

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

REVISED

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

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SENATE BILL 23-280

SENATE SPONSORSHIP

Mullica, Priola, Rodriguez

HOUSE SPONSORSHIP

Snyder,

Senate Committees

Finance
Appropriations

House Committees

Finance
Appropriations

A BILL FOR AN ACT

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HOUSE
Amended 2nd Reading
May 7, 2023

SENATE
3rd Reading Unamended
April 25, 2023

SENATE
Amended 2nd Reading
April 24, 2023

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the fuels impact enterprise. The enterprise imposes a new fuels impact reduction fee on fuel product manufacturers to fund the fuels impact reduction grant program that the fuels impact enterprise administers. The fuels impact reduction fee is equal to \$.06125 per gallon of fuel products delivered during the previous calendar month for sale or use in Colorado. The fee is collected and deposited in the fuels impact enterprise hazardous materials infrastructure cash fund until the fund has an available balance of \$15 million or more.

Under the fuels impact reduction grant program, the fuels impact enterprise provides grants to certain critically impacted communities, governments, and transportation corridors for the improvement of hazardous mitigation corridors and to support key commercial freight corridors, local and state government projects related to emergency responses, environmental mitigation, or projects related to the transportation of fuel within the state.

The bill also amends the clean fleet enterprise so that the clean fleet enterprise imposes, between January 1, 2024, and December 31, 2032, a heavy-duty diesel vehicle registration fee of \$10 for heavy-duty diesel vehicles that are model year 2014 through 2016, \$20 for heavy-duty diesel vehicles that are model year 2010 through 2013, and \$50 for heavy-duty diesel vehicles that are model year 2009 or older.

Under the diesel truck emissions reduction grant program, the clean fleet enterprise, along with the division of administration in the department of public health and environment (division), awards grant money to certain private and public entities to decommission diesel trucks and replace them with newer model trucks through. The clean fleet enterprise and the division are required to determine eligibility for the grant money and the eligible fuel types for qualifying as a replacement vehicle under the grant program.

The bill also replaces a tax credit for a qualified investment in a commercial truck, truck tractor, or semitrailer that is used solely and exclusively in an enterprise zone with a tax credit for the conversion, lease, or purchase of a bi-fuel renewable fuel truck, electric, hybrid, low nitrogen oxides, plug-in hybrid electric, or renewable fuel truck that is predominantly housed and based at a taxpayer's business facility within an enterprise zone for the 12-month period following its purchase and is not used for personal use. The new credit:

- Is available between tax years 2023 and 2029;
- May be assigned to the financial entity that finances the lease or purchase of the truck;
- May not be carried forward, but may be refunded; and
- Is available in an amount that depends on the type of truck the taxpayer converts, leases, or purchases and when that conversion, lease, or purchase occurs.

Beginning October 1, 2023, the bill modifies the fee that is currently collected for distribution to the perfluoroalkyl and polyfluoroalkyl substances cash fund by extending the collection of the fee to 2036 and by changing the distribution of the fee revenue. Under the new distribution, the state treasurer shall credit:

- An amount equal to the cost of administering the fee to the department of revenue;
- \$2 million of the fee revenue to the department of public safety to support the regulation of hazardous materials on highways in the state as well as the enforcement of commercial and hazardous materials critical corridors determined by the chief of the Colorado state patrol;
- 70% of the amount remaining to the perfluoroalkyl and polyfluoroalkyl substances cash fund; and
- 30% of the amount remaining to the department of transportation to support functions related to the transportation of hazardous materials and the safe and efficient movement of freight as well as to support infrastructure projects that enhance the safety of movement of freight and hazardous materials.

The bill also increases the amount of fee revenue that can be held annually in the perfluoroalkyl and polyfluoroalkyl substances cash fund from \$8 million to \$9 million.

Additionally, the bill:

- Extends authorization for the division of oil and public safety to use the petroleum storage tank fund for costs related to petroleum storage tank facility inspections and meter calibrations from September 1, 2023, to September 1, 2033;
- Delays the effective date of the \$8 million cap on the petroleum storage tank fund from September 1, 2023, to September 1, 2033;
- Allows the director of the division of oil and public safety, in consultation with the petroleum storage tank committee, to establish rules that allow an operator of petroleum storage tanks to apply to the petroleum storage tank fund for reimbursement even if the total remediation expenses do not exceed \$10,000;

- Allows the director of the division of oil and public safety to annually transfer up to \$500,000 from the petroleum storage tank fund to the petroleum cleanup and redevelopment fund;
- Allows the Colorado state patrol to conform hazardous materials routing regulations to transportation commission rules; and
- Phases out the use of certain diesel trucks on state projects.

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

2 **SECTION 1.** In Colorado Revised Statutes, 8-20.5-103, **amend**
 3 (3) introductory portion, (3)(f)(II), (9)(a)(III), and (9)(a)(IV); and **add**
 4 (3.7) and (9)(a)(V) as follows:

5 **8-20.5-103. Petroleum storage tank fund - petroleum cleanup**
 6 **and redevelopment fund - creation - rules - repeal.** (3) The moneys
 7 MONEY in the petroleum storage tank fund ~~are~~ IS continuously
 8 appropriated to the division of oil and public safety; except that moneys
 9 THE EXPENDITURE OF MONEY for the purposes specified in paragraphs ~~(b);~~
 10 ~~(f), and (g) of this subsection (3)~~ are SUBSECTIONS (3)(b), (3)(f), AND
 11 (3)(g) OF THIS SECTION IS subject to annual appropriation by the general
 12 assembly. The fund shall be used for:

13 (f) (II) This ~~paragraph (f)~~ SUBSECTION (3)(f) is repealed, effective
 14 ~~September 1, 2023~~ SEPTEMBER 1, 2033.

