

SENATE COMMITTEE OF REFERENCE AMENDMENT
Committee on Finance.

HB21-1266 be amended as follows:

1 Amend reengrossed bill, page 5, after line 5 insert:

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

21 (b) Determines that:
22 (I) Due to historical systems and practices that intentionally
23 targeted Black, Latino, Asian American, and Indigenous people,
24 communities of color, and low-income communities, there continues to
25 be a racial and socioeconomic inequity in regard to the impacts of climate
26 change and pollution. As documented in multiple peer-reviewed scientific
27 studies, communities with predominantly Black, Latino, Asian American,
28 or Indigenous populations suffer from higher rates of air pollution and
29 damage due to changing and more severe weather and have been
30 systematically excluded from governance and decision making. It is
31 therefore the responsibility of the state to include and engage these
32 communities more fully in policymaking at every level and to ensure that
33 environmental policy works toward restorative justice and benefitting
34 these communities. The general assembly recognizes that the key to
35 addressing these historic wrongs is to rapidly reduce pollution in
36 disproportionately impacted communities, including from electric power,
37 industrial, and manufacturing sources.

38 (II) The public should have a meaningful opportunity to
39 participate in rule-making proceedings before the air quality control
40 commission. This requires that members of the public be provided with

1 timely access to information needed to understand proposed rules and to
2 develop alternative proposals;

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

6 (c) Declares that:

7 (I) Nothing in this act:

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

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

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

17 Page 8, line 22, strike "TWENTY-THREE" and substitute "TWENTY-SEVEN".

18 Page 9, line 17, strike "TWELVE" and substitute "SIXTEEN".

19 Page 9, line 22, strike "TWO" and substitute "THREE".

20 Page 15, after line 3 insert:

21 **"SECTION 6.** In Colorado Revised Statutes, 25-7-114.1, **amend**
22 (1), (2), and (3) introductory portion as follows:

23 **25-7-114.1. Air pollutant emission notices - rules.** (1) (a) No
24 person shall permit emission of air pollutants from, or construction or
25 alteration of, any facility, process, or activity except residential structures
26 from which air pollutants are, or are to be, emitted unless and until an air
27 pollutant emission notice has been filed with the division with respect to
28 such emission. THE COMMISSION MAY REQUIRE THAT AIR POLLUTANT
29 EMISSION NOTICES FOR GREENHOUSE GAS, AS DEFINED IN SECTION
30 25-7-140 (6), REPORT THE PREVIOUS CALENDAR YEAR'S EMISSIONS OF
31 GREENHOUSE GAS IN THE FORM OF CARBON DIOXIDE EQUIVALENT. An air
32 pollutant emission notice **shall be** is valid for a period of NO MORE THAN
33 five years.

34 (b) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL
35 21-1266:

36 (I) NOTHING:

37 (A) ALTERS THE GREENHOUSE GAS EMISSION REDUCTION GOALS
38 PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g), IN EITHER AMOUNT

1 OR TIMING; OR

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

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

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

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

35 **SECTION 7.** In Colorado Revised Statutes, 25-7-114.4, **add (5)**
36 as follows:

37 **25-7-114.4. Permit applications - contents - rules - definitions.**
38 **(5) Provisions for permits for sources that affect disproportionately**
39 **impacted communities.** (a) **Rules.** (I) NO LATER THAN JUNE 1, 2023,
40 THE COMMISSION SHALL ADOPT RULES TO IMPLEMENT THE REQUIREMENTS
41 OF THIS SUBSECTION (5).

42 (II) THE COMMISSION MAY SET THRESHOLDS OF AFFECTED
43 POLLUTANTS BELOW WHICH THE REQUIREMENTS OF THIS SECTION DO NOT

1 APPLY.

2 (III) IN ADOPTING RULES TO IMPLEMENT THIS SUBSECTION (5), THE
3 COMMISSION SHALL IDENTIFY DISPROPORTIONATELY IMPACTED
4 COMMUNITIES.

5 (IV) THE COMMISSION SHALL PERIODICALLY, BUT NOT LESS OFTEN
6 THAN EVERY THREE YEARS, REVISIT ITS IDENTIFICATION OF
7 DISPROPORTIONATELY IMPACTED COMMUNITIES AND DETERMINATIONS OF
8 AFFECTED POLLUTANTS.

