 (A) ALTERS THE GREENHOUSE GAS EMISSION REDUCTION GOALS
22 PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g), IN EITHER AMOUNT
23 OR TIMING; OR

24 (B) DETRACTS FROM THE AIR QUALITY CONTROL COMMISSION'S
25 EXISTING AUTHORITY TO REQUIRE MORE THAN THE MINIMUM GREENHOUSE
26 GAS EMISSION REDUCTION GOALS AND DEADLINES PREVIOUSLY
27 ESTABLISHED IN SECTION 25-7-102 (2)(g); AND

1 (II) THE CHANGES ADD TO, BUT DO NOT OTHERWISE ALTER, THE
2 AIR QUALITY CONTROL COMMISSION'S AUTHORITY AND OBLIGATION TO
3 PUBLISH AND PROMULGATE RULES PURSUANT TO SECTIONS 25-7-102
4 (2)(g), 25-7-105, AND 25-7-140.

5 (2) All sources existing on or before December 31, 1992, shall file
6 an updated air pollutant emission notice with the division on or before
7 December 31, 1992. In addition, A revised emission notice shall be filed
8 whenever a significant change in emissions, in processes, or in the facility
9 is anticipated or has occurred OR AS THE COMMISSION OTHERWISE
10 DETERMINES TO BE NECESSARY. The revised air pollutant emission notice
11 shall be IS valid for NO MORE THAN five years or until the underlying
12 permit expires. The commission shall exempt those sources or categories
13 of sources which THAT it determines to be of minor significance from the
14 requirement that an air pollutant emission notice be filed.

15 (3) The commission shall promulgate a list of air pollutants which
16 THAT are required to be reported in an air pollutant emission notice. NO
17 LATER THAN DECEMBER 31, 2022, THE COMMISSION SHALL INCLUDE
18 GREENHOUSE GAS, AS DEFINED IN SECTION 25-7-140 (6), IN THE LIST OF AIR
19 POLLUTANTS REQUIRED TO BE REPORTED IN AN AIR POLLUTANT EMISSION
20 NOTICE AND SHALL IDENTIFY THE CATEGORIES OF SOURCES FOR WHICH
21 AND THE THRESHOLDS BELOW WHICH GREENHOUSE GAS DOES NOT NEED
22 TO BE REPORTED IN AN AIR POLLUTANT EMISSION NOTICE. AN AIR
23 POLLUTANT EMISSION NOTICE FOR GREENHOUSE GASES NEED NOT BE
24 REQUIRED FOR A FACILITY OR ENTITY THAT IS OTHERWISE EXEMPT FROM
25 REPORTING GREENHOUSE GAS EMISSIONS TO THE DIVISION PURSUANT TO
26 A RULE ADOPTED BY THE COMMISSION. Prior to the commission's
27 promulgation of such a list of air pollutants to be reported in an air

1 pollutant emission notice, sources shall report any emissions of the
2 following which THAT are in excess of de minimis quantities:

3 SECTION 7. In Colorado Revised Statutes, 25-7-114.4, add (5)
4 as follows:

5 25-7-114.4. Permit applications - contents - rules - definitions.

6 (5) Provisions for permits for sources that affect disproportionately
7 impacted communities. (a) Rules. (I) NO LATER THAN JUNE 1, 2023,
8 THE COMMISSION SHALL ADOPT RULES TO IMPLEMENT THE REQUIREMENTS
9 OF THIS SUBSECTION (5).

10 (II) THE COMMISSION MAY SET THRESHOLDS OF AFFECTED
11 POLLUTANTS BELOW WHICH THE REQUIREMENTS OF THIS SECTION DO NOT
12 APPLY.

13 (III) IN ADOPTING RULES TO IMPLEMENT THIS SUBSECTION (5), THE
14 COMMISSION SHALL IDENTIFY DISPROPORTIONATELY IMPACTED
15 COMMUNITIES.

16 (IV) THE COMMISSION SHALL PERIODICALLY, BUT NOT LESS OFTEN
17 THAN EVERY THREE YEARS, REVISIT ITS IDENTIFICATION OF
18 DISPROPORTIONATELY IMPACTED COMMUNITIES AND DETERMINATIONS OF
19 AFFECTED POLLUTANTS.

20 (b) Applicability and requirements. (I) THE REQUIREMENTS OF
21 THIS SUBSECTION (5)(b) APPLY TO PERMITS FOR SOURCES OF AFFECTED
22 POLLUTANTS IN DISPROPORTIONATELY IMPACTED COMMUNITIES.

23 (II) (A) THE COMMISSION'S RULES MUST PROVIDE FOR ENHANCED
24 MODELING AND MONITORING REQUIREMENTS FOR NEW AND MODIFIED
25 SOURCES OF AFFECTED POLLUTANTS IN DISPROPORTIONATELY IMPACTED
26 COMMUNITIES THAT ARE IDENTIFIED OR APPROVED AT THE TIME OF PERMIT
27 APPLICATION. IN ADOPTING THE RULES, THE COMMISSION SHALL ALSO

1 CONSIDER REQUIRING ENHANCED MONITORING FOR EXISTING SOURCES OF
2 AFFECTED POLLUTANTS.

3 (B) THE COMMISSION'S RULES MUST IDENTIFY THE TYPES OF
4 MONITORING TECHNOLOGY THAT CAN BE USED BY THE SOURCES OF
5 AFFECTED POLLUTANTS AND MUST ALLOW FOR THE USE OF ALTERNATIVE
6 METHODS OF MONITORING AS APPROVED BY THE DIVISION.

7 (c) Fees. SOURCES OF AFFECTED POLLUTANTS SUBJECT TO THE
8 REQUIREMENTS OF THIS SUBSECTION (5) SHALL PAY A PROCESSING FEE IN
9 CONFORMITY WITH SECTION 25-7-114.7 (2)(a)(III) TO COVER THE
10 DIVISION'S AND COMMISSION'S DIRECT AND INDIRECT COSTS OF
11 IMPLEMENTING THE REQUIREMENTS OF THIS SECTION. THESE FEES SHALL
12 BE CREDITED TO THE STATIONARY SOURCES CONTROL FUND IN
13 ACCORDANCE WITH SECTION 25-7-114.7 (2)(b)(I).

14 (d) Definitions. AS USED IN THIS SUBSECTION (5), UNLESS THE
15 CONTEXT OTHERWISE REQUIRES:

16 (I) "AFFECTED POLLUTANTS" MEANS THOSE AIR POLLUTANTS AS
17 DETERMINED BY THE COMMISSION WITH THE POTENTIAL TO CAUSE OR
18 CONTRIBUTE TO SIGNIFICANT HEALTH OR ENVIRONMENTAL IMPACTS. THE
19 TERM INCLUDES:

20 (A) VOLATILE ORGANIC COMPOUNDS;

21 (B) OXIDES OF NITROGEN;

22 (C) HAZARDOUS AIR POLLUTANTS AS IDENTIFIED BY THE
23 COMMISSION, INCLUDING BENZENE, TOLUENE, ETHYLBENZENE AND
24 XYLENE; AND

25 (D) PARTICULATE MATTER THAT IS TWO AND ONE-HALF MICRONS
26 OR SMALLER.

27 (II) "COST-BURDENED" MEANS A HOUSEHOLD THAT SPENDS MORE

1 THAN THIRTY PERCENT OF ITS INCOME ON HOUSING.

2 (III) "DISPROPORTIONATELY IMPACTED COMMUNITY" MEANS A
3 COMMUNITY THAT:

4 (A) IS IN A CENSUS BLOCK GROUP, AS DETERMINED IN
5 ACCORDANCE WITH THE MOST RECENT UNITED STATES CENSUS, WHERE
6 THE PROPORTION OF HOUSEHOLDS THAT ARE LOW INCOME IS GREATER
7 THAN FORTY PERCENT, THE PROPORTION OF HOUSEHOLDS THAT IDENTIFY
8 AS MINORITY IS GREATER THAN FORTY PERCENT, OR THE PROPORTION OF
9 HOUSEHOLDS THAT ARE HOUSING COST-BURDENED IS GREATER THAN
10 FORTY PERCENT; OR

11 (B) IS ANY OTHER COMMUNITY AS IDENTIFIED OR APPROVED BY A
12 STATE AGENCY, IF THE COMMUNITY: HAS A HISTORY OF ENVIRONMENTAL
13 RACISM PERPETUATED THROUGH REDLINING, ANTI-IMMIGRANT,
14 ANTI-BLACK, ANTI-LATINO, ANTI-ASIAN AMERICAN, OR ANTI-INDIGENOUS
15 LAWS; OR IS ONE IN WHICH MULTIPLE FACTORS, INCLUDING
16 SOCIOECONOMIC STRESSORS, DISPROPORTIONATE ENVIRONMENTAL
17 BURDENS, VULNERABILITY TO ENVIRONMENTAL DEGRADATION, AND LACK
18 OF PUBLIC PARTICIPATION, MAY ACT CUMULATIVELY TO AFFECT HEALTH
19 AND THE ENVIRONMENT AND CONTRIBUTE TO PERSISTENT DISPARITIES.

20 (IV) "LOW INCOME" MEANS THE MEDIAN HOUSEHOLD INCOME IS
21 LESS THAN OR EQUAL TO TWO HUNDRED PERCENT OF THE FEDERAL
22 POVERTY GUIDELINE.

23 (V) "SOURCE OF AFFECTED POLLUTANTS" MEANS A STATIONARY
24 SOURCE THAT EMITS ANY AFFECTED POLLUTANT IN AN AMOUNT SUCH
25 THAT A CONSTRUCTION PERMIT IS REQUIRED UNDER COMMISSION RULES.

26 **SECTION 8. In Colorado Revised Statutes, 25-7-114.5, amend**
27 **(12.5)(a)(I) introductory portion, (12.5)(a)(I)(C), (12.5)(a)(I)(D), and**

1 (12.5)(b); and add (12.5)(a)(I)(E) as follows:

2 **25-7-114.5. Application review - public participation.**

3 (12.5) (a) (I) Except for sources involved in agricultural, horticultural, or
4 floricultural production such as farming, seasonal crop drying, animal
5 feeding, or pesticide application, upon determination by the division that
6 the criteria set forth in paragraph (b) of this subsection (12.5) SUBSECTION
7 (12.5)(b) OF THIS SECTION applies to a source that is not required to obtain
8 a renewable operating permit, the division may reopen such construction
9 permit for the purpose of imposing any or all of the following additional
10 terms and conditions:

11 (C) Operating and maintenance requirements; and

12 (D) Emission control requirements pursuant to section 25-7-109.3;

13 AND

14 (E) ADDITIONAL MONITORING REQUIREMENTS FOR SOURCES
15 AFFECTING DISPROPORTIONATELY IMPACTED COMMUNITIES.