15 (3.7) THE DIRECTOR OF THE DIVISION OF OIL AND PUBLIC SAFETY
 16 MAY ANNUALLY TRANSFER UP TO FIVE HUNDRED THOUSAND DOLLARS ■
 17 FROM THE PETROLEUM STORAGE TANK FUND TO THE PETROLEUM CLEANUP
 18 AND REDEVELOPMENT FUND.

19 (9) (a) There is hereby created in the state treasury the petroleum
 20 cleanup and redevelopment fund, which is referred to in this subsection
 21 (9) as the redevelopment fund. The redevelopment fund's sources of

1 revenue are:

2 (III) Any legislative appropriations made to the redevelopment
3 fund; and

4 (IV) Earned interest, which the state treasurer shall deposit in the
5 redevelopment fund; AND

6 (V) MONEY TRANSFERRED FROM THE PETROLEUM STORAGE TANK
7 FUND PURSUANT TO SUBSECTION (3.7) OF THIS SECTION.

8 **SECTION 2.** In Colorado Revised Statutes, 8-20.5-206, **add**
9 (1)(f) as follows:

10 **8-20.5-206. Financial responsibility for petroleum**
11 **underground storage tanks.** (1) (f) THE DIRECTOR OF THE DIVISION OF
12 OIL AND PUBLIC SAFETY, IN CONSULTATION WITH THE PETROLEUM
13 STORAGE TANK COMMITTEE ESTABLISHED PURSUANT TO SECTION
14 8-20.5-104, MAY ESTABLISH RULES THAT ALLOW THE PAYMENT REQUIRED
15 BY SUBSECTION (1)(b)(I) OF THIS SECTION TO BE BASED ON A PERCENTAGE
16 THAT IS LESS THAN ONE HUNDRED PERCENT OF THE REMEDIATION
17 AMOUNT.

18 **SECTION 3.** In Colorado Revised Statutes, 8-20-206.5, **amend**
19 (1)(c), (6)(a) introductory portion, (6)(b), (6)(d) introductory portion,
20 (6)(e), and (6)(f); and **add** (6)(d.5) and (8) as follows:

21 **8-20-206.5. Environmental response surcharge - liquefied**
22 **petroleum gas and natural gas inspection fund - perfluoroalkyl and**
23 **polyfluoroalkyl substances cash fund - hazardous materials**
24 **infrastructure cash fund - fuels impact reduction grant program -**
25 **definitions.** (1) (c) Notwithstanding ~~paragraph (b) of this subsection (1)~~
26 SUBSECTION (1)(b) OF THIS SECTION, on and after ~~September 1, 2023,~~
27 SEPTEMBER 1, 2033, if the available fund balance in the petroleum storage

1 tank fund is greater than eight million dollars, no surcharge shall be
2 imposed, but if the available fund balance in the fund is less than eight
3 million dollars, the fee imposed by ~~paragraph (a) of this subsection (1)~~
4 SUBSECTION (1)(a) OF THIS SECTION is twenty-five dollars per tank
5 truckload.

6 (6) (a) In addition to the ~~payment~~ PAYMENTS collected ~~under~~
7 ~~subsection~~ PURSUANT TO SUBSECTIONS (1)(a) AND (8)(a) of this section,
8 the executive director of the department of revenue shall also collect a fee
9 to:

10 (b) On and after September 1, 2020, but before ~~September 1, 2026~~
11 SEPTEMBER 1, 2031, every manufacturer of fuel products who
12 manufactures such products for sale within Colorado or who ships such
13 products from any point outside of Colorado to a distributor within
14 Colorado and every distributor who ships such products from any point
15 outside of Colorado to a point within Colorado shall pay to the executive
16 director of the department of revenue, each calendar month, twenty-five
17 dollars per tank truckload of fuel products delivered during the previous
18 calendar month for sale or use in Colorado. This section does not apply
19 to fuel that is used in aviation or to odorized liquefied petroleum gas and
20 natural gas.

21 (d) On and after October 1, 2021, but before ~~October 1, 2026~~
22 OCTOBER 1, 2023, the executive director of the department of revenue
23 shall transmit any fee collected in accordance with this subsection (6) to
24 the state treasurer, who shall credit:

25 (d.5) ON AND AFTER OCTOBER 1, 2023, BUT BEFORE OCTOBER 1,
26 2031, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL
27 TRANSMIT ANY FEE COLLECTED IN ACCORDANCE WITH THIS SUBSECTION

1 (6) TO THE STATE TREASURER, WHO SHALL CREDIT:

2 (I) FIRST, THE COSTS TO THE DEPARTMENT OF REVENUE FOR
3 ADMINISTERING THE FEE AND THE COSTS TO THE DEPARTMENT OF
4 REVENUE FOR ADMINISTERING THE TAX CREDIT CREATED IN SECTION
5 39-30-104 (7);