9 (b) **Applicability and requirements.** (I) THE REQUIREMENTS OF
10 THIS SUBSECTION (5)(b) APPLY TO PERMITS FOR SOURCES OF AFFECTED
11 POLLUTANTS IN DISPROPORTIONATELY IMPACTED COMMUNITIES.

12 (II) (A) THE COMMISSION'S RULES MUST PROVIDE FOR ENHANCED
13 MODELING AND MONITORING REQUIREMENTS FOR NEW AND MODIFIED
14 SOURCES OF AFFECTED POLLUTANTS IN DISPROPORTIONATELY IMPACTED
15 COMMUNITIES THAT ARE IDENTIFIED OR APPROVED AT THE TIME OF PERMIT
16 APPLICATION. IN ADOPTING THE RULES, THE COMMISSION SHALL ALSO
17 CONSIDER REQUIRING ENHANCED MONITORING FOR EXISTING SOURCES OF
18 AFFECTED POLLUTANTS.

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

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

30 (d) **Definitions.** AS USED IN THIS SUBSECTION (5), UNLESS THE
31 CONTEXT OTHERWISE REQUIRES:

32 (I) "AFFECTED POLLUTANTS" MEANS THOSE AIR POLLUTANTS AS
33 DETERMINED BY THE COMMISSION WITH THE POTENTIAL TO CAUSE OR
34 CONTRIBUTE TO SIGNIFICANT HEALTH OR ENVIRONMENTAL IMPACTS. THE
35 TERM INCLUDES:

36 (A) VOLATILE ORGANIC COMPOUNDS;

37 (B) OXIDES OF NITROGEN;

38 (C) HAZARDOUS AIR POLLUTANTS AS IDENTIFIED BY THE
39 COMMISSION, INCLUDING BENZENE, TOLUENE, ETHYLBENZENE AND
40 XYLENE; AND

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

43 (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
28 (12.5)(b); and **add** (12.5)(a)(I)(E) as follows:

29 **25-7-114.5. Application review - public participation.**
30 (12.5)(a)(I) Except for sources involved in agricultural, horticultural, or
31 floricultural production such as farming, seasonal crop drying, animal
32 feeding, or pesticide application, upon determination by the division that
33 the criteria set forth in ~~paragraph (b) of this subsection~~ (12.5) SUBSECTION
34 (12.5)(b) OF THIS SECTION applies to a source that is not required to obtain
35 a renewable operating permit, the division may reopen such construction
36 permit for the purpose of imposing any or all of the following additional
37 terms and conditions:

38 (C) Operating and maintenance requirements; **and**
39 (D) Emission control requirements pursuant to section 25-7-109.3;
40 AND

41 (E) ADDITIONAL MONITORING REQUIREMENTS FOR SOURCES
42 AFFECTING DISPROPORTIONATELY IMPACTED COMMUNITIES.

43 (b) With the exception of those sources involved in agricultural,

1 horticultural, or floricultural production such as farming, seasonal crop
2 drying, animal feeding, and pesticide application, a source's construction
3 permit may be reopened for cause for the purposes of paragraph (a) of
4 this subsection (12.5) SUBSECTION (12.5)(a) OF THIS SECTION only upon
5 a determination by the division that the location of the source is
6 significant in terms of its proximity to residential or business areas OR A
7 DISPROPORTIONATELY IMPACTED COMMUNITY, and one or more of the
8 following criteria apply to the permitted source:

9 (I) The control equipment utilized by the source requires an
10 unusually high degree of maintenance or operational sensitivity when
11 compared to control equipment in general; **or**

12 (II) The design characteristics of the source require an unusually
13 high degree of maintenance or operational sensitivity when compared to
14 the design characteristics of all sources in general; **or**

15 (III) The application of the control equipment utilized is unique
16 or untested; **or**

17 (IV) The operational variability of the source may impact the
18 effectiveness of the controls; **or**

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

21 (VI) THE EMISSIONS FROM THE SOURCE WILL AFFECT A
22 DISPROPORTIONATELY IMPACTED COMMUNITY AS DEFINED IN SECTION
23 25-7-114.4 (5)(d)(III).