16 (b) With the exception of those sources involved in agricultural,
17 horticultural, or floricultural production such as farming, seasonal crop
18 drying, animal feeding, and pesticide application, a source's construction
19 permit may be reopened for cause for the purposes of paragraph (a) of
20 this subsection (12.5) SUBSECTION (12.5)(a) OF THIS SECTION only upon
21 a determination by the division that the location of the source is
22 significant in terms of its proximity to residential or business areas OR A
23 DISPROPORTIONATELY IMPACTED COMMUNITY, and one or more of the
24 following criteria apply to the permitted source:

25 (I) The control equipment utilized by the source requires an
26 unusually high degree of maintenance or operational sensitivity when
27 compared to control equipment in general; or

1 (II) The design characteristics of the source require an unusually
2 high degree of maintenance or operational sensitivity when compared to
3 the design characteristics of all sources in general; or

4 (III) The application of the control equipment utilized is unique
5 or untested; or

6 (IV) The operational variability of the source may impact the
7 effectiveness of the controls; or

8 (V) The emissions from the source will threaten public health, as
9 determined pursuant to section 25-7-109.3; OR

10 (VI) THE EMISSIONS FROM THE SOURCE WILL AFFECT A
11 DISPROPORTIONATELY IMPACTED COMMUNITY AS DEFINED IN SECTION
12 25-7-114.4 (5)(d)(III).

13 **SECTION 9.** In Colorado Revised Statutes, 25-7-114.7, **amend**
14 (1)(a)(II), (2)(a)(I) introductory portion, (2)(b)(III) introductory portion,
15 and (2)(b)(III)(G); and **add** (2)(a)(VII), (2)(b)(III)(I), (2)(b)(III)(J), and
16 (2)(h) as follows:

17 **25-7-114.7. Emission fees - fund - rules - definition - repeal.**

18 (1) As used in this section, unless the context otherwise requires:

19 (a) Indirect and direct costs include, but are not limited to:

20 (II) Implementing and enforcing the terms and conditions of any
21 such permit OR RULE, not including court costs or other legal costs
22 associated with any enforcement action;

23 (2) (a) (I) EXCEPT AS SPECIFIED IN SUBSECTION (2)(a)(VII) OF THIS
24 SECTION, the commission shall designate by rule those classes of sources
25 of air pollution that are exempt from the requirement to pay an annual
26 emission fee. Every owner or operator of an air pollution source not
27 otherwise exempt in accordance with such commission rules shall pay an

1 annual fee as follows:

2 (VII) THE COMMISSION SHALL ESTABLISH, BY RULE, A FEE PER TON
3 OF GREENHOUSE GAS, IN THE FORM OF CARBON DIOXIDE EQUIVALENT,
4 THAT WAS REPORTED IN THE MOST RECENT AIR POLLUTANT EMISSION
5 NOTICE ON FILE WITH THE DIVISION IN AN AMOUNT THAT IS SUFFICIENT TO
6 COVER THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND
7 ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7
8 THAT PERTAIN TO EMISSIONS OF GREENHOUSE GAS. THE COMMISSION MAY
9 SET THRESHOLDS OF REPORTED GREENHOUSE GAS BELOW WHICH NO SUCH
10 FEE SHALL BE ASSESSED. NO MORE FREQUENTLY THAN ANNUALLY, THE
11 COMMISSION MAY ADJUST THE FEE FOR GREENHOUSE GAS BY RULE TO
12 COVER THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND
13 ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7
14 THAT PERTAIN TO EMISSIONS OF GREENHOUSE GAS.

15 (b) (III) The division shall expend the portion of the fee revenue
16 collected pursuant to subsections (2)(a)(I)(A), (2)(a)(I)(B), and (2)(a)(III),
17 AND (2)(a)(VII) of this section and section 25-7-114.1 (6)(a) attributable
18 to the increases authorized in 2020 by Senate Bill 20-204 AND IN 2021 BY
19 HOUSE BILL 21-1266 for the following purposes:

20 (G) Expanding the division's capacity to quickly respond to and
21 better understand public health issues that are related to exposure to air
22 toxics, such as benzene and other volatile organic compounds; and

23 (I) ENABLING OUTREACH TO AND ENGAGEMENT OF
24 DISPROPORTIONATELY IMPACTED COMMUNITIES; AND

25 (J) PAYING FOR THE ENVIRONMENTAL JUSTICE OMBUDSPERSON
26 CREATED IN SECTION 25-1-132.

27 (h) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL

1 21-1266:

2 (I) NOTHING:

3 (A) ALTERS THE GREENHOUSE GAS EMISSION REDUCTION GOALS
4 PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g), IN EITHER AMOUNT
5 OR TIMING; OR

6 (B) DETRACTS FROM THE AIR QUALITY CONTROL COMMISSION'S
7 EXISTING AUTHORITY TO REQUIRE MORE THAN THE MINIMUM GREENHOUSE
8 GAS EMISSION REDUCTION GOALS AND DEADLINES PREVIOUSLY
9 ESTABLISHED IN SECTION 25-7-102 (2)(g); AND

10 (II) THE CHANGES ADD TO, BUT DO NOT OTHERWISE ALTER, THE
11 AIR QUALITY CONTROL COMMISSION'S AUTHORITY AND OBLIGATION TO
12 PUBLISH AND PROMULGATE RULES PURSUANT TO SECTIONS 25-7-102
13 (2)(g), 25-7-105, AND 25-7-140.

14 **SECTION 10.** In Colorado Revised Statutes, 25-7-115, amend
15 (3)(b) as follows:

16 **25-7-115. Enforcement.** (3) (b) If, after any such conference, a
17 violation or noncompliance is determined to have occurred, the division
18 shall issue an order requiring the owner or operator or any other
19 responsible person to comply, unless the owner or operator demonstrates
20 that ~~such~~ THE violation occurred during a period of start-up, shutdown, or
21 malfunction and timely notice was given to the division of ~~such~~ THE
22 condition. ~~Such~~ THE order may include termination, modification, or
23 revocation and reissuance of the subject permit, and the assessment of
24 civil penalties in accordance with section 25-7-122, ~~Such~~ AND, IN
25 ADDITION TO CIVIL PENALTIES, A REQUIREMENT TO PERFORM ONE OR MORE
26 PROJECTS TO MITIGATE VIOLATIONS RELATED TO EXCESS EMISSIONS. THE
27 order may also require the calculation of a noncompliance penalty under

1 subsection (5) of this section. Unless enforcement of its order has been
2 stayed as provided in paragraph (b) of subsection (4) SUBSECTION (4)(b)
3 of this section, the division may seek enforcement, pursuant to section
4 25-7-121 or 25-7-122, of the applicable regulation RULE of the
5 commission, order issued pursuant to section 25-7-121 or 25-7-122 of OR
6 the applicable regulation RULE of the commission, order issued pursuant
7 to section 25-7-118, requirement of the state implementation plan,
8 provision of this article ARTICLE 7, or terms or conditions of a permit
9 required pursuant to this article ARTICLE 7 in the district court for the
10 district where the affected air pollution source is located. The court shall
11 issue an appropriate order, which may include a schedule for compliance
12 by the owner or operator of the source.

13 SECTION 11. In Colorado Revised Statutes, add 25-1-132 as
14 follows:

15 25-1-132. Environmental justice - ombudsperson - advisory
16 board - grant program - definitions - repeal. (1) Environmental
17 justice ombudsperson. (a) THERE IS HEREBY CREATED IN THE
18 DEPARTMENT THE POSITION OF AN ENVIRONMENTAL JUSTICE
19 OMBUDSPERSON. THE OMBUDSPERSON REPORTS TO THE EXECUTIVE
20 DIRECTOR OF THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE
21 ADMINISTRATIVE SUPPORT FOR THE OMBUDSPERSON. THE OMBUDSPERSON
22 OTHERWISE FUNCTIONS INDEPENDENTLY IN EXERCISING ITS POWERS.

23 (b) THE GOVERNOR SHALL APPOINT THE OMBUDSPERSON AS SOON
24 AS PRACTICABLE BUT NO LATER THAN FEBRUARY 1, 2022, AND AS
25 NECESSARY THEREAFTER TO FILL A VACANCY. PRIOR TO AN APPOINTMENT,
26 THE GOVERNOR OR THE GOVERNOR'S DESIGNEE SHALL CONSULT WITH, AND
27 MAY RECEIVE RECOMMENDATIONS FROM, THE ADVISORY BOARD, THE

1 GENERAL ASSEMBLY, REPRESENTATIVES OF DISPROPORTIONATELY
2 IMPACTED COMMUNITIES, AND OTHER RELEVANT STAKEHOLDERS
3 REGARDING THE SELECTION OF THE OMBUDSPERSON.

4 (c) THE OMBUDSPERSON MUST BE QUALIFIED BY TRAINING OR
5 EXPERIENCE IN ENVIRONMENTAL JUSTICE, AND SHOULD HAVE BEEN A
6 RESIDENT OF ONE OR MORE DISPROPORTIONATELY IMPACTED
7 COMMUNITIES OR HAVE WORKED TO ADVANCE ENVIRONMENTAL JUSTICE
8 WITHIN DISPROPORTIONATELY IMPACTED COMMUNITIES.

9 (d) THE OMBUDSPERSON SHALL:

10 (I) COLLABORATE WITH THE ADVISORY BOARD ESTABLISHED IN
11 SUBSECTION (2) OF THIS SECTION, FOR THE PURPOSE OF PROMOTING
12 ENVIRONMENTAL JUSTICE FOR THE PEOPLE OF COLORADO;

13 (II) SERVE AS AN ADVOCATE FOR DISPROPORTIONATELY IMPACTED
14 COMMUNITIES AND AS A LIAISON BETWEEN DISPROPORTIONATELY
15 IMPACTED COMMUNITIES AND THE DEPARTMENT, INCLUDING WITH
16 RESPECT TO COMMUNICATIONS REGARDING THE GRANT PROGRAM TO FUND
17 ENVIRONMENTAL MITIGATION PROJECTS;

18 (III) WORK TO IMPROVE THE RELATIONSHIPS AND INTERACTIONS
19 BETWEEN DISPROPORTIONATELY IMPACTED COMMUNITIES AND THE
20 DEPARTMENT;

21 (IV) INCREASE THE FLOW OF INFORMATION BETWEEN THE
22 DEPARTMENT AND DISPROPORTIONATELY IMPACTED COMMUNITIES
23 CONCERNING THE ENVIRONMENT AND DEPARTMENTAL PROGRAMS USING
24 METHODS OF OUTREACH THAT INCLUDE, AT A MINIMUM:

25 (A) DISSEMINATING INFORMATION THROUGH LOCAL SCHOOLS,
26 SOCIAL MEDIA, LOCAL SOCIAL AND ACTIVITY CLUBS, LIBRARIES, OR OTHER
27 LOCAL SERVICES; AND

1 (B) PRIORITIZING IN-PERSON MEETINGS IN COMMUNITIES WITH
2 POPULATIONS THAT ARE PREDOMINANTLY BLACK, INDIGENOUS, LATINO,
3 OR ASIAN AMERICANS THAT HAVE A MEDIAN INCOME BELOW THE STATE'S
4 AVERAGE, OR THAT ARE IN RURAL LOCATIONS;

5 (V) IDENTIFY WAYS TO ENABLE MEANINGFUL PARTICIPATION BY
6 DISPROPORTIONATELY IMPACTED COMMUNITIES IN THE DECISION-MAKING
7 PROCESSES OF THE DEPARTMENT;

8 (VI) COORDINATE WITH THE OFFICE OF HEALTH EQUITY, CREATED
9 IN SECTION 25-4-2204;

10 (VII) MAINTAIN A TELEPHONE NUMBER, WEBSITE, E-MAIL
11 ADDRESS, AND MAILING ADDRESS FOR THE RECEIPT OF COMPLAINTS AND
12 INQUIRIES FOR MATTERS PERTAINING TO ENVIRONMENTAL JUSTICE;

13 (VIII) ESTABLISH PROCEDURES TO ADDRESS COMPLAINTS
14 PERTAINING TO ENVIRONMENTAL JUSTICE TO THE EXTENT PRACTICABLE;

15 (IX) CONSULT WITH THE DIVISION OF ADMINISTRATION IN
16 REPORTING TO THE AIR QUALITY CONTROL COMMISSION, CREATED IN
17 SECTION 25-7-104, ON EQUITABLE PROGRESS TOWARD THE STATE'S
18 GREENHOUSE GAS REDUCTION GOALS; AND

19 (X) SERVE IN AN ADVISORY CAPACITY, AS REQUESTED, TO OTHER
20 STATE AGENCIES CONDUCTING OUTREACH TO AND ENGAGEMENT OF
21 DISPROPORTIONATELY IMPACTED COMMUNITIES IN LIGHT OF A PROPOSED
22 AGENCY ACTION.