6 (II) SECOND, TWO MILLION DOLLARS TO THE DEPARTMENT OF
7 PUBLIC SAFETY FOR USE BY THE COLORADO STATE PATROL TO SUPPORT
8 THE REGULATION OF AND RESPONSE TO HAZARDOUS MATERIALS ON
9 HIGHWAYS IN THE STATE, TO MAKE EMPLOYER CONTRIBUTIONS TO A
10 MULTIPLE EMPLOYER HEALTH TRUST IN ORDER TO PARTICIPATE IN THE
11 VOLUNTARY FIREFIGHTER CANCER BENEFITS PROGRAM PURSUANT TO PART
12 4 OF ARTICLE 5 OF TITLE 29, AND AS WELL AS ENFORCEMENT OF
13 COMMERCIAL AND HAZARDOUS MATERIALS CRITICAL CORRIDORS
14 DESIGNATED BY THE CHIEF OF THE COLORADO STATE PATROL; AND

15 (III) THIRD, OF THE AMOUNT REMAINING:

16 (A) SEVENTY PERCENT TO THE PERFLUOROALKYL AND
17 POLYFLUOROALKYL SUBSTANCES CASH FUND; AND

18 (B) THIRTY PERCENT TO THE DEPARTMENT OF TRANSPORTATION
19 TO SUPPORT FUNCTIONS RELATED TO THE TRANSPORTATION OF
20 HAZARDOUS MATERIALS AND THE SAFE AND EFFICIENT MOVEMENT OF
21 FREIGHT, AS WELL AS TO SUPPORT INFRASTRUCTURE PROJECTS THAT
22 ENHANCE THE SAFETY OF THE MOVEMENT OF FREIGHT AND HAZARDOUS
23 MATERIALS SUCH AS THE INSTALLATION OF FOAM SUPPRESSION SYSTEMS
24 IN THE EISENHOWER-JOHNSON TUNNELS, THE MITIGATION OF HAZARDS IN
25 GLENWOOD CANYON, AND OTHER USES NECESSARY TO SECURE THE SAFE
26 TRANSPORT OF FUELS THROUGH THE I-70 MOUNTAIN CORRIDOR.

27 (e) (I) BEFORE OCTOBER 1, 2023, notwithstanding subsection

1 (6)(b) of this section, if the available fund balance in the perfluoroalkyl
2 and polyfluoroalkyl substances cash fund is greater than eight million
3 dollars, the executive director of the department of revenue shall not
4 collect the fee described in subsection (6)(b) of this section, but if the
5 available balance in the fund is less than eight million dollars within a
6 fiscal year, the executive director of the department of revenue shall
7 impose a fee in accordance with subsection (6)(b) of this section.

8 (II) ON OR AFTER OCTOBER 1, 2023, NOTWITHSTANDING
9 SUBSECTION (6)(b) OF THIS SECTION, IF THE AVAILABLE FUND BALANCE IN
10 THE PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES CASH FUND
11 IS GREATER THAN NINE MILLION DOLLARS, THE EXECUTIVE DIRECTOR OF
12 THE DEPARTMENT OF REVENUE SHALL NOT COLLECT THE FEE DESCRIBED
13 IN SUBSECTION (6)(b) OF THIS SECTION, BUT IF THE AVAILABLE BALANCE
14 IN THE FUND IS LESS THAN NINE MILLION DOLLARS WITHIN A FISCAL YEAR,
15 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL
16 IMPOSE A FEE IN ACCORDANCE WITH SUBSECTION (6)(b) OF THIS SECTION.

17 (f) As used in this subsection (6) AND SUBSECTION (8) OF THIS
18 SECTION, "fuel products" means all gasoline; diesel; biodiesel; biodiesel
19 blends; kerosene; and all alcohol blended fuels that are produced,
20 compounded, and offered for sale or used for the purpose of generating
21 heat, light, or power in internal combustion engines or fuel cells, for
22 cleaning, or for any other similar usage. "Fuel products" does not mean
23 INCLUDE fuel that is used in aviation or odorized liquefied petroleum gas
24 and natural gas.

25 (8) (a) IN ADDITION TO THE PAYMENTS COLLECTED UNDER
26 SUBSECTIONS (1)(a) AND (6) OF THIS SECTION, BEGINNING SEPTEMBER 1,
27 2023, THE FUELS IMPACT ENTERPRISE CREATED IN SECTION 43-4-1503

1 SHALL IMPOSE A FUELS IMPACT REDUCTION FEE, THE EXECUTIVE DIRECTOR
2 OF THE DEPARTMENT OF REVENUE SHALL COLLECT THE FEE ON BEHALF OF
3 THE FUELS IMPACT ENTERPRISE, AND THE STATE TREASURER SHALL CREDIT
4 AN AMOUNT OF THE FEE REVENUE TO THE DEPARTMENT OF REVENUE TO
5 COVER THE COSTS OF COLLECTING THE FEE.

6 (b) (I) ON AND AFTER SEPTEMBER 1, 2023, EVERY
7 MANUFACTURER OF FUEL PRODUCTS WHO MANUFACTURES SUCH
8 PRODUCTS FOR SALE WITHIN COLORADO OR WHO SHIPS SUCH PRODUCTS
9 FROM ANY POINT OUTSIDE OF COLORADO TO A DISTRIBUTOR WITHIN
10 COLORADO AND EVERY DISTRIBUTOR WHO SHIPS SUCH PRODUCTS FROM
11 ANY POINT OUTSIDE OF COLORADO TO A POINT WITHIN COLORADO SHALL
12 PAY TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SIX
13 THOUSAND ONE HUNDRED TWENTY-FIVE MILLIONTHS OF A DOLLAR PER
14 GALLON OF FUEL PRODUCTS DELIVERED DURING THE PREVIOUS CALENDAR
15 MONTH FOR SALE OR USE IN COLORADO OR A LESSER AMOUNT
16 DETERMINED BY THE FUELS IMPACT ENTERPRISE. THE DISTRIBUTOR SHALL
17 PAY THIS FEE ON A PER GALLON BASIS AND AT THE SAME TIME AND ON THE
18 SAME FORM AS THE FEES COLLECTED PURSUANT TO SUBSECTIONS (1) AND
19 (6) OF THIS SECTION.