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

28 **25-7-114.7. Emission fees - fund - rules - definition - repeal.**

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

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

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

34 (2) (a) (I) EXCEPT AS SPECIFIED IN SUBSECTION (2)(a)(VII) OF THIS
35 SECTION, the commission shall designate by rule those classes of sources
36 of air pollution that are exempt from the requirement to pay an annual
37 emission fee. Every owner or operator of an air pollution source not
38 otherwise exempt in accordance with such commission rules shall pay an
39 annual fee as follows:

40 (VII) THE COMMISSION SHALL ESTABLISH, BY RULE, A FEE PER TON
41 OF GREENHOUSE GAS, IN THE FORM OF CARBON DIOXIDE EQUIVALENT,
42 THAT WAS REPORTED IN THE MOST RECENT AIR POLLUTANT EMISSION
43 NOTICE ON FILE WITH THE DIVISION IN AN AMOUNT THAT IS SUFFICIENT TO

1 COVER THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND
2 ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7
3 THAT PERTAIN TO EMISSIONS OF GREENHOUSE GAS. THE COMMISSION MAY
4 SET THRESHOLDS OF REPORTED GREENHOUSE GAS BELOW WHICH NO SUCH
5 FEE SHALL BE ASSESSED. NO MORE FREQUENTLY THAN ANNUALLY, THE
6 COMMISSION MAY ADJUST THE FEE FOR GREENHOUSE GAS BY RULE TO
7 COVER THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND
8 ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7
9 THAT PERTAIN TO EMISSIONS OF GREENHOUSE GAS.

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

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

18 (I) ENABLING OUTREACH TO AND ENGAGEMENT OF
19 DISPROPORTIONATELY IMPACTED COMMUNITIES; AND

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

22 (h) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL
23 21-1266:

24 (I) NOTHING:

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

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

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

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

38 **25-7-115. Enforcement.** (3) (b) If, after any such conference, a
39 violation or noncompliance is determined to have occurred, the division
40 shall issue an order requiring the owner or operator or any other
41 responsible person to comply, unless the owner or operator demonstrates
42 that ~~such~~ THE violation occurred during a period of start-up, shutdown, or
43 malfunction and timely notice was given to the division of ~~such~~ THE

1 condition. Such THE order may include termination, modification, or
2 revocation and reissuance of the subject permit, ~~and~~ the assessment of
3 civil penalties in accordance with section 25-7-122, ~~Such~~ AND, IN
4 ADDITION TO CIVIL PENALTIES, A REQUIREMENT TO PERFORM ONE OR MORE
5 PROJECTS TO MITIGATE VIOLATIONS RELATED TO EXCESS EMISSIONS. THE
6 order may also require the calculation of a noncompliance penalty under
7 subsection (5) of this section. Unless enforcement of its order has been
8 stayed as provided in ~~paragraph (b) of subsection (4)~~ SUBSECTION (4)(b)
9 of this section, the division may seek enforcement, pursuant to section
10 25-7-121 or 25-7-122, of the applicable ~~regulation~~ RULE of the
11 commission, order issued pursuant to section 25-7-121 or 25-7-122 ~~or~~ OR
12 the applicable ~~regulation~~ RULE of the commission, order issued pursuant
13 to section 25-7-118, requirement of the state implementation plan,
14 provision of this ~~article~~ ARTICLE 7, or terms or conditions of a permit
15 required pursuant to this ~~article~~ ARTICLE 7 in the district court for the
16 district where the affected air pollution source is located. The court shall
17 issue an appropriate order, which may include a schedule for compliance
18 by the owner or operator of the source.

19 **SECTION 11.** In Colorado Revised Statutes, **add** 25-1-132 as
20 follows:

21 **25-1-132. Environmental justice - ombudsperson - advisory
22 board - grant program - definitions - repeal.** (1) **Environmental
23 justice ombudsperson.** (a) THERE IS HEREBY CREATED IN THE
24 DEPARTMENT THE POSITION OF AN ENVIRONMENTAL JUSTICE
25 OMBUDSPERSON. THE OMBUDSPERSON REPORTS TO THE EXECUTIVE
26 DIRECTOR OF THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE
27 ADMINISTRATIVE SUPPORT FOR THE OMBUDSPERSON. THE OMBUDSPERSON
28 OTHERWISE FUNCTIONS INDEPENDENTLY IN EXERCISING ITS POWERS.

29 (b) THE GOVERNOR SHALL APPOINT THE OMBUDSPERSON AS SOON
30 AS PRACTICABLE BUT NO LATER THAN FEBRUARY 1, 2022, AND AS
31 NECESSARY THEREAFTER TO FILL A VACANCY. PRIOR TO AN APPOINTMENT,
32 THE GOVERNOR OR THE GOVERNOR'S DESIGNEE SHALL CONSULT WITH, AND
33 MAY RECEIVE RECOMMENDATIONS FROM, THE ADVISORY BOARD, THE
34 GENERAL ASSEMBLY, REPRESENTATIVES OF DISPROPORTIONATELY
35 IMPACTED COMMUNITIES, AND OTHER RELEVANT STAKEHOLDERS
36 REGARDING THE SELECTION OF THE OMBUDSPERSON.