23 (2) Environmental justice advisory board. (a) THERE IS
24 HEREBY CREATED IN THE DEPARTMENT THE ENVIRONMENTAL JUSTICE
25 ADVISORY BOARD.

26 (b) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2), THE
27 MEMBERS OF THE ADVISORY BOARD ARE APPOINTED BY THE GOVERNOR.

1 THE GOVERNOR SHALL MAKE THE INITIAL APPOINTMENTS AS SOON AS
2 PRACTICABLE, BUT NO LATER THAN FOUR MONTHS AFTER THE EFFECTIVE
3 DATE OF THIS SECTION. AN APPOINTING AUTHORITY MAY REMOVE A
4 MEMBER OF THE ADVISORY BOARD FOR MALFEASANCE IN OFFICE, FAILURE
5 TO REGULARLY ATTEND MEETINGS, OR ANY CAUSE THAT RENDERS THE
6 MEMBER UNABLE OR UNFIT TO DISCHARGE THE MEMBER'S DUTIES.

7 (c) THE ADVISORY BOARD CONSISTS OF THE FOLLOWING TWELVE
8 MEMBERS WHO, TO THE EXTENT PRACTICABLE, MUST RESIDE IN DIFFERENT
9 GEOGRAPHIC AREAS OF THE STATE, REFLECT THE RACIAL AND ETHNIC
10 DIVERSITY OF THE STATE, AND HAVE EXPERIENCE WITH A RANGE OF
11 ENVIRONMENTAL ISSUES, INCLUDING AIR POLLUTION, WATER
12 CONTAMINATION, AND PUBLIC HEALTH IMPACTS:

13 (I) FOUR VOTING MEMBERS APPOINTED BY THE GOVERNOR, WHO
14 MUST BE OR HAVE BEEN RESIDENTS OF A DISPROPORTIONATELY IMPACTED
15 COMMUNITY;

16 (II) THREE VOTING MEMBERS APPOINTED BY THE GOVERNOR, ONE
17 OF WHOM MUST BE FROM A NONGOVERNMENTAL ORGANIZATION THAT
18 REPRESENTS STATEWIDE INTERESTS TO ADVANCE RACIAL JUSTICE, ONE OF
19 WHOM MUST BE FROM A NONGOVERNMENTAL ORGANIZATION THAT
20 REPRESENTS STATEWIDE INTERESTS TO ADVANCE ENVIRONMENTAL
21 JUSTICE, AND ONE OF WHOM MUST REPRESENT WORKER INTERESTS IN
22 DISPROPORTIONATELY IMPACTED COMMUNITIES;

23 (III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, OR THE
24 EXECUTIVE DIRECTOR'S DESIGNEE, AS A NONVOTING MEMBER; AND

25 (IV) FOUR VOTING MEMBERS APPOINTED BY THE EXECUTIVE
26 DIRECTOR OF THE DEPARTMENT.

27 (d) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(d)(II) OF THIS

1 SECTION, EACH MEMBER'S TERM OF APPOINTMENT IS FOUR YEARS. VOTING
2 MEMBERS MAY SERVE NO MORE THAN TWO TERMS. THE GOVERNOR SHALL
3 FILL ANY VACANCIES ON THE ADVISORY BOARD, INCLUDING FOR THE
4 REMAINDER OF ANY UNEXPIRED TERM. A MEMBER APPOINTED TO FILL A
5 VACANCY MAY SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE
6 MEMBER WHOSE VACANCY IS BEING FILLED, AND THIS REMAINDER COUNTS
7 AS ONE TERM FOR THAT APPOINTEE.

8 (II) IN ORDER TO ENSURE STAGGERED TERMS OF OFFICE, THE
9 INITIAL TERM OF TWO MEMBERS APPOINTED BY THE GOVERNOR PURSUANT
10 TO SUBSECTION (2)(c)(I) OF THIS SECTION, AS SPECIFIED BY THE
11 GOVERNOR, AND TWO MEMBERS APPOINTED PURSUANT TO SUBSECTION
12 (2)(c)(IV) OF THIS SECTION AS SPECIFIED BY THE EXECUTIVE DIRECTOR OF
13 THE DEPARTMENT IS TWO YEARS.

14 (e)(I) EACH VOTING MEMBER OF THE ADVISORY BOARD APPOINTED
15 PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION IS ENTITLED TO RECEIVE
16 A PER DIEM OF TWO HUNDRED DOLLARS FOR ATTENDANCE AT REGULARLY
17 SCHEDULED MEETINGS OF THE BOARD DURING THE 2021-22 STATE FISCAL
18 YEAR. FOR EACH STATE FISCAL YEAR THEREAFTER, THE PER DIEM AMOUNT
19 SHALL BE ANNUALLY ADJUSTED FOR INFLATION BASED ON THE
20 PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S
21 BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR
22 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL URBAN
23 CONSUMERS, OR ITS APPLICABLE SUCCESSOR INDEX. VOTING MEMBERS OF
24 THE BOARD ARE ALSO ENTITLED TO RECEIVE REIMBURSEMENT FOR ACTUAL
25 AND NECESSARY EXPENSES INCURRED WHILE PERFORMING OFFICIAL
26 DUTIES.

27 (II) THE NONVOTING MEMBER OF THE ADVISORY BOARD MAY NOT

1 RECEIVE A PER DIEM, BUT MAY BE REIMBURSED FOR ACTUAL AND
2 NECESSARY EXPENSES INCURRED WHILE PERFORMING OFFICIAL DUTIES.

3 (f) THE ADVISORY BOARD SHALL ELECT A CHAIR FROM AMONG ITS
4 MEMBERS EVERY YEAR. THE ADVISORY BOARD SHALL MEET AT LEAST
5 ONCE EVERY QUARTER. THE CHAIR MAY SCHEDULE ALL SUCH ADDITIONAL
6 MEETINGS AS ARE NECESSARY FOR THE ADVISORY BOARD TO COMPLETE
7 ITS DUTIES.

8 (g) THE ADVISORY BOARD SHALL:

9 (I) SERVE IN AN ADVISORY CAPACITY TO THE OMBUDSPERSON IN
10 THE PERFORMANCE OF THE DUTIES OF THE OMBUDSPERSON;

11 (II) HOLD A PORTION OF ADVISORY BOARD MEETINGS FOR THE
12 OMBUDSPERSON TO JOINTLY RECEIVE STAKEHOLDER INPUT INTO THE
13 ACTIVITIES AND PRIORITIES OF THE OMBUDSPERSON;

14 (III) DEVELOP A PUBLIC COMPLAINT PROCESS RELATED TO THE
15 PERFORMANCE OF THE OMBUDSPERSON;

16 (IV) DEVELOP RECOMMENDATIONS TO ADDRESS ANY OTHER
17 MATTERS RELATING TO ADVERSE ENVIRONMENTAL EFFECTS ON
18 DISPROPORTIONATELY IMPACTED COMMUNITIES AS REFERRED TO THE
19 ADVISORY BOARD BY THE GOVERNOR OR THE EXECUTIVE DIRECTOR OF THE
20 DEPARTMENT;

21 (V) DEVELOP POLICIES AS ARE NECESSARY FOR THE CONDUCT OF
22 ITS AFFAIRS AND ITS MEETINGS, AND POST ALL POLICIES ON ITS WEBSITE,
23 INCLUDING A CONFLICT OF INTEREST POLICY FOR ITS MEMBERS, WHICH
24 MUST REQUIRE THE DISCLOSURE OF ANY POTENTIAL FINANCIAL INTEREST
25 OF ANY MEMBER OR RELATIVE OF ANY MEMBER IN A PROPOSED
26 ENVIRONMENTAL MITIGATION PROJECT. A BOARD MEMBER WHO HAS A
27 PERSONAL OR FINANCIAL INTEREST IN AN ENVIRONMENTAL MITIGATION

1 PROJECT UNDER CONSIDERATION SHALL RECUSE THE BOARD MEMBER
2 FROM ANY VOTE ON THAT PROJECT.

3 (VI) ADVISE THE DEPARTMENT ON MATTERS TO ENABLE THE
4 DEPARTMENT TO INTERACT WITH DISPROPORTIONATELY IMPACTED
5 COMMUNITIES IN THE BEST MANNER POSSIBLE;

6 (VII) SUPPORT THE IMPLEMENTATION OF A GRANT PROGRAM TO
7 FUND ENVIRONMENTAL MITIGATION PROJECTS FROM THE COMMUNITY
8 IMPACT CASH FUND CREATED IN SECTION 25-7-129 IN ACCORDANCE WITH
9 THIS SUBSECTION (2)(g)(VII) BY PERFORMING THE FOLLOWING DUTIES:

10 (A) THE ADVISORY BOARD SHALL DEVELOP GUIDELINES FOR A
11 GRANT PROGRAM TO FUND ENVIRONMENTAL MITIGATION PROJECTS, WITH
12 INPUT FROM THE DEPARTMENT. THE GUIDELINES MUST INCLUDE:
13 PROCEDURES FOR APPLICANTS TO SUBMIT APPLICATIONS TO THE BOARD,
14 AND FOR SELECTION OF ENVIRONMENTAL MITIGATION PROJECTS TO FUND;
15 PROVISIONS TO ENSURE THAT THE APPLICATIONS ARE CONCISE,
16 STRAIGHTFORWARD, OBJECTIVE, INCLUSIVE, AND ACCESSIBLE TO ALL
17 INTERESTED PARTIES; A REQUIREMENT THAT THE APPLICANT DISCLOSE
18 ANY CONFLICT OF INTEREST, SUCH AS A PERSONAL OR FINANCIAL
19 RELATIONSHIP WITH ANY MEMBER OF THE ADVISORY BOARD; AND
20 IDENTIFICATION OF ANY INFORMATION NECESSARY TO BE INCLUDED IN AN
21 APPLICATION TO ENSURE THE ADVISORY BOARD CAN PREPARE THE REPORT
22 REQUIRED BY SUBSECTION (2)(g)(VII)(C) OF THIS SECTION.