20 (II) FOR PURPOSES OF THIS SUBSECTION (8)(b), "DISTRIBUTOR"
21 MEANS THE PERSON WHO REMITS THE APPLICABLE STATE FEE IMPOSED
22 PURSUANT TO SUBSECTION (1) OR (6) OF THIS SECTION.

23 (c) ON AND AFTER SEPTEMBER 1, 2023, THE EXECUTIVE DIRECTOR
24 OF THE DEPARTMENT OF REVENUE SHALL TRANSMIT ANY FUELS IMPACT
25 REDUCTION FEE REVENUE THAT IT COLLECTS ON BEHALF OF THE FUELS
26 IMPACT ENTERPRISE PURSUANT TO THIS SUBSECTION (8) TO THE STATE
27 TREASURER, WHO SHALL CREDIT:

1 (I) THE TOTAL AMOUNT OF FUELS IMPACT REDUCTION FEE
2 REVENUE COLLECTED BY THE DEPARTMENT OF REVENUE, MINUS THE
3 COSTS TO THE DEPARTMENT OF REVENUE FOR ADMINISTERING THE FEE, TO
4 THE FUELS IMPACT ENTERPRISE FUND CREATED IN SECTION 43-4-1504;
5 AND

6 (II) THE COSTS TO THE DEPARTMENT OF REVENUE FOR
7 ADMINISTERING THE FEE TO THE DEPARTMENT OF REVENUE.

8 **SECTION 4.** In Colorado Revised Statutes, 8-20.5-303, **add**
9 (1)(f) as follows:

10 **8-20.5-303. Financial responsibility for aboveground storage**
11 **tanks.** (1) (f) THE DIRECTOR OF THE DIVISION OF OIL AND PUBLIC SAFETY,
12 IN CONSULTATION WITH THE PETROLEUM STORAGE TANK COMMITTEE
13 ESTABLISHED PURSUANT TO SECTION 8-20.5-104, MAY ESTABLISH RULES
14 THAT ALLOW THE PAYMENT OF REMEDIATION EXPENSES FOR CERTAIN
15 OWNERS AND OPERATORS OF ABOVEGROUND STORAGE TANKS FROM THE
16 PETROLEUM STORAGE TANK FUND TO BE BASED ON A PERCENTAGE THAT
17 IS LESS THAN ONE HUNDRED PERCENT OF THE REMEDIATION AMOUNT.

18 **SECTION 5.** In Colorado Revised Statutes, 25-5-1312, **amend**
19 (1) introductory portion as follows:

20 **25-5-1312. Reporting requirement.** (1) Notwithstanding section
21 24-1-136 (11)(a)(I), the department shall annually report by February 1,
22 2021, and February 1 of each year until ~~February 1, 2027~~ FEBRUARY 1,
23 2036, to the general assembly's committees of reference with jurisdiction
24 over public health regarding:

25 

26 **SECTION 6.** In Colorado Revised Statutes, 29-5-402, **amend** (2)
27 and (3); and add (4.5) as follows:

1 **29-5-402. Definitions.** As used in this part 4, unless the context
2 otherwise requires:

3 (2) "Covered individual" means a firefighter, HAZARDOUS
4 MATERIALS TROOPER, part-time firefighter, or volunteer firefighter who
5 meets the coverage requirements in section 29-5-403 (12).

6 (3) "Employer" means a municipality, special district, fire
7 authority, or county improvement district that employs one or more
8 firefighters, part-time firefighters, or volunteer firefighters. Beginning
9 July 1, 2020, "employer" also means the division of fire prevention and
10 control created in section 24-33.5-1201 AND THE DEPARTMENT OF PUBLIC
11 SAFETY CREATED IN SECTION 24-33.5-1603. "Employer" does not include
12 a power authority created pursuant to section 29-1-204 or a municipally
13 owned utility.

14 (4.5) "HAZARDOUS MATERIALS TROOPER" MEANS A PERSON
15 EMPLOYED BY THE COLORADO STATE PATROL TO SUPPORT THE
16 REGULATION OF HAZARDOUS MATERIALS ON HIGHWAYS IN THE STATE.

17 **SECTION 7.** In Colorado Revised Statutes, 29-5-403, **amend**
18 (12)(a); and **add** (12)(b)(I.5) as follows:

19 **29-5-403. Required benefits - conditions of receiving benefits.**
20 (12) (a) In order for a covered individual to be eligible for the benefits in
21 this section, prior to the diagnosis of cancer and no more than five years
22 for a firefighter or HAZARDOUS MATERIALS TROOPER AND no more than
23 ten years for a volunteer firefighter or part-time firefighter after the
24 firefighter, volunteer firefighter, or part-time firefighter became employed
25 by an employer, the firefighter, HAZARDOUS MATERIALS TROOPER,
26 volunteer firefighter, or part-time firefighter must have had a medical
27 examination that would reasonably have found an illness or injury that

1 could have caused the cancer and no illness or injury was found.