37 (c) THE OMBUDSPERSON MUST BE QUALIFIED BY TRAINING OR
38 EXPERIENCE IN ENVIRONMENTAL JUSTICE, AND SHOULD HAVE BEEN A
39 RESIDENT OF ONE OR MORE DISPROPORTIONATELY IMPACTED
40 COMMUNITIES OR HAVE WORKED TO ADVANCE ENVIRONMENTAL JUSTICE
41 WITHIN DISPROPORTIONATELY IMPACTED COMMUNITIES.

42 (d) THE OMBUDSPERSON SHALL:

43 (I) COLLABORATE WITH THE ADVISORY BOARD ESTABLISHED IN

1 SUBSECTION (2) OF THIS SECTION, FOR THE PURPOSE OF PROMOTING
2 ENVIRONMENTAL JUSTICE FOR THE PEOPLE OF COLORADO;

3 (II) SERVE AS AN ADVOCATE FOR DISPROPORTIONATELY IMPACTED
4 COMMUNITIES AND AS A LIAISON BETWEEN DISPROPORTIONATELY
5 IMPACTED COMMUNITIES AND THE DEPARTMENT, INCLUDING WITH
6 RESPECT TO COMMUNICATIONS REGARDING THE GRANT PROGRAM TO FUND
7 ENVIRONMENTAL MITIGATION PROJECTS;

8 (III) WORK TO IMPROVE THE RELATIONSHIPS AND INTERACTIONS
9 BETWEEN DISPROPORTIONATELY IMPACTED COMMUNITIES AND THE
10 DEPARTMENT;

11 (IV) INCREASE THE FLOW OF INFORMATION BETWEEN THE
12 DEPARTMENT AND DISPROPORTIONATELY IMPACTED COMMUNITIES
13 CONCERNING THE ENVIRONMENT AND DEPARTMENTAL PROGRAMS USING
14 METHODS OF OUTREACH THAT INCLUDE, AT A MINIMUM:

15 (A) DISSEMINATING INFORMATION THROUGH LOCAL SCHOOLS,
16 SOCIAL MEDIA, LOCAL SOCIAL AND ACTIVITY CLUBS, LIBRARIES, OR OTHER
17 LOCAL SERVICES; AND

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

22 (V) IDENTIFY WAYS TO ENABLE MEANINGFUL PARTICIPATION BY
23 DISPROPORTIONATELY IMPACTED COMMUNITIES IN THE DECISION-MAKING
24 PROCESSES OF THE DEPARTMENT;

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

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

30 (VIII) ESTABLISH PROCEDURES TO ADDRESS COMPLAINTS
31 PERTAINING TO ENVIRONMENTAL JUSTICE TO THE EXTENT PRACTICABLE;

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

36 (X) SERVE IN AN ADVISORY CAPACITY, AS REQUESTED, TO OTHER
37 STATE AGENCIES CONDUCTING OUTREACH TO AND ENGAGEMENT OF
38 DISPROPORTIONATELY IMPACTED COMMUNITIES IN LIGHT OF A PROPOSED
39 AGENCY ACTION.

40 (2) **Environmental justice advisory board.** (a) THERE IS
41 HEREBY CREATED IN THE DEPARTMENT THE ENVIRONMENTAL JUSTICE
42 ADVISORY BOARD.

43 (b) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2), THE

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

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

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

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

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

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

28 (d) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(d)(II) OF THIS
29 SECTION, EACH MEMBER'S TERM OF APPOINTMENT IS FOUR YEARS. VOTING
30 MEMBERS MAY SERVE NO MORE THAN TWO TERMS. THE GOVERNOR SHALL
31 FILL ANY VACANCIES ON THE ADVISORY BOARD, INCLUDING FOR THE
32 REMAINDER OF ANY UNEXPIRED TERM. A MEMBER APPOINTED TO FILL A
33 VACANCY MAY SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE
34 MEMBER WHOSE VACANCY IS BEING FILLED, AND THIS REMAINDER COUNTS
35 AS ONE TERM FOR THAT APPOINTEE.