23 (B) THE ADVISORY BOARD SHALL REVIEW EACH APPLICATION THAT
24 IT RECEIVES AND MAY AWARD GRANTS, SUBJECT TO APPROPRIATIONS AND
25 AVAILABLE FUNDING, TO APPLICANTS TO FUND ENVIRONMENTAL
26 MITIGATION PROJECTS IN DISPROPORTIONATELY IMPACTED COMMUNITIES.

27 (C) THE ADVISORY BOARD SHALL COMPILE AN ANNUAL REPORT

1 THAT DETAILS INFORMATION ABOUT THE ENVIRONMENTAL MITIGATION
2 PROJECTS THAT ARE AWARDED GRANTS, INCLUDING: DETAILS ABOUT THE
3 DISPROPORTIONATELY IMPACTED COMMUNITY IN WHICH THE PROJECT WILL
4 TAKE PLACE, INCLUDING INFORMATION ABOUT POLLUTION LEVELS,
5 HEALTH DISPARITIES, AND DEMOGRAPHICS; THE RELATIONSHIP BETWEEN
6 THE COMMUNITY, THE PROJECT, AND ANY VIOLATIONS THAT GAVE RISE TO
7 PENALTIES PAID INTO THE COMMUNITY IMPACT CASH FUND CREATED IN
8 SECTION 25-7-129; THE STATUS OF THE PROJECT, THE ENGAGEMENT
9 BETWEEN THE PROJECT AND THE COMMUNITY, AND THE REACTION OF THE
10 DISPROPORTIONATELY IMPACTED COMMUNITY TO THE PROJECT; AND
11 OTHER DETAILS AS THE ADVISORY BOARD DEEMS APPROPRIATE. THE
12 ANNUAL REPORT SHALL BE MADE PUBLICLY ACCESSIBLE, INCLUDING ON
13 THE ADVISORY BOARD'S WEBSITE.

14 (h) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1,
15 2027. BEFORE THE REPEAL, THE ADVISORY BOARD AND ITS FUNCTIONS ARE
16 SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

17 (3) **Records and meetings.** THE ADVISORY BOARD AND THE
18 OMBUDSPERSON ARE SUBJECT TO ALL THE APPLICABLE REQUIREMENTS OF
19 THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE
20 24, AND THE OPEN MEETINGS LAW CONTAINED IN PART 4 OF ARTICLE 6 OF
21 TITLE 24.

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

24 (a) "ADVISORY BOARD" MEANS THE ENVIRONMENTAL JUSTICE
25 ADVISORY BOARD CREATED IN SUBSECTION (2) OF THIS SECTION.

26 (b) "ENVIRONMENTAL MITIGATION PROJECT" MEANS ANY PROJECT
27 THAT AVOIDS, MINIMIZES, MEASURES, OR MITIGATES ADVERSE

1 ENVIRONMENTAL IMPACTS IN A DISPROPORTIONATELY IMPACTED
2 COMMUNITY, INCLUDING, WITHOUT LIMITATION, HEALTH EFFECTS, HEALTH
3 DISPARITIES, AND OTHER ENVIRONMENTAL IMPACTS OR THAT PROMOTES
4 EQUITABLE PARTICIPATION IN A RULE-MAKING PROCEEDING THAT MAY
5 AFFECT A DISPROPORTIONATELY IMPACTED COMMUNITY.

6 (c) "OMBUDSPERSON" MEANS THE ENVIRONMENTAL JUSTICE
7 OMBUDSPERSON APPOINTED PURSUANT TO SUBSECTION (1) OF THIS
8 SECTION.

9 **SECTION 12.** In Colorado Revised Statutes, amend 25-7-129 as
10 follows:

11 **25-7-129. Disposition of fines - community impact cash fund**
12 **- repeal.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
13 COMMUNITY IMPACT CASH FUND, REFERRED TO IN THIS SECTION AS THE
14 "FUND". THE FUND CONSISTS OF MONEY CREDITED TO THE FUND PURSUANT
15 TO SUBSECTION (2) OF THIS SECTION, AND ANY OTHER MONEY THAT THE
16 GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE
17 STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED
18 FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE
19 FUND. ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE
20 FUND AT THE END OF ANY FISCAL YEAR REMAINS IN THE FUND.

21 (2) (a) All receipts from penalties or fines collected under the
22 provisions of sections 25-7-115, 25-7-122, and 25-7-123 shall be credited
23 to the general fund of the state IN THE FOLLOWING MANNER:

24 (I) FOR STATE FISCAL YEAR 2021-22, TWENTY PERCENT OF THE
25 RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR
26 SHALL BE CREDITED TO THE FUND, AND EIGHTY PERCENT TO THE GENERAL
27 FUND;

1 (II) FOR STATE FISCAL YEAR 2022-23, FORTY PERCENT OF THE
2 RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR
3 SHALL BE CREDITED TO THE FUND, AND SIXTY PERCENT TO THE GENERAL
4 FUND;

5 (III) FOR STATE FISCAL YEAR 2023-24, SIXTY PERCENT OF THE
6 RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR
7 SHALL BE CREDITED TO THE FUND, AND FORTY PERCENT TO THE GENERAL
8 FUND;

9 (IV) FOR STATE FISCAL YEAR 2024-25, EIGHTY PERCENT OF THE
10 RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR
11 SHALL BE CREDITED TO THE FUND, AND TWENTY PERCENT TO THE GENERAL
12 FUND; AND

13 (V) FOR STATE FISCAL YEAR 2025-26 AND ANY STATE FISCAL YEAR
14 THEREAFTER, ONE HUNDRED PERCENT OF THE RECEIPTS FROM PENALTIES
15 OR FINES COLLECTED DURING THE FISCAL YEAR SHALL BE CREDITED TO
16 THE FUND.

17 (b) THIS SUBSECTION (2)(b) AND SUBSECTIONS (2)(a)(I), (2)(a)(II),
18 (2)(a)(III), AND (2)(a)(IV) OF THIS SECTION ARE REPEALED, EFFECTIVE
19 SEPTEMBER 1, 2027.

20 (3) (a) BEGINNING IN FISCAL YEAR 2022-23, THE DEPARTMENT
21 MAY EXPEND MONEY FROM THE FUND TO PROVIDE GRANTS FOR
22 ENVIRONMENTAL MITIGATION PROJECTS PURSUANT TO SECTION 25-1-132
23 (2)(g)(VII).

24 (b) MONEY IN THE FUND MAY ALSO PAY FOR THE DIRECT AND
25 INDIRECT COSTS OF THE ENVIRONMENTAL JUSTICE ADVISORY BOARD
26 CREATED IN SECTION 25-1-132 (2), INCLUDING PER DIEM AND EXPENSES OF
27 THE ADVISORY BOARD, AND THE DEPARTMENT'S COSTS FOR

1 ADMINISTERING THE GRANT PROGRAM CREATED IN SECTION 25-1-132
2 (2)(g)(VII).

3 (c) MONEY IN THE FUND IS EXEMPT FROM SECTION 24-75-402 (3).

4 (d) THE DEPARTMENT MAY SEEK, ACCEPT, AND EXPEND GIFTS,
5 GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE
6 PURPOSES SET FORTH IN THIS SUBSECTION (3).

7 (e) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
8 DEPARTMENT TO ACCOMPLISH THE PURPOSES SET FORTH IN THIS
9 SUBSECTION (3).

10 **SECTION 13.** In Colorado Revised Statutes, 25-7-105, **amend**
11 (1) introductory portion, (1)(e)(I), and (1)(e)(VII); and add (1)(d.5),
12 (1)(e)(VIII)(G), (1)(e)(VIII)(H), (1)(e)(VIII)(I), (1)(e)(VIII)(J),
13 (1)(e)(VIII.5), (1)(e)(XI)(B.5), (1)(e)(XII), (1)(e)(XIII), (1)(f), and (1)(g)
14 as follows:

15 **25-7-105. Duties of commission - rules - legislative declaration**
16 **- definitions.** (1) Except as provided in sections 25-7-130 and 25-7-131,
17 the commission shall promulgate such rules and regulations as are
18 consistent with the legislative declaration set forth in section 25-7-102
19 and necessary for the proper implementation and administration of this
20 article 7, including, but not limited to:

21 (d.5) ADDITIONAL PERMITTING REQUIREMENTS FOR SOURCES THAT
22 AFFECT DISPROPORTIONATELY IMPACTED COMMUNITIES AS DEFINED IN
23 SECTION 25-7-114.4 (5)(d)(III) IN CONFORMITY WITH SECTION 25-7-114.4
24 (5).

25 (e) (I) Statewide greenhouse gas pollution abatement. AS THE
26 COMMISSION ADOPTS RULES PURSUANT TO THIS SUBSECTION (1)(e), IT
27 SHALL PURSUE NEAR-TERM REDUCTIONS IN GREENHOUSE GAS EMISSIONS

1 AS PART OF THE EFFORT TO REDUCE TOTAL CUMULATIVE EMISSIONS OVER
2 TIME.

3 (VII) Notwithstanding section 24-1-136 (11)(a)(I), the division,
4 at the direction of the commission, shall report to the general assembly
5 every odd-numbered year after May 30, 2019, regarding: Progress toward
6 the goals set forth in section 25-7-102 (2)(g); any newly available, final
7 cost-benefit or regulatory analysis, developed under section 24-4-103
8 (2.5) or (4.5), for rules adopted to attain the goals; RECOMMENDATIONS
9 ON FUTURE COMMISSION RULES OR POLICIES TO REDUCE GREENHOUSE GAS
10 EMISSIONS SUFFICIENT TO ACHIEVE THE GOALS SET FORTH IN SECTION
11 25-7-102 (2)(g); and any recommendations on future legislative action to
12 address climate change, such as INCLUDING implementation of climate
13 adaptation policies or accelerating deployment of cleaner technologies.