2 (b) In addition to subsection (12)(a) of this section, in order for a
3 covered individual to be eligible for the benefits in this section, the
4 following conditions must be met:

5 (I.5) THE HAZARDOUS MATERIALS TROOPER:

6 (A) HAS AT LEAST FIVE YEARS OF CONTINUOUS, FULL-TIME
7 EMPLOYMENT AS A HAZARDOUS MATERIALS TROOPER; AND

8 (B) IS DIAGNOSED WITH CANCER WITHIN TEN YEARS AFTER
9 CEASING EMPLOYMENT AS A HAZARDOUS MATERIALS TROOPER; OR

10

11 **SECTION 8.** In Colorado Revised Statutes, 42-20-301, **amend**
12 (3) as follows:

13 **42-20-301. Route designation.** (3) (a) Notwithstanding any other
14 provision of this part 3 or part 1 or 2 of this ~~article~~ ARTICLE 20 to the
15 contrary, the transportation commission may regulate hours of operation
16 of the Eisenhower-Johnson tunnels, structure numbers F13Y and F13X,
17 respectively, on interstate 70.

18 (b) THE PATROL MAY CONFORM HAZARDOUS MATERIALS ROUTING
19 REGULATIONS MADE PURSUANT TO THIS SECTION TO TRANSPORTATION
20 COMMISSION REGULATIONS MADE PURSUANT TO SUBSECTION (3)(a) OF
21 THIS SECTION.

22 **SECTION 9.** In Colorado Revised Statutes, **add** part 15 to article
23 4 of title 43 as follows:

24 PART 15
25 FUELS IMPACT ENTERPRISE

26 **43-4-1501. Legislative declaration.** (1) (a) (I) THE GENERAL
27 ASSEMBLY FINDS AND DECLARES THAT:

1 (A) CERTAIN COMMUNITIES IN THE STATE SERVE AS THE
2 DISTRIBUTION POINTS FOR ALMOST ALL OF THE FUEL TRANSPORTED IN THE
3 STATE;

4 (B) LICENSED FUEL DISTRIBUTORS RELY ON THE HAZARDOUS
5 MITIGATION CORRIDOR INFRASTRUCTURE IN THESE COMMUNITIES TO
6 SUPPORT THE ECONOMIC FUNCTIONS OF THE STATE; AND

7 (C) INCREASING REQUIREMENTS ON FUEL COMPOSITION AND
8 BLENDS WILL CAUSE THE INFRASTRUCTURE IN THESE COMMUNITIES TO BE
9 RELIED UPON EVEN MORE.

10 (II) THEREFORE, THE GENERAL ASSEMBLY FINDS THAT IT IS
11 APPROPRIATE TO ESTABLISH THE FUELS IMPACT REDUCTION GRANT
12 PROGRAM TO PROVIDE GRANTS TO THOSE COMMUNITIES FOR THE
13 IMPROVEMENT OF THEIR HAZARDOUS MITIGATION CORRIDOR
14 INFRASTRUCTURE AND FOR PROJECTS RELATED TO THE TRANSPORTATION
15 OF FUEL WITHIN THE STATE.

16 (b) THEREFORE, THE GENERAL ASSEMBLY FINDS THAT IT IS
17 REASONABLE TO ESTABLISH THE FUELS IMPACT ENTERPRISE TO ASSIST IN
18 THE ADMINISTRATION OF THE PROGRAMS DESCRIBED IN THIS SUBSECTION
19 (1) AND TO COLLECT THE FEES NECESSARY TO IMPLEMENT THESE
20 PROGRAMS.

21 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

22 (a) THE FUELS IMPACT ENTERPRISE PROVIDES IMPACT REDUCTION
23 SERVICES WHEN, IN EXCHANGE FOR THE PAYMENT OF THE FUELS IMPACT
24 REDUCTION FEE BY LICENSED FUEL EXCISE TAX DISTRIBUTORS AND
25 LICENSED FUEL DISTRIBUTORS, IT ACTS AS AUTHORIZED BY THIS SECTION
26 TO PROVIDE ASSISTANCE IN IMPROVING HAZARDOUS MITIGATION
27 CORRIDORS AND PROJECTS RELATED TO THE TRANSPORTATION OF FUEL

1 WITHIN THE STATE;

2 (b) BY PROVIDING IMPACT REDUCTION SERVICES AS AUTHORIZED
3 BY THIS SECTION, THE FUELS IMPACT ENTERPRISE PROVIDES A BENEFIT TO
4 FEE PAYERS BY IMPROVING THE TRANSPORTATION OF FUEL IN THE STATE,
5 AND MONITORING VEHICLE EMISSIONS, AND, THEREFORE OPERATES AS A
6 BUSINESS IN ACCORDANCE WITH THE DETERMINATION OF THE COLORADO
7 SUPREME COURT IN *COLORADO UNION OF TAXPAYERS FOUNDATION V. CITY*
8 *OF ASPEN*, 2018 CO 36;

9 (c) CONSISTENT WITH THE DETERMINATION OF THE COLORADO
10 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896
11 P.2D 859 (COLO. 1995), THE POWER TO IMPOSE TAXES IS INCONSISTENT
12 WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE
13 CONSTITUTION, AND, THEREFORE, IT IS THE CONCLUSION OF THE GENERAL
14 ASSEMBLY THAT THE REVENUE COLLECTED BY THE FUELS IMPACT
15 ENTERPRISE IS GENERATED BY FEES, NOT TAXES, BECAUSE THE FUELS
16 IMPACT REDUCTION FEE IMPOSED BY THE ENTERPRISE IS:

17 (I) IMPOSED FOR THE SPECIFIC PURPOSE OF ALLOWING THE
18 ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE SERVICES SPECIFIED
19 IN THIS SECTION; AND

20 (II) COLLECTED AT RATES THAT ARE REASONABLY CALCULATED
21 BASED ON THE COSTS OF THE SERVICES PROVIDED BY THE ENTERPRISE;
22 AND

23 (d) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR
24 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE
25 REVENUE FROM THE FUELS IMPACT REDUCTION FEE IS NOT STATE FISCAL
26 YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE
27 REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DOES NOT

1 COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED
2 BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS
3 STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(G).

4 **43-4-1502. Definitions.** AS USED IN THIS PART 15, UNLESS THE
5 CONTEXT OTHERWISE REQUIRES:

6 (1) "ENTERPRISE" MEANS THE FUELS IMPACT ENTERPRISE CREATED
7 IN SECTION 43-4-1503.

8 (2) "FUEL PRODUCT" MEANS GASOLINE, BLENDED GASOLINE,
9 GASOLINE SOLD FOR GASOHOL PRODUCTION, GASOHOL, DIESEL, BIODIESEL
10 BLENDS, NATURAL GAS, AND SPECIAL FUELS, AND SPECIAL FUEL MIXES
11 WITH ALCOHOL.

12 (3) "FUELS IMPACT REDUCTION FEE" MEANS THE FEE IMPOSED BY
13 THE ENTERPRISE PURSUANT TO SECTION 43-4-1505 (1).

14 (4) "FUND" MEANS THE FUELS IMPACT ENTERPRISE FUND CREATED
15 IN SECTION 43-4-1504.

16 (5) "GRANT PROGRAM" MEANS THE FUELS IMPACT REDUCTION
17 GRANT PROGRAM CREATED IN SECTION 43-4-1506.

18 **43-4-1503. Fuels impact enterprise - creation - powers and**
19 **duties.** (1) (a) THE FUELS IMPACT ENTERPRISE IS CREATED IN THE
20 DEPARTMENT. THE ENTERPRISE IS AND OPERATES AS A
21 GOVERNMENT-OWNED BUSINESS WITHIN THE DEPARTMENT IN ORDER TO
22 EXECUTE ITS BUSINESS PURPOSES AS SPECIFIED IN SUBSECTION (2) OF THIS
23 SECTION BY EXERCISING THE POWERS AND PERFORMING THE DUTIES AND
24 FUNCTIONS SET FORTH IN THIS SECTION.

25 (b) THE ENTERPRISE IS A **TYPE 2** ENTITY, AS DEFINED IN SECTION
26 24-1-105, AND EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND
27 FUNCTIONS UNDER THE DEPARTMENT. THE GOVERNING BOARD OF THE

1 ENTERPRISE IS MADE UP OF THE TRANSPORTATION COMMISSION CREATED
2 IN SECTION 43-1-106 (1).

3 (2) THE BUSINESS PURPOSES OF THE ENTERPRISE ARE TO IMPROVE
4 THE TRANSPORTATION OF FUEL IN THE STATE AND MONITOR VEHICLE
5 EMISSIONS. TO ALLOW THE ENTERPRISE TO ACCOMPLISH THESE BUSINESS
6 PURPOSES AND FULLY EXERCISE ITS POWERS AND DUTIES, THE ENTERPRISE
7 MAY:

8 (a) IMPOSE A FUELS IMPACT REDUCTION FEE AS AUTHORIZED BY
9 SECTION 43-4-1505 (1);

10 (b) ISSUE GRANTS AS AUTHORIZED BY THE FUELS IMPACT
11 REDUCTION GRANT PROGRAM CREATED IN SECTION 43-4-1506; AND

12 (c) ISSUE REVENUE BONDS PAYABLE FROM FUELS IMPACT
13 REDUCTION FEE REVENUE AND OTHER AVAILABLE MONEY OF THE
14 ENTERPRISE.

15 (3) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES
16 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT
17 RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS
18 THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUE IN GRANTS FROM ALL
19 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT
20 CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (3), THE
21 ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE
22 CONSTITUTION.

23 (4) IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN
24 THIS SECTION, THE ENTERPRISE HAS THE FOLLOWING GENERAL POWERS
25 AND DUTIES:

26 (a) TO PROVIDE SERVICES AS SET FORTH IN SECTION 43-4-1506;
27 AND

1 (b) TO HAVE AND EXERCISE ALL RIGHTS AND POWERS NECESSARY
2 OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS AND DUTIES
3 GRANTED BY THIS SECTION.

4 **43-4-1504. Fuels impact enterprise cash fund - definition.**

5 (1) (a) (I) THE FUELS IMPACT ENTERPRISE CASH FUND IS CREATED IN THE
6 STATE TREASURY. THE FUND CONSISTS OF FUELS IMPACT REDUCTION FEE
7 REVENUE CREDITED TO THE FUND PURSUANT TO SECTION 43-4-1505 (1),
8 ANY MONEY THAT THE GENERAL ASSEMBLY MAY TRANSFER OR
9 APPROPRIATE TO THE FUND FOR THE IMPLEMENTATION OF THE GRANT
10 PROGRAM, AND ANY FEDERAL MONEY OR GIFTS, GRANTS, OR DONATIONS
11 RECEIVED. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
12 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
13 FUND TO THE FUND.

