

CHAPTER 404

LABOR AND INDUSTRY

SENATE BILL 23-280

BY SENATOR(S) Mullica, Priola, Rodriguez;
also REPRESENTATIVE(S) Snyder, Bird, Boesenecker, Brown, Dickson, Joseph, Ricks, Titone, Young, McCluskie.

AN ACT

CONCERNING THE MITIGATION OF CERTAIN TRANSPORTATION-RELATED ENVIRONMENTAL HAZARDS, AND, IN CONNECTION THEREWITH, CREATING THE FUELS IMPACT ENTERPRISE TO ADMINISTER PROGRAMS AND IMPOSE FEES THAT ARE RELATED TO THE TRANSPORTATION OF FUEL WITHIN THE STATE, MODIFYING THE FEE COLLECTED FOR THE DISTRIBUTION TO THE PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES CASH FUND, MODIFYING THE PETROLEUM STORAGE TANK FUND, ALLOWING THE COLORADO STATE PATROL TO CONFORM HAZARD MATERIALS ROUTING REGULATIONS TO TRANSPORTATION COMMISSION RULES, AND MAKING AN APPROPRIATION.

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

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

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

(f) (II) This ~~paragraph (f)~~ SUBSECTION (3)(f) is repealed, effective ~~September 1, 2023~~ SEPTEMBER 1, 2033.

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

(9) (a) There is hereby created in the state treasury the petroleum cleanup and

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

redevelopment fund, which is referred to in this subsection (9) as the redevelopment fund. The redevelopment fund's sources of revenue are:

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

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

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

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

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

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

8-20-206.5. Environmental response surcharge - liquefied petroleum gas and natural gas inspection fund - perfluoroalkyl and polyfluoroalkyl substances cash fund - hazardous materials infrastructure cash fund - fuels impact reduction grant program - definitions. (1) (c) Notwithstanding ~~paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION, on and after ~~September 1, 2023~~, SEPTEMBER 1, 2033, if the available fund balance in the petroleum storage tank fund is greater than eight million dollars, no surcharge shall be imposed, but if the available fund balance in the fund is less than eight million dollars, the fee imposed by ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION is twenty-five dollars per tank truckload.

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

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

(d) On and after October 1, 2021, but before ~~October 1, 2026~~ OCTOBER 1, 2023,

the executive director of the department of revenue shall transmit any fee collected in accordance with this subsection (6) to the state treasurer, who shall credit:

(d.5) ON AND AFTER OCTOBER 1, 2023, BUT BEFORE OCTOBER 1, 2031, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL TRANSMIT ANY FEE COLLECTED IN ACCORDANCE WITH THIS SUBSECTION (6) TO THE STATE TREASURER, WHO SHALL CREDIT:

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

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

(III) THIRD, OF THE AMOUNT REMAINING:

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

(B) THIRTY PERCENT 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 THE MOVEMENT OF FREIGHT AND HAZARDOUS MATERIALS SUCH AS THE INSTALLATION OF FOAM SUPPRESSION SYSTEMS IN THE EISENHOWER-JOHNSON TUNNELS, THE MITIGATION OF HAZARDS IN GLENWOOD CANYON, AND OTHER USES NECESSARY TO SECURE THE SAFE TRANSPORT OF FUELS THROUGH THE I-70 MOUNTAIN CORRIDOR.

(e) (I) BEFORE OCTOBER 1, 2023, notwithstanding subsection (6)(b) of this section, if the available fund balance in the perfluoroalkyl and polyfluoroalkyl substances cash fund is greater than eight million dollars, the executive director of the department of revenue shall not collect the fee described in subsection (6)(b) of this section, but if the available balance in the fund is less than eight million dollars within a fiscal year, the executive director of the department of revenue shall impose a fee in accordance with subsection (6)(b) of this section.

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

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

(8) (a) IN ADDITION TO THE PAYMENTS COLLECTED UNDER SUBSECTIONS (1)(a) AND (6) OF THIS SECTION, BEGINNING SEPTEMBER 1, 2023, THE FUELS IMPACT ENTERPRISE CREATED IN SECTION 43-4-1503 SHALL IMPOSE A FUELS IMPACT REDUCTION FEE, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL COLLECT THE FEE ON BEHALF OF THE FUELS IMPACT ENTERPRISE, AND THE STATE TREASURER SHALL CREDIT AN AMOUNT OF THE FEE REVENUE TO THE DEPARTMENT OF REVENUE TO COVER THE COSTS OF COLLECTING THE FEE.

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

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

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

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

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

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

8-20.5-303. Financial responsibility for aboveground storage tanks.

(1) (f) THE DIRECTOR OF THE DIVISION OF OIL AND PUBLIC SAFETY, IN CONSULTATION WITH THE PETROLEUM STORAGE TANK COMMITTEE ESTABLISHED

PURSUANT TO SECTION 8-20.5-104, MAY ESTABLISH RULES THAT ALLOW THE PAYMENT OF REMEDIATION EXPENSES FOR CERTAIN OWNERS AND OPERATORS OF ABOVEGROUND STORAGE TANKS FROM THE PETROLEUM STORAGE TANK FUND TO BE BASED ON A PERCENTAGE THAT IS LESS THAN ONE HUNDRED PERCENT OF THE REMEDIATION AMOUNT.