14 THE DIVISION SHALL MAKE ITS PROPOSED REPORT AVAILABLE FOR PUBLIC
15 REVIEW PRIOR TO PRESENTATION TO THE GENERAL ASSEMBLY. BEGINNING
16 WITH THE REPORT IN 2023, IF THE REPORT INDICATES THAT EMISSION
17 REDUCTIONS REQUIRED BY SUBSECTIONS (1)(e)(XII) AND (1)(e)(XIII) OF
18 THIS SECTION, ARE NOT BEING MET, THE DIVISION SHALL DEVELOP AND
19 PROPOSE ADDITIONAL REQUIREMENTS TO THE COMMISSION, NO LATER
20 THAN SIX MONTHS FROM THE SUBMISSION OF THE REPORT TO THE GENERAL
21 ASSEMBLY, WHICH REQUIREMENTS MUST ADDRESS ANY SHORTFALL
22 BETWEEN THE EMISSION REDUCTIONS ACHIEVED AND THE EMISSION
23 REDUCTIONS NECESSARY TO MEET THE REQUIREMENTS OF SUBSECTIONS
24 (1)(e)(XII) AND (1)(e)(XIII) OF THIS SECTION. IN EVEN-NUMBERED YEARS
25 WHEN A REPORT IS NOT MADE PURSUANT TO THIS SUBSECTION (1)(e)(VII),
26 THE DIVISION SHALL PROVIDE AN UPDATE TO THE COMMISSION ON
27 PROGRESS TOWARD THE EMISSION REDUCTION REQUIREMENTS IN

1 SUBSECTIONS (1)(e)(XII) AND (1)(e)(XIII) OF THIS SECTION BASED ON
2 ANNUAL DATA REPORTED TO THE DIVISION.

3 (VIII) (G) THE COMMISSION IS ENCOURAGED TO PURSUE
4 PROGRAMS AND POLICIES THAT ARE CONSISTENT WITH THIS SUBSECTION
5 (1)(e)(VIII) AND THAT INCENTIVIZE VOLUNTARY ADDITIONAL NEAR-TERM
6 GREENHOUSE GAS REDUCTIONS FROM ELECTRIC UTILITIES WITH THE AIM
7 OF REDUCING GREENHOUSE GAS EMISSIONS FROM ELECTRIC UTILITIES BY
8 AT LEAST FORTY-EIGHT PERCENT BY 2025 AND EIGHTY PERCENT BY 2030,
9 INCLUDING EMISSIONS ASSOCIATED WITH IMPORTED ELECTRICITY, AS
10 COMPARED TO A 2005 BASELINE AND ACCELERATING NEAR-TERM
11 REDUCTIONS IN GREENHOUSE GAS EMISSIONS TO INCREASE CUMULATIVE
12 REDUCTIONS FROM ELECTRIC UTILITIES. NOTHING IN THIS SUBSECTION
13 (1)(e)(VIII)(G) LIMITS THE AUTHORITY OF THE PUBLIC UTILITIES
14 COMMISSION.

15 (H) IN VERIFYING CLEAN ENERGY PLANS OR A WHOLESALE
16 GENERATION AND TRANSMISSION COOPERATIVE ELECTRIC RESOURCE PLAN
17 SUBMITTED IN ACCORDANCE WITH SUBSECTION (1)(e)(VIII)(I) OF THIS
18 SECTION, THE DIVISION SHALL PREVENT DOUBLE COUNTING OF EMISSION
19 REDUCTIONS AMONG UTILITIES AND SHALL CONSIDER ELECTRICITY
20 GENERATED BY RENEWABLE ENERGY RESOURCES AS HAVING ZERO
21 GREENHOUSE GAS EMISSIONS ONLY IF: THE ELECTRICITY IS ACCOMPANIED
22 BY ANY ASSOCIATED RENEWABLE ENERGY CREDIT, AND THE RENEWABLE
23 ENERGY CREDIT IS RETIRED ON BEHALF OF THE UTILITY'S CUSTOMERS IN
24 THE YEAR GENERATED; OR THE ELECTRICITY IS GENERATED BY RETAIL
25 DISTRIBUTED GENERATION, AS DEFINED IN SECTIONS 40-2-124 (1)(a)(VIII)
26 AND 40-2-127 (2)(b)(I)(A) AND (2)(b)(I)(B) AND THE RETAIL CUSTOMER
27 RETAINS THE RENEWABLE ENERGY CREDIT AS PART OF A VOLUNTARY

1 RENEWABLE ENERGY PROGRAM.

2 (I) EACH WHOLESale GENERATION AND TRANSMISSION ELECTRIC
3 COOPERATIVE SHALL FILE WITH THE PUBLIC UTILITIES COMMISSION AND
4 THE DIVISION AN ELECTRIC RESOURCE PLAN THAT WILL ACHIEVE AT LEAST
5 AN EIGHTY PERCENT REDUCTION OF GREENHOUSE GAS EMISSIONS
6 ASSOCIATED WITH THE COOPERATIVE'S SALES OF ELECTRICITY TO
7 CUSTOMERS WITHIN COLORADO BY 2030, RELATIVE TO 2005 LEVELS.

8 (J) AN ELECTRIC UTILITY THAT IS NOT A QUALIFYING RETAIL
9 UTILITY AS DEFINED IN SECTION 40-2-125.5 (2)(c)(I) THAT IS REQUIRED TO
10 SUBMIT A CLEAN ENERGY PLAN OR A WHOLESale GENERATION AND
11 TRANSMISSION COOPERATIVE THAT IS REQUIRED TO FILE AN ELECTRIC
12 RESOURCE PLAN PURSUANT TO THIS SUBSECTION (1)(e) SHALL PROVIDE
13 WRITTEN NOTICE TO THE DIVISION OF INTENT TO FILE A CLEAN ENERGY
14 PLAN BY AUGUST 1, 2021. AN INVESTOR-OWNED UTILITY THAT HAS NOT
15 ALREADY FILED A CLEAN ENERGY PLAN AND THAT INDICATES AN INTENT
16 TO FILE A CLEAN ENERGY PLAN SHALL FILE A CLEAN ENERGY PLAN WITH
17 THE PUBLIC UTILITIES COMMISSION WITH ITS NEXT RESOURCE PLAN FILING.
18 THE DIVISION SHALL VERIFY EMISSION REDUCTIONS AS PART OF THE
19 PUBLIC UTILITIES COMMISSION PROCEEDING THAT REVIEWS THE RESOURCE
20 PLAN. A UTILITY OTHER THAN AN INVESTOR-OWNED UTILITY OR A
21 WHOLESale GENERATION AND TRANSMISSION COOPERATIVE UTILITY THAT
22 PROVIDED WRITTEN NOTICE OF INTENT TO FILE A VOLUNTARY CLEAN
23 ENERGY PLAN PURSUANT TO THIS SUBSECTION (1)(e)(VIII)(J) SHALL
24 PROVIDE ALL INFORMATION THE DIVISION DEEMS NECESSARY TO
25 EVALUATE AND VERIFY THE EMISSION REDUCTIONS CLAIMED AS PART OF
26 A CLEAN ENERGY PLAN NO LATER THAN DECEMBER 31, 2021. THE
27 DIVISION SHALL, IN CONSULTATION WITH THE PUBLIC UTILITIES

1 COMMISSION, FULLY EVALUATE AND VERIFY THE CLEAN ENERGY PLAN.
2 THE UTILITY MUST SUBMIT THE VERIFIED CLEAN ENERGY PLAN TO THE
3 PUBLIC UTILITIES COMMISSION IN ACCORDANCE WITH SECTION 40-2-125.5
4 (5)(g)(I) NO LATER THAN JULY 1, 2022.

5 (VIII.5)(A) THIS SUBSECTION (1)(e)(VIII.5)(A) AND SUBSECTIONS
6 (1)(e)(VIII.5)(B), AND (1)(e)(VIII.5)(C) OF THIS SECTION APPLY ONLY TO
7 ANELECTRIC UTILITY THAT SERVES AT LEAST FIFTY THOUSAND COLORADO
8 RETAIL CUSTOMERS AND OBTAINS LESS THAN EIGHTY PERCENT OF THE
9 LOAD NECESSARY TO SERVE COLORADO RETAIL CUSTOMERS FROM AN
10 ELECTRIC UTILITY THAT HAS FILED A CLEAN ENERGY PLAN AND OWNS OR
11 PLANS TO INVEST IN, IN WHOLE OR IN PART, AN ELECTRIC GENERATING
12 UNIT WITH A NAMEPLATE CAPACITY LARGER THAN FIFTY MEGAWATTS
13 THAT DIRECTLY EMITS GREENHOUSE GASES INTO THE ATMOSPHERE,
14 INCLUDING GENERATING UNITS THAT BURN OIL, GAS, OR COAL. THE
15 REQUIREMENTS OF SUBSECTIONS (1)(e)(VIII.5)(B) AND (1)(e)(VIII.5)(C)
16 OF THIS SECTION BECOME APPLICABLE IF AN ELECTRIC UTILITY SATISFIES
17 THE CRITERIA SPECIFIED IN THIS SUBSECTION (1)(e)(VIII.5)(A) UPON
18 LEAVING A PROVIDER WHO HAS FILED A CLEAN ENERGY PLAN. THE
19 ELECTRIC UTILITY SHALL PROVIDE NOTICE OF INTENT TO FILE A CLEAN
20 ENERGY PLAN TO THE DIVISION WITHIN SIX MONTHS AFTER BECOMING
21 SUBJECT TO THIS SUBSECTION (1)(e)(VIII.5). THE ELECTRIC UTILITY SHALL
22 FILE A CLEAN ENERGY PLAN PURSUANT TO SUBSECTION (1)(e)(VIII) OF
23 THIS SECTION WITHIN ONE YEAR AFTER BECOMING SUBJECT TO THIS
24 SUBSECTION (1)(e)(VIII.5).

25 (B) IF AN ELECTRIC UTILITY DOES NOT PROVIDE WRITTEN NOTICE
26 OF INTENT TO FILE A CLEAN ENERGY PLAN WITH THE DIVISION OR DOES
27 NOT SUBMIT A CLEAN ENERGY PLAN AFTER EXPRESSING WRITTEN INTENT

1 TO FILE A PLAN, THE COMMISSION SHALL, WITHIN FIFTEEN MONTHS AFTER
2 THE ELECTRIC UTILITY'S FAILURE TO PROVIDE WRITTEN NOTICE OR SUBMIT
3 A PLAN, ADOPT A RULE TO REDUCE GREENHOUSE GAS EMISSIONS CAUSED
4 BY THE ELECTRIC UTILITY'S COLORADO RETAIL ELECTRICITY SALES OF AT
5 LEAST FORTY-EIGHT PERCENT BY 2025 AND EIGHTY PERCENT BY 2030,
6 INCLUDING EMISSIONS ASSOCIATED WITH IMPORTED ELECTRICITY, AS
7 COMPARED TO A 2005 BASELINE. THE COMMISSION SHALL DESIGN THE
8 RULES TO ACCELERATE NEAR-TERM REDUCTIONS IN GREENHOUSE GAS
9 EMISSIONS IN ORDER TO REDUCE TOTAL CUMULATIVE EMISSIONS BETWEEN
10 THE DATE OF ADOPTION AND 2030.