36 (II) IN ORDER TO ENSURE STAGGERED TERMS OF OFFICE, THE
37 INITIAL TERM OF TWO MEMBERS APPOINTED BY THE GOVERNOR PURSUANT
38 TO SUBSECTION (2)(c)(I) OF THIS SECTION, AS SPECIFIED BY THE
39 GOVERNOR, AND TWO MEMBERS APPOINTED PURSUANT TO SUBSECTION
40 (2)(c)(IV) OF THIS SECTION AS SPECIFIED BY THE EXECUTIVE DIRECTOR OF
41 THE DEPARTMENT IS TWO YEARS.

42 (e) (I) EACH VOTING MEMBER OF THE ADVISORY BOARD APPOINTED
43 PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION IS ENTITLED TO RECEIVE

1 A PER DIEM OF TWO HUNDRED DOLLARS FOR ATTENDANCE AT REGULARLY
2 SCHEDULED MEETINGS OF THE BOARD DURING THE 2021-22 STATE FISCAL
3 YEAR. FOR EACH STATE FISCAL YEAR THEREAFTER, THE PER DIEM AMOUNT
4 SHALL BE ANNUALLY ADJUSTED FOR INFLATION BASED ON THE
5 PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S
6 BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR
7 DENVER-AURORA-LAKewood FOR ALL ITEMS PAID BY ALL URBAN
8 CONSUMERS, OR ITS APPLICABLE SUCCESSOR INDEX. VOTING MEMBERS OF
9 THE BOARD ARE ALSO ENTITLED TO RECEIVE REIMBURSEMENT FOR ACTUAL
10 AND NECESSARY EXPENSES INCURRED WHILE PERFORMING OFFICIAL
11 DUTIES.

12 (II) THE NONVOTING MEMBER OF THE ADVISORY BOARD MAY NOT
13 RECEIVE A PER DIEM, BUT MAY BE REIMBURSED FOR ACTUAL AND
14 NECESSARY EXPENSES INCURRED WHILE PERFORMING OFFICIAL DUTIES.

15 (f) THE ADVISORY BOARD SHALL ELECT A CHAIR FROM AMONG ITS
16 MEMBERS EVERY YEAR. THE ADVISORY BOARD SHALL MEET AT LEAST
17 ONCE EVERY QUARTER. THE CHAIR MAY SCHEDULE ALL SUCH ADDITIONAL
18 MEETINGS AS ARE NECESSARY FOR THE ADVISORY BOARD TO COMPLETE
19 ITS DUTIES.

20 (g) THE ADVISORY BOARD SHALL:

21 (I) SERVE IN AN ADVISORY CAPACITY TO THE OMBUDSPERSON IN
22 THE PERFORMANCE OF THE DUTIES OF THE OMBUDSPERSON;

23 (II) HOLD A PORTION OF ADVISORY BOARD MEETINGS FOR THE
24 OMBUDSPERSON TO JOINTLY RECEIVE STAKEHOLDER INPUT INTO THE
25 ACTIVITIES AND PRIORITIES OF THE OMBUDSPERSON;

26 (III) DEVELOP A PUBLIC COMPLAINT PROCESS RELATED TO THE
27 PERFORMANCE OF THE OMBUDSPERSON;

28 (IV) DEVELOP RECOMMENDATIONS TO ADDRESS ANY OTHER
29 MATTERS RELATING TO ADVERSE ENVIRONMENTAL EFFECTS ON
30 DISPROPORTIONATELY IMPACTED COMMUNITIES AS REFERRED TO THE
31 ADVISORY BOARD BY THE GOVERNOR OR THE EXECUTIVE DIRECTOR OF THE
32 DEPARTMENT;

33 (V) DEVELOP POLICIES AS ARE NECESSARY FOR THE CONDUCT OF
34 ITS AFFAIRS AND ITS MEETINGS, AND POST ALL POLICIES ON ITS WEBSITE,
35 INCLUDING A CONFLICT OF INTEREST POLICY FOR ITS MEMBERS, WHICH
36 MUST REQUIRE THE DISCLOSURE OF ANY POTENTIAL FINANCIAL INTEREST
37 OF ANY MEMBER OR RELATIVE OF ANY MEMBER IN A PROPOSED
38 ENVIRONMENTAL MITIGATION PROJECT. A BOARD MEMBER WHO HAS A
39 PERSONAL OR FINANCIAL INTEREST IN AN ENVIRONMENTAL MITIGATION
40 PROJECT UNDER CONSIDERATION SHALL RECUSE THE BOARD MEMBER
41 FROM ANY VOTE ON THAT PROJECT.