14 (II) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
15 ENTERPRISE FOR THE DIRECT AND INDIRECT COSTS OF IMPLEMENTING THE
16 GRANT PROGRAM.

17 (III) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
18 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
19 FUND TO THE FUND.

20 (b) (I) NOTWITHSTANDING SECTION 8-20-206.5 (8)(b), IF THE
21 AVAILABLE FUND BALANCE IN THE FUND IS GREATER THAN FIFTEEN
22 MILLION DOLLARS, THE ENTERPRISE SHALL NOT IMPOSE, AND THE
23 DEPARTMENT OF REVENUE SHALL NOT COLLECT, THE FUELS IMPACT
24 REDUCTION FEE DESCRIBED IN SECTION 8-20-206.5 (8), BUT IF THE
25 AVAILABLE BALANCE IN THE FUND IS LESS THAN FIFTEEN MILLION
26 DOLLARS WITHIN A FISCAL YEAR, THE ENTERPRISE SHALL IMPOSE, AND THE
27 DEPARTMENT OF REVENUE SHALL COLLECT, THE FUELS IMPACT REDUCTION

1 FEE IN ACCORDANCE WITH SECTION 8-20-206.5 (8)(b).

2 (II) FOR THE PURPOSES OF THIS SUBSECTION (1)(b), "AVAILABLE
3 FUND BALANCE" MEANS THE SUM OF THE CURRENT YEAR REVENUES AND
4 THE PREVIOUS FUND BALANCE MINUS THE SUM OF THE OBLIGATIONS
5 APPROVED BY THE ENTERPRISE AND THE COSTS INCURRED BY THE
6 DEPARTMENT OF REVENUE IN COLLECTING THE FUELS IMPACT REDUCTION
7 FEE REVENUE.

8 (c) FOR PURPOSES OF THIS PART 15, THE ENTERPRISE MAY SEEK,
9 ACCEPT, AND EXPEND MONEY FROM FEDERAL SOURCES.

10 (2) THE DEPARTMENT MAY TRANSFER MONEY FROM ANY LEGALLY
11 AVAILABLE SOURCE TO THE ENTERPRISE FOR THE PURPOSE OF DEFRAYING
12 EXPENSES INCURRED BY THE ENTERPRISE BEFORE IT RECEIVES FEE
13 REVENUE OR REVENUE BOND PROCEEDS. THE ENTERPRISE MAY ACCEPT
14 AND EXPEND ANY MONEY SO TRANSFERRED, AND, NOTWITHSTANDING ANY
15 STATE FISCAL RULE OR GENERALLY ACCEPTED ACCOUNTING PRINCIPLE
16 THAT COULD OTHERWISE BE INTERPRETED TO REQUIRE A CONTRARY
17 CONCLUSION, SUCH A TRANSFER IS A LOAN FROM THE DEPARTMENT TO THE
18 ENTERPRISE THAT IS REQUIRED TO BE REPAID AND IS NOT A GRANT FOR
19 PURPOSES OF SECTION 20 (2)(d) OF ARTICLE X OF THE STATE
20 CONSTITUTION, OR AS DEFINED IN SECTION 24-77-102 (7). ALL MONEY
21 TRANSFERRED AS A LOAN TO THE ENTERPRISE SHALL BE CREDITED TO THE
22 FUND. LOAN LIABILITIES THAT ARE RECORDED IN THE FUELS IMPACT FUND
23 BUT THAT ARE NOT REQUIRED TO BE PAID IN THE CURRENT FISCAL YEAR
24 SHALL NOT BE CONSIDERED WHEN CALCULATING SUFFICIENT STATUTORY
25 FUND BALANCE FOR PURPOSES OF SECTION 24-75-109. AS THE ENTERPRISE
26 RECEIVES SUFFICIENT REVENUE IN EXCESS OF EXPENSES, THE ENTERPRISE
27 SHALL REIMBURSE THE DEPARTMENT FOR THE PRINCIPAL AMOUNT OF ANY

1 LOAN MADE BY THE DEPARTMENT PLUS INTEREST AT A RATE SET BY THE
2 DEPARTMENT.

3 **43-4-1505. Fuels impact reduction fee.** (1) (a) IN FURTHERANCE
4 OF ITS BUSINESS PURPOSE, BEGINNING SEPTEMBER 1, 2023, THE
5 ENTERPRISE SHALL IMPOSE A FUELS IMPACT REDUCTION FEE PER GALLON
6 TO BE PAID BY A LICENSED FUEL EXCISE TAX DISTRIBUTOR WITHIN
7 COLORADO AND A LICENSED FUEL DISTRIBUTOR WHO SHIPS PRODUCTS
8 FROM OUTSIDE OF COLORADO TO A POINT WITHIN COLORADO. FOR THE
9 PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR DISTRIBUTORS AND
10 ADMINISTRATIVE COSTS FOR THE STATE, THE DEPARTMENT OF REVENUE
11 SHALL COLLECT THE FUELS IMPACT REDUCTION FEE ON BEHALF OF THE
12 ENTERPRISE, AND A FUEL DISTRIBUTOR SHALL PAY THE FEE TO THE
13 DEPARTMENT OF REVENUE AS REQUIRED BY SECTION 8-20-206.5 (8)(a).