11 (C) CLEAN ENERGY PLAN FILINGS MUST INCLUDE PROJECTED
12 EMISSIONS FOR EACH CALENDAR YEAR THROUGH 2030 TO INFORM THE
13 STATEWIDE GREENHOUSE GAS PLANNING PROCESS. THE DIVISION SHALL
14 EVALUATE THE REPORTED EMISSIONS AND SUPPLEMENTAL INFORMATION
15 IN THE ELECTRIC UTILITY'S ANNUAL GREENHOUSE GAS REPORTING DATA
16 SUBMISSION MADE PURSUANT TO THE COMMISSION'S RULES TO DETERMINE
17 WHETHER AN ELECTRIC UTILITY IS PROGRESSING CONSISTENT WITH THE
18 ANNUAL EMISSIONS PROJECTED BY THE PLAN AND REMAINS ON TRACK TO
19 ACHIEVE THE REDUCTIONS OF THE CLEAN ENERGY PLAN BY 2030. IF THE
20 DIVISION DETERMINES THAT THE ELECTRIC UTILITY IS NOT PROGRESSING
21 AS PLANNED, THE ELECTRIC UTILITY'S ANNUAL GREENHOUSE GAS
22 EMISSIONS EXCEED ANNUAL EMISSIONS PROJECTED AS PART OF AN
23 APPROVED CLEAN ENERGY PLAN FOR TWO CONSECUTIVE YEARS, OR THE
24 ELECTRIC UTILITY'S ANNUAL GREENHOUSE GAS EMISSION REDUCTIONS ARE
25 NOT ON TRACK TO ACHIEVE AT LEAST AN EIGHTY PERCENT REDUCTION
26 BELOW 2005 LEVELS IN GREENHOUSE GAS EMISSIONS BY 2030, THE
27 DIVISION SHALL INCLUDE THIS INFORMATION IN THE NEXT GREENHOUSE

1 GAS PROGRESS BRIEFING TO THE COMMISSION AND THE COMMISSION
2 SHALL, WITHIN NINE MONTHS AFTER RECEIVING THE BRIEFING FROM THE
3 DIVISION, ADOPT RULES THAT REQUIRE AN UPDATED CLEAN ENERGY PLAN
4 TO BE FILED THAT DEMONSTRATES ACHIEVEMENT OF THE 2030 TARGETS
5 AND THE CUMULATIVE EMISSION REDUCTIONS THAT WERE PROJECTED IN
6 THE INITIAL CLEAN ENERGY PLAN. THE UPDATED CLEAN ENERGY PLAN,
7 ONCE VERIFIED BY THE DIVISION, BECOMES THE OPERATIVE PLAN FOR
8 PURPOSES OF SUBSECTION (1)(e)(VIII) OF THIS SECTION REGARDING THE
9 COMMISSION'S REGULATORY REQUIREMENTS.

10 (D) NOTWITHSTANDING SUBSECTIONS (1)(e)(VIII.5)(A) TO
11 (1)(e)(VIII.5)(C) OF THIS SECTION, A QUALIFIED RETAIL UTILITY WITH A
12 CLEAN ENERGY PLAN THAT HAS BEEN APPROVED AND VERIFIED IN
13 ACCORDANCE WITH SECTION 40-2-125.5 AND SUBSECTION (1)(e)(VIII)(C)
14 OF THIS SECTION AND A WHOLESALE GENERATION AND TRANSMISSION
15 COOPERATIVE WITH AN ELECTRIC RESOURCE PLAN THAT HAS BEEN FILED
16 IN ACCORDANCE WITH SUBSECTION (1)(e)(VIII)(I) OF THIS SECTION AND
17 HAVE BEEN APPROVED ARE NOT SUBJECT TO SUBSECTIONS
18 (1)(e)(VIII.5)(A) TO (1)(e)(VIII.5)(C) OF THIS SECTION. PROGRESS OF
19 EMISSION REDUCTIONS FOR AN ELECTRIC UTILITY THAT IS AN
20 INVESTOR-OWNED RETAIL UTILITY WITH A CLEAN ENERGY PLAN THAT HAS
21 BEEN APPROVED AND VERIFIED IN ACCORDANCE WITH SECTION 40-2-125.5
22 AND SUBSECTION (1)(e)(VIII)(C) OF THIS SECTION OR A WHOLESALE
23 GENERATION AND TRANSMISSION COOPERATIVE WITH AN ELECTRIC
24 RESOURCE PLAN THAT HAS BEEN FILED IN ACCORDANCE WITH SUBSECTION
25 (1)(e)(VIII)(I) OF THIS SECTION AND HAVE BEEN APPROVED SHALL BE
26 ASSESSED THROUGH THE RECURRING RESOURCE PLANNING PROCESS AT
27 THE PUBLIC UTILITIES COMMISSION.

1 (XI) As used in this subsection (1)(e):

2 (B.5) "INDUSTRIAL AND MANUFACTURING SECTOR" MEANS
3 ENERGY COMBUSTION AND ENERGY USE BY INDUSTRY, INCLUDING:
4 COMBUSTION FROM COAL, DIESEL, GASOLINE, HEAT, LIQUIFIED PETROLEUM
5 GAS, NATURAL GAS, REFINERY FEEDSTOCKS, AND RESIDUAL FUEL OIL; AND
6 INDUSTRIAL PROCESSES, INCLUDING CEMENT MANUFACTURE, ELECTRIC
7 TRANSMISSION AND DISTRIBUTION EQUIPMENT, IRON AND STEEL
8 PRODUCTION, LIME MANUFACTURE, LIMESTONE AND DOLOMITE USE,
9 OZONE DEPLETING SUBSTANCES SUBSTITUTES, SEMICONDUCTOR
10 MANUFACTURE, SODA ASH, AND UREA CONSUMPTION. THE TERM DOES NOT
11 INCLUDE OIL AND GAS EXPLORATION, PRODUCTION, PROCESSING,
12 TRANSMISSION, AND STORAGE OPERATIONS OTHER THAN ENERGY
13 COMBUSTION EMISSIONS THAT ARE INCLUDED IN THE INDUSTRIAL AND
14 MANUFACTURING SECTOR.

15 (XII) NO LATER THAN JANUARY 1, 2022, THE COMMISSION SHALL
16 ADOPT, AND THE DIVISION SHALL BEGIN IMPLEMENTING, COMPREHENSIVE
17 RULES THAT WILL REDUCE STATEWIDE GREENHOUSE GAS EMISSIONS FROM
18 OIL AND GAS EXPLORATION, PRODUCTION, PROCESSING, TRANSMISSION,
19 AND STORAGE OPERATIONS IN THE STATE BELOW THE 2005 BASELINE
20 ESTABLISHED FOR THE OIL AND GAS EMISSIONS COVERED BY THE "OIL AND
21 GAS FUGITIVE EMISSIONS" CATEGORY IN THE INITIAL INVENTORY
22 DEVELOPED BY THE DIVISION PURSUANT TO SECTION 25-7-140 (2)(a)(II),
23 TAKING INTO ACCOUNT SUBSECTIONS (1)(e)(II) TO (1)(e)(VI) OF THIS
24 SECTION, BY AT LEAST THIRTY-SIX PERCENT BY 2025 AND SIXTY PERCENT
25 BY 2030. THE COMMISSION SHALL DESIGN THE RULES TO PRIORITIZE
26 NEAR-TERM REDUCTIONS IN GREENHOUSE GAS EMISSIONS. THE RULES
27 MUST INCLUDE:

1 (A) PROTECTIONS FOR DISPROPORTIONATELY IMPACTED
2 COMMUNITIES, ACHIEVING REDUCTION OF GREENHOUSE GASES AND
3 CO-POLLUTANTS; AND

4 (B) MORE ROBUST MONITORING, LEAK DETECTION, AND REPAIR
5 REQUIREMENTS, REPORTING, AND RECORD-KEEPING REQUIREMENTS TO
6 ENSURE THAT THE DIVISION CAN ACCURATELY QUANTIFY GREENHOUSE
7 GAS EMISSIONS DURING ALL OPERATING CONDITIONS, INCLUDING
8 EQUIPMENT MALFUNCTIONS; AND

9 (C) ADDITIONAL DIRECT EMISSION REDUCTION CONTROLS.

10 (XIII) IN IMPLEMENTING THIS SUBSECTION (1)(e), THE
11 COMMISSION SHALL ADOPT RULES TO REDUCE STATEWIDE GREENHOUSE
12 GAS EMISSIONS FROM THE INDUSTRIAL AND MANUFACTURING SECTOR IN
13 THE STATE BY AT LEAST TWENTY PERCENT BY 2030 BELOW THE 2015
14 BASELINE ESTABLISHED PURSUANT TO SECTION 25-7-140 (2)(a)(II),
15 TAKING INTO ACCOUNT THE FACTORS SET OUT IN SUBSECTIONS (1)(e)(II)
16 TO (1)(e)(VI) OF THIS SECTION. THE RULES MUST INCLUDE PROTECTIONS
17 FOR DISPROPORTIONATELY IMPACTED COMMUNITIES AND PRIORITIZE
18 EMISSION REDUCTIONS THAT WILL REDUCE EMISSIONS OF CO-POLLUTANTS
19 THAT ADVERSELY AFFECT DISPROPORTIONATELY IMPACTED COMMUNITIES,
20 BE DESIGNED TO ACCELERATE NEAR-TERM REDUCTIONS, AND SECURE
21 MEANINGFUL EMISSION REDUCTIONS FROM THIS SECTOR TO BE REALIZED
22 BEGINNING NO LATER THAN SEPTEMBER 30, 2024. THE RULES MUST:

23 (A) BE CONSISTENT WITH THE REQUIREMENTS OF SUBSECTION
24 (1)(e)(IX) OF THIS SECTION; AND

25 (B) REQUIRE A FIVE PERCENT REDUCTION IN THE GREENHOUSE GAS
26 EMISSIONS ASSOCIATED WITH ENERGY-INTENSIVE, TRADE-EXPOSED
27 MANUFACTURING SOURCES THAT CURRENTLY EMPLOY BEST AVAILABLE

1 EMISSION CONTROL TECHNOLOGIES FOR GREENHOUSE GAS EMISSIONS AND
2 BEST AVAILABLE ENERGY EFFICIENCY PRACTICES, AS DETERMINED BY THE
3 COMMISSION, PURSUANT TO SUBSECTION (1)(e)(IX)(A) OF THIS SECTION.

4 (f) (I) **Definitions.** THE DEFINITIONS IN SUBSECTION (1)(e)(XI) OF
5 THIS SECTION APPLY TO THIS SUBSECTION (1)(f). AS USED IN THIS
6 SUBSECTION (1)(f), UNLESS THE CONTEXT REQUIRES OTHERWISE:

7 (A) "GHG CREDIT" MEANS A TRADEABLE COMPLIANCE
8 INSTRUMENT IN A PHYSICAL OR ELECTRONIC FORMAT, THE USE OF WHICH
9 IS AUTHORIZED PURSUANT TO A REGULATORY PROGRAM ADOPTED BY THE
10 COMMISSION THAT REPRESENTS THE REDUCTION OF ONE METRIC TON OF
11 CARBON-DIOXIDE EQUIVALENT OF GREENHOUSE GAS BY A REGULATED
12 SOURCE.

13 (B) "REGULATED SOURCE" MEANS A SOURCE OF GREENHOUSE GAS
14 THAT IS SUBJECT TO A RULE ADOPTED BY THE COMMISSION UNDER
15 SUBSECTION (1)(e) OF THIS SECTION THAT IMPOSES SPECIFIC AND
16 QUANTIFIABLE GREENHOUSE GAS REDUCTION OBLIGATIONS UPON THAT
17 SOURCE OR GROUP OF SOURCES.