42 (VI) ADVISE THE DEPARTMENT ON MATTERS TO ENABLE THE
43 DEPARTMENT TO INTERACT WITH DISPROPORTIONATELY IMPACTED

1 COMMUNITIES IN THE BEST MANNER POSSIBLE;

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

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

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

23 (C) THE ADVISORY BOARD SHALL COMPILE AN ANNUAL REPORT
24 THAT DETAILS INFORMATION ABOUT THE ENVIRONMENTAL MITIGATION
25 PROJECTS THAT ARE AWARDED GRANTS, INCLUDING: DETAILS ABOUT THE
26 DISPROPORTIONATELY IMPACTED COMMUNITY IN WHICH THE PROJECT WILL
27 TAKE PLACE, INCLUDING INFORMATION ABOUT POLLUTION LEVELS,
28 HEALTH DISPARITIES, AND DEMOGRAPHICS; THE RELATIONSHIP BETWEEN
29 THE COMMUNITY, THE PROJECT, AND ANY VIOLATIONS THAT GAVE RISE TO
30 PENALTIES PAID INTO THE COMMUNITY IMPACT CASH FUND CREATED IN
31 SECTION 25-7-129; THE STATUS OF THE PROJECT, THE ENGAGEMENT
32 BETWEEN THE PROJECT AND THE COMMUNITY, AND THE REACTION OF THE
33 DISPROPORTIONATELY IMPACTED COMMUNITY TO THE PROJECT; AND
34 OTHER DETAILS AS THE ADVISORY BOARD DEEMS APPROPRIATE. THE
35 ANNUAL REPORT SHALL BE MADE PUBLICLY ACCESSIBLE, INCLUDING ON
36 THE ADVISORY BOARD'S WEBSITE.

37 (h) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1,
38 2027. BEFORE THE REPEAL, THE ADVISORY BOARD AND ITS FUNCTIONS ARE
39 SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

40 (3) **Records and meetings.** THE ADVISORY BOARD AND THE
41 OMBUDSPERSON ARE SUBJECT TO ALL THE APPLICABLE REQUIREMENTS OF
42 THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE
43 24, AND THE OPEN MEETINGS LAW CONTAINED IN PART 4 OF ARTICLE 6 OF

1 TITLE 24.

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

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

6 (b) "ENVIRONMENTAL MITIGATION PROJECT" MEANS ANY PROJECT
7 THAT AVOIDS, MINIMIZES, MEASURES, OR MITIGATES ADVERSE
8 ENVIRONMENTAL IMPACTS IN A DISPROPORTIONATELY IMPACTED
9 COMMUNITY, INCLUDING, WITHOUT LIMITATION, HEALTH EFFECTS, HEALTH
10 DISPARITIES, AND OTHER ENVIRONMENTAL IMPACTS OR THAT PROMOTES
11 EQUITABLE PARTICIPATION IN A RULE-MAKING PROCEEDING THAT MAY
12 AFFECT A DISPROPORTIONATELY IMPACTED COMMUNITY.

13 (c) "OMBUDSPERSON" MEANS THE ENVIRONMENTAL JUSTICE
14 OMBUDSPERSON APPOINTED PURSUANT TO SUBSECTION (1) OF THIS
15 SECTION.

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

18 **25-7-129. Disposition of fines - community impact cash fund**

19 **- repeal.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
20 COMMUNITY IMPACT CASH FUND, REFERRED TO IN THIS SECTION AS THE
21 "Fund". THE FUND CONSISTS OF MONEY CREDITED TO THE FUND PURSUANT
22 TO SUBSECTION (2) OF THIS SECTION, AND ANY OTHER MONEY THAT THE
23 GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE
24 STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED
25 FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE
26 FUND. ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE
27 FUND AT THE END OF ANY FISCAL YEAR REMAINS IN THE FUND.