14 (b) FOR A LICENSED FUEL EXCISE TAX DISTRIBUTOR WITHIN
15 COLORADO AND A LICENSED FUEL DISTRIBUTOR WHO SHIPS PRODUCTS
16 FROM OUTSIDE OF COLORADO TO A POINT WITHIN COLORADO, BEGINNING
17 SEPTEMBER 1, 2023, THE ENTERPRISE SHALL IMPOSE THE FUELS IMPACT
18 REDUCTION FEE IN A REASONABLE AMOUNT THAT IS NO MORE THAN SIX
19 THOUSAND ONE HUNDRED TWENTY-FIVE MILLIONTHS OF A DOLLAR PER
20 GALLON OF FUEL PRODUCTS DELIVERED FOR SALE OR USE IN COLORADO.

21 (c) AS REQUIRED BY SECTION 8-20-206.5 (8)(c), THE EXECUTIVE
22 DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL TRANSMIT ANY FUELS
23 IMPACT REDUCTION FEE REVENUE IT COLLECTS TO THE STATE TREASURER
24 WHO SHALL CREDIT THE REVENUE, MINUS THE COSTS TO THE DEPARTMENT
25 OF REVENUE FOR COLLECTING THE FEE, TO THE FUND.

26 **43-4-1506. Fuels impact reduction grant program.** (1) THERE
27 IS HEREBY CREATED THE FUELS IMPACT REDUCTION GRANT PROGRAM TO

1 PROVIDE GRANTS TO CERTAIN CRITICALLY IMPACTED COMMUNITIES,
2 GOVERNMENTS, AND TRANSPORTATION CORRIDORS FOR THE
3 IMPROVEMENT OF HAZARDOUS MITIGATION CORRIDORS AND TO SUPPORT
4 LOCAL AND STATE GOVERNMENT PROJECTS RELATED TO EMERGENCY
5 RESPONSES, ENVIRONMENTAL MITIGATION, OR PROJECTS RELATED TO THE
6 TRANSPORTATION OF FUEL WITHIN THE STATE.

7 (2) (a) AS PART OF THE FUELS IMPACT REDUCTION GRANT
8 PROGRAM, THE ENTERPRISE SHALL ANNUALLY DISTRIBUTE TEN MILLION
9 DOLLARS FROM THE FUND TO THE FOLLOWING POLITICAL SUBDIVISIONS
10 FOR THE IMPROVEMENT OF HAZARDOUS MITIGATION CORRIDORS IN THE
11 STATE PRIORITIZING USES RELATED TO SAFETY AND ENVIRONMENTAL
12 IMPACTS:

13 (I) SIX MILLION FOUR HUNDRED THOUSAND DOLLARS TO ADAMS
14 COUNTY;

15 (II) TWO MILLION DOLLARS TO THE CITY OF AURORA;

16 (III) ONE MILLION THREE HUNDRED THOUSAND DOLLARS TO EL
17 PASO COUNTY;

18 (IV) TWO HUNDRED FORTY THOUSAND DOLLARS TO MESA
19 COUNTY; AND

20 (V) SIXTY THOUSAND DOLLARS TO OTERO COUNTY.

21 (b) IF THE ENTERPRISE IS UNABLE TO DISTRIBUTE TEN MILLION
22 DOLLARS PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, THE
23 ENTERPRISE SHALL DISTRIBUTE THE DOLLARS IT CAN DISTRIBUTE IN THE
24 SAME PROPORTION AS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION.

25 (c) IF A POLITICAL SUBDIVISION IS UNABLE TO ACCEPT THE ANNUAL
26 DISTRIBUTION MADE PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION,
27 THE ENTERPRISE SHALL DISTRIBUTE THE UNACCEPTED AMOUNTS TO THE

1 OTHER POLITICAL SUBDIVISIONS ON A PROPORTIONATE BASIS.

2 (3) THE ENTERPRISE SHALL ANNUALLY DISTRIBUTE UP TO FIVE
3 MILLION DOLLARS FROM THE FUND, AFTER MAKING THE TRANSFERS
4 REQUIRED BY SUBSECTION (2) OF THIS SECTION AND AFTER PROVIDING FOR
5 THE ADMINISTRATIVE EXPENSES OF THE ENTERPRISE, TO KEY COMMERCIAL
6 FREIGHT CORRIDORS, TO SUPPORT STATE GOVERNMENT PROJECTS RELATED
7 TO EMERGENCY RESPONSES, ENVIRONMENTAL MITIGATION, OR TO SUPPORT
8 PROJECTS RELATED TO THE TRANSPORTATION OF FUEL WITHIN THE STATE
9 ON ROUTES NECESSARY FOR THE TRANSPORTATION OF HAZARDOUS
10 MATERIALS.

11 **43-4-1507. Repeal of part.** THIS PART 15 IS REPEALED, EFFECTIVE
12 JANUARY 1, 2030.

13

14 **SECTION 10. Appropriation.** (1) For the 2023-24 state fiscal
15 year, \$36,272 is appropriated to the department of revenue. This
16 appropriation is from the general fund. To implement this act, the
17 department may use this appropriation as follows:

18 (a) \$18,272 for personal services related to taxation services; and

19 (b) \$18,000 for tax administration IT system (GenTax) support.

20 **SECTION 11. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly; except
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V
24 of the state constitution against this act or an item, section, or part of this
25 act within such period, then the act, item, section, or part will not take

1 effect unless approved by the people at the general election to be held in
2 November 2024 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.