18 (C) "TRADING PROGRAM" MEANS A COMMISSION-ADOPTED
19 REGULATORY PROGRAM THAT ALLOWS FOR REGULATED SOURCES TO MEET
20 THEIR GREENHOUSE GAS COMPLIANCE OBLIGATIONS UNDER SUBSECTION
21 (1)(e) OF THIS SECTION THROUGH THE CREATION, PURCHASE, ACQUISITION,
22 OR EXCHANGE OF, OR OTHER COMMERCIAL-TYPE TRANSACTION
23 INVOLVING, A GHG CREDIT WITH OTHER REGULATED SOURCES.

24 (II) **Greenhouse gas accounting system.** EXCEPT AS SPECIFIED IN
25 SUBSECTION (1)(f)(III) OF THIS SECTION, BEFORE THE COMMISSION ADOPTS
26 A RULE OR PROGRAM THAT PROVIDES FOR THE USE OF A TRADING
27 PROGRAM, THE COMMISSION SHALL ADOPT A RULE THAT DIRECTS THE

1 DIVISION TO CREATE A COMPREHENSIVE AND CENTRALIZED ACCOUNTING
2 SYSTEM TO TRACK EMISSIONS FROM, AT A MINIMUM, ALL REGULATED
3 SOURCES IN THE STATE COVERED BY OR THAT MAY OTHERWISE
4 PARTICIPATE IN THAT TRADING PROGRAM, WHICH SYSTEM MUST:

5 (A) ENABLE THE DIVISION AND THE PUBLIC TO TRACK EMISSION
6 REDUCTIONS, TRADES, AND OTHER TRANSACTIONS BY SOURCES UTILIZING
7 GHG CREDITS OR OTHERWISE PARTICIPATING IN A TRADING PROGRAM,
8 AND TO TRACK ANY TRANSACTIONS THAT TAKE PLACE CONSISTENT WITH
9 THE REQUIREMENTS SET FORTH IN THIS SUBSECTION (1)(f), INCLUDING ALL
10 RULES PROMULGATED PURSUANT TO THIS SUBSECTION (1)(f);

11 (B) ENABLE THE DIVISION TO PREVENT DOUBLE-COUNTING OF
12 GREENHOUSE GAS EMISSION REDUCTIONS; AND

13 (C) IDENTIFY REGULATED SOURCES THAT ADVERSELY AFFECT
14 DISPROPORTIONATELY IMPACTED COMMUNITIES THROUGH THEIR
15 EMISSIONS OF LOCALLY HARMFUL AIR POLLUTANTS.

16 (III) THE COMMISSION MAY ADOPT A TRADING PROGRAM AMONG
17 REGULATED SOURCES AS NECESSARY TO TIMELY IMPLEMENT SUBSECTION
18 (1)(e)(IX) OF THIS SECTION IF THAT PROGRAM:

19 (A) IS ULTIMATELY INTEGRATED INTO THE COMPREHENSIVE AND
20 CENTRALIZED ACCOUNTING SYSTEM DEVELOPED PURSUANT TO
21 SUBSECTION (1)(f)(II) OF THIS SECTION;

22 (B) ENABLES THE DIVISION TO TRACK THE EMISSIONS OF, AND
23 EMISSION REDUCTIONS, TRADES, AND OTHER TRANSACTIONS BY, ALL
24 REGULATED SOURCES PARTICIPATING IN THE TRADING PROGRAM;

25 (C) ENABLES THE DIVISION TO PREVENT DOUBLE COUNTING OF
26 GREENHOUSE GAS EMISSION REDUCTIONS; AND

27 (D) IDENTIFIES REGULATED SOURCES THAT ADVERSELY AFFECT

1 DISPROPORTIONATELY IMPACTED COMMUNITIES THROUGH THEIR
2 EMISSIONS OF LOCALLY HARMFUL AIR POLLUTANTS.

3 (g) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL
4 21-1266:

5 (I) NOTHING:

6 (A) ALTERS THE GREENHOUSE GAS EMISSION REDUCTION GOALS
7 PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g), IN EITHER AMOUNT
8 OR TIMING; OR

9 (B) DETRACTS FROM THE AIR QUALITY CONTROL COMMISSION'S
10 EXISTING AUTHORITY TO REQUIRE MORE THAN THE MINIMUM GREENHOUSE
11 GAS EMISSION REDUCTION GOALS AND DEADLINES PREVIOUSLY
12 ESTABLISHED IN SECTION 25-7-102 (2)(g); AND

13 (II) THE CHANGES ADD TO, BUT DO NOT OTHERWISE ALTER, THE
14 AIR QUALITY CONTROL COMMISSION'S AUTHORITY AND OBLIGATION TO
15 PUBLISH AND PROMULGATE RULES PURSUANT TO THIS SECTION AND
16 SECTIONS 25-7-102 (2)(g) AND 25-7-140.

17 **SECTION 14.** In Colorado Revised Statutes, 25-7-109.3, **amend**
18 (2) as follows:

19 **25-7-109.3. Colorado hazardous air pollutant control and**
20 **reduction program - rules.** (2) EXCEPT AS PROVIDED IN SECTION
21 25-7-114.4 (5), the commission may only promulgate ~~regulations~~ RULES
22 pertaining to hazardous air pollutants as defined in section 25-7-103 (13)
23 in accordance with this section. In order to minimize additional regulatory
24 and compliance costs to the state's economy, any program created by the
25 commission pursuant to this section ~~shall~~ MUST contain a provision ~~which~~
26 THAT exempts those sources or categories of sources ~~which~~ THAT it
27 determines to be of minor significance from the requirements of the

1 program. Consistent with the provisions of section 25-7-105.1, the
2 commission shall authorize synthetic minor sources of hazardous air
3 pollutants by the issuance of construction permits or prohibitory OR
4 OTHER rules. ~~or other regulations.~~ Such permits OR rules ~~or regulations~~
5 ~~shall~~ MUST only be as stringent as necessary to establish synthetic minor
6 status. The commission shall expeditiously implement this subsection (2)
7 to assure that all sources may be able to timely qualify as a synthetic
8 minor source, thereby avoiding the costs of the operating permit program.

9 **SECTION 15.** In Colorado Revised Statutes, 25-7-110.5, **amend**
10 (4)(e); and **add** (4)(f) and (4)(g) as follows:

11 **25-7-110.5. Required analysis of proposed air quality rules.**

12 (4) (e) EXCEPT AS PROVIDED IN SUBSECTION (4)(f) OF THIS SECTION, the
13 economic impact analysis required by this subsection (4) ~~shall~~ MUST not
14 consist of an analysis of any nonmarket costs or external costs asserted to
15 occur notwithstanding compliance by a source with applicable
16 environmental regulations.

17 (f) FOR A RULE THAT IMPLEMENTS SECTION 25-7-105 (1)(e) THAT
18 MAY MATERIALLY AFFECT GREENHOUSE GAS EMISSIONS, THE ECONOMIC
19 IMPACT ANALYSIS REQUIRED BY THIS SUBSECTION (4) MUST INCLUDE AN
20 ANALYSIS OF THE SOCIAL COST OF GREENHOUSE GASES RELATED TO THE
21 ESTIMATED EMISSION REDUCTIONS FROM THE PROPOSED RULE. THE
22 ANALYSIS MUST USE THE MOST RECENT ASSESSMENT OF THE SOCIAL COST
23 FOR THOSE GREENHOUSE GASES FOR WHICH THE FEDERAL GOVERNMENT
24 HAS DETERMINED THE COST, AND THE CONSIDERATION OF THE SOCIAL
25 COST OF GREENHOUSE GASES MUST BE CONSISTENT WITH EXISTING LAW
26 AND INCLUDE USE OF A DISCOUNT RATE OF NO MORE THAN TWO AND
27 ONE-HALF PERCENT; EXCEPT THAT THE SOCIAL COST OF GREENHOUSE

1 GASES THAT IS USED MAY NOT BE LOWER THAN THAT ESTABLISHED IN
2 2016, USING A TWO AND ONE-HALF PERCENT DISCOUNT RATE, BY THE
3 FEDERAL INTERAGENCY WORKING GROUP ON THE SOCIAL COST OF CARBON
4 OR THAN THE FINAL SOCIAL COST OF GREENHOUSE GASES, USING A TWO
5 AND ONE-HALF PERCENT OR LOWER EFFECTIVE DISCOUNT RATE,
6 ESTABLISHED BY THE FEDERAL INTERAGENCY WORKING GROUP ON THE
7 SOCIAL COST OF GREENHOUSE GASES PURSUANT TO FEDERAL EXECUTIVE
8 ORDER 13990, DATED JANUARY 20, 2021, WHICHEVER IS HIGHER.

9 (g) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL
10 21-1266:

11 (I) NOTHING:

12 (A) ALTERS THE GREENHOUSE GAS EMISSION REDUCTION GOALS
13 PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g), IN EITHER AMOUNT
14 OR TIMING; OR

15 (B) DETRACTS FROM THE AIR QUALITY CONTROL COMMISSION'S
16 EXISTING AUTHORITY TO REQUIRE MORE THAN THE MINIMUM GREENHOUSE
17 GAS EMISSION REDUCTION GOALS AND DEADLINES PREVIOUSLY
18 ESTABLISHED IN SECTION 25-7-102 (2)(g); AND

19 (II) THE CHANGES ADD TO, BUT DO NOT OTHERWISE ALTER, THE
20 AIR QUALITY CONTROL COMMISSION'S AUTHORITY AND OBLIGATION TO
21 PUBLISH AND PROMULGATE RULES PURSUANT TO SECTIONS 25-7-102
22 (2)(g), 25-7-105, AND 25-7-140.

23 **SECTION 16.** In Colorado Revised Statutes, 25-7-140, **amend**
24 **(2)(a)(I) and (2)(a)(II); and add (2)(a)(IV) as follows:**

25 **25-7-140. Greenhouse gas emissions - data collection -**
26 **legislative declaration - rules - reporting - forecasting - public**
27 **information - definitions. (2) Rules. (a) The commission shall:**

1 (I) By June 1, 2020, Adopt rules requiring greenhouse
2 gas-emitting entities to monitor and publicly report their emissions as the
3 commission deems appropriate to support Colorado's greenhouse gas
4 emission inventory efforts and to facilitate implementation of rules that
5 will timely achieve Colorado's greenhouse gas emission reduction goals.
6 The commission shall consider what information is already being publicly
7 reported by the federal environmental protection agency and tailor new
8 reporting requirements to fill any gaps in data, as it determines is
9 appropriate, to allow for maintaining and updating state inventories that
10 are sufficiently comprehensive and robust. The rules must include
11 requirements for providers of retail or wholesale electric service in the
12 state of Colorado to track and report emissions from all generation
13 sources within the state and elsewhere that electricity consumption by
14 their customers in this state causes to be emitted. The commission may
15 require emitting entities to report the amount of emissions of each of the
16 seven individual components of greenhouse gases as well as the carbon
17 dioxide equivalent of those emissions.