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

31 (I) FOR STATE FISCAL YEAR 2021-22, TWENTY PERCENT OF THE
32 RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR
33 SHALL BE CREDITED TO THE FUND, AND EIGHTY PERCENT TO THE GENERAL
34 FUND;

35 (II) FOR STATE FISCAL YEAR 2022-23, FORTY PERCENT OF THE
36 RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR
37 SHALL BE CREDITED TO THE FUND, AND SIXTY PERCENT TO THE GENERAL
38 FUND;

39 (III) FOR STATE FISCAL YEAR 2023-24, SIXTY PERCENT OF THE
40 RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR
41 SHALL BE CREDITED TO THE FUND, AND FORTY PERCENT TO THE GENERAL
42 FUND;

43 (IV) FOR STATE FISCAL YEAR 2024-25, EIGHTY PERCENT OF THE

1 RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR
2 SHALL BE CREDITED TO THE FUND, AND TWENTY PERCENT TO THE GENERAL
3 FUND; AND

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

8 (b) THIS SUBSECTION (2)(b) AND SUBSECTIONS (2)(a)(I), (2)(a)(II),
9 (2)(a)(III), AND (2)(a)(IV) OF THIS SECTION ARE REPEALED, EFFECTIVE
10 SEPTEMBER 1, 2027.

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

15 (b) MONEY IN THE FUND MAY ALSO PAY FOR THE DIRECT AND
16 INDIRECT COSTS OF THE ENVIRONMENTAL JUSTICE ADVISORY BOARD
17 CREATED IN SECTION 25-1-132(2), INCLUDING PER DIEM AND EXPENSES OF
18 THE ADVISORY BOARD, AND THE DEPARTMENT'S COSTS FOR
19 ADMINISTERING THE GRANT PROGRAM CREATED IN SECTION 25-1-132
20 (2)(g)(VII).

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

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

25 (e) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
26 DEPARTMENT TO ACCOMPLISH THE PURPOSES SET FORTH IN THIS
27 SUBSECTION (3).

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

33 **25-7-105. Duties of commission - rules - legislative declaration**
34 **- definitions.** (1) Except as provided in sections 25-7-130 and 25-7-131,
35 the commission shall promulgate such rules ~~and regulations~~ as are
36 consistent with the legislative declaration set forth in section 25-7-102
37 and necessary for the proper implementation and administration of this
38 article 7, including, but not limited to:

39 (d.5) ADDITIONAL PERMITTING REQUIREMENTS FOR SOURCES THAT
40 AFFECT DISPROPORTIONATELY IMPACTED COMMUNITIES AS DEFINED IN
41 SECTION 25-7-114.4 (5)(d)(III) IN CONFORMITY WITH SECTION 25-7-114.4
42 (5).

43 (e) (I) Statewide greenhouse gas pollution abatement. AS THE

1 COMMISSION ADOPTS RULES PURSUANT TO THIS SUBSECTION (1)(e), IT
2 SHALL PURSUE NEAR-TERM REDUCTIONS IN GREENHOUSE GAS EMISSIONS
3 AS PART OF THE EFFORT TO REDUCE TOTAL CUMULATIVE EMISSIONS OVER
4 TIME.

5 (VII) Notwithstanding section 24-1-136 (11)(a)(I), the division,
6 at the direction of the commission, shall report to the general assembly
7 every odd-numbered year after May 30, 2019, regarding: Progress toward
8 the goals set forth in section 25-7-102 (2)(g); any newly available, final
9 cost-benefit or regulatory analysis, developed under section 24-4-103
10 (2.5) or (4.5), for rules adopted to attain the goals; RECOMMENDATIONS
11 ON FUTURE COMMISSION RULES OR POLICIES TO REDUCE GREENHOUSE GAS
12 EMISSIONS SUFFICIENT TO ACHIEVE THE GOALS SET FORTH IN SECTION
13 25-7-102 (2)(g); and any recommendations on future legislative action to
14 address climate change, ~~such as~~ INCLUDING implementation of climate
15 adaptation policies or accelerating deployment of cleaner technologies.
16 THE DIVISION SHALL MAKE ITS PROPOSED REPORT AVAILABLE FOR PUBLIC
17 REVIEW PRIOR TO PRESENTATION TO THE GENERAL ASSEMBLY. BEGINNING
18 WITH THE REPORT IN 2023, IF THE REPORT INDICATES THAT EMISSION
19 REDUCTIONS REQUIRED BY SECTION 25-7-102 (1)(e)(XII) AND (1)(e)(XIII)
20 ARE NOT BEING MET, THE DIVISION SHALL DEVELOP AND PROPOSE
21 ADDITIONAL REQUIREMENTS TO THE COMMISSION, NO LATER THAN SIX
22 MONTHS FROM THE SUBMISSION OF THE REPORT TO THE GENERAL
23 ASSEMBLY, WHICH REQUIREMENTS MUST ADDRESS ANY SHORTFALL
24 BETWEEN THE EMISSION REDUCTIONS ACHIEVED AND THE EMISSION
25 REDUCTIONS NECESSARY TO MEET THE REQUIREMENTS OF SUBSECTIONS
26 (1)(e)(XII) AND (1)(e)(XIII) OF THIS SECTION. IN EVEN-NUMBERED YEARS
27 WHEN A REPORT IS NOT MADE PURSUANT TO THIS SUBSECTION (1)(e)(VII),
28 THE DIVISION SHALL PROVIDE AN UPDATE TO THE COMMISSION ON
29 PROGRESS TOWARD THE EMISSION REDUCTION REQUIREMENTS IN
30 SUBSECTIONS (1)(e)(XII) AND (1)(e)(XIII) OF THIS SECTION BASED ON
31 ANNUAL DATA REPORTED TO THE DIVISION.