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

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

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

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

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

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

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

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

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

(b) In addition to subsection (12)(a) of this section, in order for a covered

individual to be eligible for the benefits in this section, the following conditions must be met:

(I.5) THE HAZARDOUS MATERIALS TROOPER:

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

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

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

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

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

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

PART 15
FUELS IMPACT ENTERPRISE

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

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

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

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

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

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

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

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

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

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

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

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

(d) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE REVENUE FROM THE FUELS IMPACT REDUCTION FEE IS NOT STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DOES NOT COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(G).

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

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

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

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

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

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

43-4-1503. Fuels impact enterprise - creation - powers and duties.

(1) (a) THE FUELS IMPACT ENTERPRISE IS CREATED IN THE DEPARTMENT. THE ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED BUSINESS WITHIN THE DEPARTMENT IN ORDER TO EXECUTE ITS BUSINESS PURPOSES AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION BY EXERCISING THE POWERS AND PERFORMING THE DUTIES AND FUNCTIONS SET FORTH IN THIS SECTION.

(b) THE ENTERPRISE IS A **TYPE 2** ENTITY, AS DEFINED IN SECTION 24-1-105, AND EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND FUNCTIONS UNDER THE DEPARTMENT. THE GOVERNING BOARD OF THE ENTERPRISE IS MADE UP OF THE TRANSPORTATION COMMISSION CREATED IN SECTION 43-1-106 (1).

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

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

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

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

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

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

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

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

43-4-1504. Fuels impact enterprise cash fund - definition. (1) (a) (I) THE FUELS IMPACT ENTERPRISE CASH FUND IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF FUELS IMPACT REDUCTION FEE REVENUE CREDITED TO THE FUND

PURSUANT TO SECTION 43-4-1505 (1), ANY MONEY THAT THE GENERAL ASSEMBLY MAY TRANSFER OR APPROPRIATE TO THE FUND FOR THE IMPLEMENTATION OF THE GRANT PROGRAM, AND ANY FEDERAL MONEY OR GIFTS, GRANTS, OR DONATIONS RECEIVED. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

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

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

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

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

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

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

43-4-1505. Fuels impact reduction fee. (1) (a) IN FURTHERANCE OF ITS BUSINESS PURPOSE, BEGINNING SEPTEMBER 1, 2023, THE ENTERPRISE SHALL IMPOSE

A FUELS IMPACT REDUCTION FEE PER GALLON TO BE PAID BY A LICENSED FUEL EXCISE TAX DISTRIBUTOR WITHIN COLORADO AND A LICENSED FUEL DISTRIBUTOR WHO SHIPS PRODUCTS FROM OUTSIDE OF COLORADO TO A POINT WITHIN COLORADO. FOR THE PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR DISTRIBUTORS AND ADMINISTRATIVE COSTS FOR THE STATE, THE DEPARTMENT OF REVENUE SHALL COLLECT THE FUELS IMPACT REDUCTION FEE ON BEHALF OF THE ENTERPRISE, AND A FUEL DISTRIBUTOR SHALL PAY THE FEE TO THE DEPARTMENT OF REVENUE AS REQUIRED BY SECTION 8-20-206.5 (8)(a).

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

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

43-4-1506. Fuels impact reduction grant program. (1) THERE IS HEREBY CREATED THE FUELS IMPACT REDUCTION GRANT PROGRAM TO PROVIDE GRANTS TO CERTAIN CRITICALLY IMPACTED COMMUNITIES, GOVERNMENTS, AND TRANSPORTATION CORRIDORS FOR THE IMPROVEMENT OF HAZARDOUS MITIGATION CORRIDORS AND TO SUPPORT LOCAL AND STATE GOVERNMENT PROJECTS RELATED TO EMERGENCY RESPONSES, ENVIRONMENTAL MITIGATION, OR PROJECTS RELATED TO THE TRANSPORTATION OF FUEL WITHIN THE STATE.

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

- (I) SIX MILLION FOUR HUNDRED THOUSAND DOLLARS TO ADAMS COUNTY;
- (II) TWO MILLION DOLLARS TO THE CITY OF AURORA;
- (III) ONE MILLION THREE HUNDRED THOUSAND DOLLARS TO EL PASO COUNTY;
- (IV) TWO HUNDRED FORTY THOUSAND DOLLARS TO MESA COUNTY; AND
- (V) SIXTY THOUSAND DOLLARS TO OTERO COUNTY.

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

(c) IF A POLITICAL SUBDIVISION IS UNABLE TO ACCEPT THE ANNUAL DISTRIBUTION MADE PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, THE ENTERPRISE SHALL DISTRIBUTE THE UNACCEPTED AMOUNTS TO THE OTHER POLITICAL SUBDIVISIONS ON A PROPORTIONATE BASIS.

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

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

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

- (a) \$18,272 for personal services related to taxation services; and
- (b) \$18,000 for tax administration IT system (GenTax) support.

SECTION 11. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 6, 2023