18 (II) Direct the division to update the statewide inventory of
19 greenhouse gas emissions by sector, up to on an annual basis as
20 determined by the commission, but in no event less frequently than every
21 two years. The division shall update the inventory in a manner that allows
22 reasonable tracking of progress in reducing greenhouse gas emissions
23 over time. The commission shall take reasonable steps to ensure that
24 emission abatement that counts toward meeting the state's greenhouse gas
25 emission reduction goals is durable and rigorously tracked. The inventory
26 must include a forecast of Colorado's greenhouse gas emissions for the
27 milestone year of 2025, as well as 2030, 2035, 2040, and 2045. THE

1 DIVISION SHALL MAKE PUBLICLY AVAILABLE THE DATA UPON WHICH
2 PROJECTIONS ARE BASED, INCLUDING THE SOURCES OF THAT DATA, THE
3 INPUTS FOR ANY MODEL USED, AND A DESCRIPTION OF THE ANALYSIS
4 UNDERLYING THE PROJECTIONS. THE FORECAST MUST INCLUDE AT LEAST
5 ONE SCENARIO THAT DOES NOT INCLUDE EMISSION REDUCTIONS
6 PROJECTED TO OCCUR FROM ANY FEDERAL, STATE, OR LOCAL LAW, RULE,
7 REGULATION, POLICY, OR PROGRAM THAT IS NOT IN PLACE AS OF THE DATE
8 OF PUBLICATION OF THE INVENTORY. The initial inventory required under
9 this subsection (2) must include a recalculation of Colorado's 2005
10 greenhouse gas emissions to serve as a baseline for measuring progress
11 against Colorado's greenhouse gas emission reduction goals.

12 (IV) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE
13 BILL 21-1266:

14 (A) NOTHING ALTERS THE GREENHOUSE GAS EMISSION REDUCTION
15 GOALS PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g), IN EITHER
16 AMOUNT OR TIMING, OR DETRACTS FROM THE AIR QUALITY CONTROL
17 COMMISSION'S EXISTING AUTHORITY TO REQUIRE MORE THAN THE
18 MINIMUM GREENHOUSE GAS EMISSION REDUCTION GOALS AND DEADLINES
19 PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g); AND

20 (B) THE CHANGES ADD TO, BUT DO NOT OTHERWISE ALTER, THE
21 AIR QUALITY CONTROL COMMISSION'S AUTHORITY AND OBLIGATION TO
22 PUBLISH AND PROMULGATE RULES PURSUANT TO THIS SECTION AND
23 SECTIONS 25-7-102 (2)(g), AND 25-7-105.

24 **SECTION 17.** In Colorado Revised Statutes, 2-3-1203, **add**
25 **(18.5)(a)(II)** as follows:

26 **2-3-1203. Sunset review of advisory committees - legislative**
27 **declaration - definition - repeal.** (18.5) (a) The following statutory

1 authorizations for the designated advisory committees will repeal on
2 September 1, 2027:

3 (II) THE ENVIRONMENTAL JUSTICE ADVISORY BOARD CREATED IN
4 SECTION 25-1-132 (2).

5 SECTION 18. In Colorado Revised Statutes, 8-83-503, add (7)
6 as follows:

7 8-83-503. Just transition office - advisory committee - repeal.

8 (7) THE OFFICE, IN CONSULTATION WITH THE ADVISORY COMMITTEE,
9 SHALL DEVELOP A PROPOSED LONG-TERM BUDGET TO ADEQUATELY
10 FINANCE THE JUST TRANSITION PLAN. THE OFFICE SHALL SUBMIT THE
11 PROPOSED BUDGET TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT NO
12 LATER THAN JULY 1, 2022. THE BUDGET MUST INCLUDE FINANCING
13 OPTIONS FROM STATE, FEDERAL, AND OTHER SOURCES. THE DEPARTMENT
14 SHALL CONSIDER THE PROPOSED BUDGET AS PART OF ITS BUDGET
15 PROPOSAL FOR STATE FISCAL YEAR 2023-24.

16 SECTION 19. In Colorado Revised Statutes, repeal and reenact,
17 with amendments, 24-38.5-101 as follows:

18 24-38.5-101. Colorado energy office - creation. (1) THERE IS
19 HEREBY CREATED WITHIN THE OFFICE OF THE GOVERNOR THE COLORADO
20 ENERGY OFFICE, THE HEAD OF WHICH IS THE DIRECTOR OF THE COLORADO
21 ENERGY OFFICE. THE DIRECTOR OF THE OFFICE SHALL BE ASSISTED BY A
22 DEPUTY DIRECTOR AND A STAFF TO FULFILL THE OFFICE'S MISSION TO:

23 (a) SUPPORT COLORADO'S TRANSITION TO A MORE EQUITABLE,
24 LOW-CARBON, AND CLEAN ENERGY ECONOMY AND PROMOTE RESOURCES
25 THAT REDUCE AIR POLLUTION AND GREENHOUSE GAS EMISSIONS,
26 INCLUDING POLLUTION AND EMISSIONS FROM ELECTRICITY GENERATION,
27 BUILDINGS, INDUSTRY, AGRICULTURE, AND TRANSPORTATION;

1 (b) PROMOTE ECONOMIC DEVELOPMENT AND HIGH QUALITY JOBS
2 IN COLORADO THROUGH ADVANCING CLEAN ENERGY, TRANSPORTATION
3 ELECTRIFICATION, AND OTHER TECHNOLOGIES THAT REDUCE AIR
4 POLLUTION AND GREENHOUSE GAS EMISSIONS, INCLUDING HELPING TO
5 FINANCE THOSE INVESTMENTS;

6 (c) PROMOTE ENERGY EFFICIENCY;

7 (d) PROMOTE AN EQUITABLE TRANSITION TOWARD ZERO EMISSION
8 BUILDINGS;

9 (e) PROMOTE AN EQUITABLE TRANSITION TO TRANSPORTATION
10 ELECTRIFICATION, ZERO EMISSION VEHICLES, TRANSPORTATION SYSTEMS,
11 AND LAND USE PATTERNS THAT REDUCE ENERGY USE AND GREENHOUSE
12 GAS EMISSIONS;

13 (f) INCREASE ENERGY SECURITY;

14 (g) SUPPORT LOWER LONG-TERM CONSUMER COSTS AND SUPPORT
15 REDUCED ENERGY COST BURDEN FOR LOWER-INCOME COLORADANS; AND

16 (h) PROTECT THE ENVIRONMENT AND PUBLIC HEALTH.

17 **SECTION 20.** In Colorado Revised Statutes, 24-75-402, **add**
18 (5)(tt) as follows:

19 **24-75-402. Cash funds - limit on uncommitted reserves -**
20 **reduction in the amount of fees - exclusions.** (5) Notwithstanding any
21 provision of this section to the contrary, the following cash funds are
22 excluded from the limitations specified in this section:

23 (tt) THE COMMUNITY IMPACT CASH FUND CREATED IN SECTION
24 25-7-129 (1).

25 **SECTION 21.** In Colorado Revised Statutes, 40-2-129, **add** (4)
26 as follows:

27 **40-2-129. New resource acquisitions - factors in determination**

1 - local employment - "best value" metrics. (4) (a) THE STATE AUDITOR
2 SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PERFORMANCE AUDIT OF
3 THE COMMISSION'S IMPLEMENTATION OF THE "BEST VALUE" EMPLOYMENT
4 METRICS REQUIREMENTS OF THIS SECTION, INCLUDING REVIEW OF:

5 (I) THE PROJECTS SUBJECT TO SUBSECTION (1)(a) OF THIS SECTION
6 THAT HAVE BEEN APPROVED IN THE PREVIOUS TEN YEARS;

7 (II) WHETHER THE WORK DONE USED CONTRACTORS THAT MET
8 THE CRITERIA SPECIFIED IN THIS SECTION;

9 (III) ANY SHORTFALLS IN ENFORCEMENT CAPACITY OR
10 IMPLEMENTATION BY THE COMMISSION;

11 (IV) CURRENT ENFORCEMENT PROCEDURES FOR INVESTOR-OWNED
12 UTILITIES, INDEPENDENT POWER PRODUCERS, AND WHOLESALE
13 GENERATION AND TRANSMISSION ELECTRIC COOPERATIVES; AND

14 (V) WHETHER AND HOW DELAYED RULE-MAKING PROCEEDINGS
15 HAVE PREVENTED THE "BEST VALUE" EMPLOYMENT METRICS
16 REQUIREMENTS OF THIS SECTION FROM BEING IMPLEMENTED.

17 (b) THE GOVERNOR'S OFFICE, THE COMMISSION, AND COMMISSION
18 STAFF SHALL COOPERATE WITH STAKEHOLDERS AND THE STATE AUDITOR
19 IN CONDUCTING THE AUDIT AND MAKING RECOMMENDATIONS FOR
20 REFORMS OF, OR POTENTIAL ALTERNATIVES TO, THE IMPLEMENTATION AND
21 ENFORCEMENT OF "BEST VALUE" EMPLOYMENT METRICS.

22 (c) UPON COMPLETION OF A PERFORMANCE AUDIT, THE STATE
23 AUDITOR SHALL SUBMIT A WRITTEN REPORT TO THE LEGISLATIVE AUDIT
24 COMMITTEE, TOGETHER WITH ANY FINDINGS AND RECOMMENDATIONS.

25 **SECTION 22. Appropriation.** (1) For the 2021-22 state fiscal
26 year, \$2,550,218 is appropriated to the department of public health and
27 environment. This appropriation consists of \$2,172,376 from the general

1 fund and \$377,842 from the community impact cash fund created in
2 section 25-7-129 (1), C.R.S.. To implement this act, the department may
3 use this appropriation as follows:

4 (a) \$1,417,544, which consists of \$1,070,172 from the general
5 fund and \$347,372 from the community impact cash fund for use by the
6 air pollution control division for personal services related to stationary
7 sources, which amount is based on an assumption that the division will
8 require an additional 20.4 FTE;

9 (b) \$510,353, which consists of \$479,882 from the general fund
10 and \$30,470 from the community impact cash fund for use by the air
11 pollution control division for operating costs related to stationary sources;

12 (c) \$382,680 from the general fund for the purchase of legal
13 services; and

14 (d) \$239,642 from the general fund for the purchase of
15 information technology services.

16 (2) For the 2021-22 state fiscal year, \$382,680 is appropriated to
17 the department of law. This appropriation is from reappropriated funds
18 received from the department of public health and environment under
19 subsection (1)(c) of this section and is based on an assumption that the
20 department of law will require an additional 2.0 FTE. To implement this
21 act, the department of law may use this appropriation to provide legal
22 services for the department of public health and environment.

23 (3) For the 2021-22 state fiscal year, \$239,642 is appropriated to
24 the office of the governor for use by the office of information technology.
25 This appropriation is from reappropriated funds received from the
26 department of public health and environment under subsection (1)(d) of
27 this section. To implement this act, the office may use this appropriation

1 to provide information technology services for the department of public
2 health and environment.

3 (4) For the 2021-22 state fiscal year, \$146,703 is appropriated to
4 the office of the governor for use by the Colorado energy office. This
5 appropriation is from the general fund and is based on an assumption that
6 the office will require an additional 1.8 FTE. To implement this act, the
7 office may use this appropriation for program costs.

8 **SECTION 23. Applicability.** This act applies to conduct
9 occurring on or after the effective date of this act.

10 **SECTION 24. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, or safety.