32 (VIII) (G) THE COMMISSION IS ENCOURAGED TO PURSUE
33 PROGRAMS AND POLICIES THAT ARE CONSISTENT WITH THIS SUBSECTION
34 (1)(e)(VIII) AND THAT INCENTIVIZE VOLUNTARY ADDITIONAL NEAR-TERM
35 GREENHOUSE GAS REDUCTIONS FROM ELECTRIC UTILITIES WITH THE AIM
36 OF REDUCING GREENHOUSE GAS EMISSIONS FROM ELECTRIC UTILITIES BY
37 AT LEAST FORTY-EIGHT PERCENT BY 2025 AND EIGHTY PERCENT BY 2030,
38 INCLUDING EMISSIONS ASSOCIATED WITH IMPORTED ELECTRICITY, AS
39 COMPARED TO A 2005 BASELINE AND ACCELERATING NEAR-TERM
40 REDUCTIONS IN GREENHOUSE GAS EMISSIONS TO INCREASE CUMULATIVE
41 REDUCTIONS FROM ELECTRIC UTILITIES. NOTHING IN THIS SUBSECTION
42 (1)(e)(VIII)(G) LIMITS THE AUTHORITY OF THE PUBLIC UTILITIES
43 COMMISSION.

1 (H) IN VERIFYING CLEAN ENERGY PLANS OR A WHOLESALE
2 GENERATION AND TRANSMISSION COOPERATIVE ELECTRIC RESOURCE PLAN
3 SUBMITTED IN ACCORDANCE WITH SUBSECTION (1)(e)(VIII)(I) OF THIS
4 SECTION, THE DIVISION SHALL PREVENT DOUBLE COUNTING OF EMISSION
5 REDUCTIONS AMONG UTILITIES AND SHALL CONSIDER ELECTRICITY
6 GENERATED BY RENEWABLE ENERGY RESOURCES AS HAVING ZERO
7 GREENHOUSE GAS EMISSIONS ONLY IF: THE ELECTRICITY IS ACCCOMPANIED
8 BY ANY ASSOCIATED RENEWABLE ENERGY CREDIT, AND THE RENEWABLE
9 ENERGY CREDIT IS RETIRED ON BEHALF OF THE UTILITY'S CUSTOMERS IN
10 THE YEAR GENERATED; OR THE ELECTRICITY IS GENERATED BY RETAIL
11 DISTRIBUTED GENERATION, AS DEFINED IN SECTIONS 40-2-124 (1)(a)(VIII)
12 AND 40-2-127 (2)(b)(I)(A) AND (2)(b)(I)(B) AND THE RETAIL CUSTOMER
13 RETAINS THE RENEWABLE ENERGY CREDIT AS PART OF A VOLUNTARY
14 RENEWABLE ENERGY PROGRAM.

15 (I) EACH WHOLESALE GENERATION AND TRANSMISSION ELECTRIC
16 COOPERATIVE SHALL FILE WITH THE PUBLIC UTILITIES COMMISSION AND
17 THE DIVISION AN ELECTRIC RESOURCE PLAN THAT WILL ACHIEVE AT LEAST
18 AN EIGHTY PERCENT REDUCTION OF GREENHOUSE GAS EMISSIONS
19 ASSOCIATED WITH THE COOPERATIVE'S SALES OF ELECTRICITY TO
20 CUSTOMERS WITHIN COLORADO BY 2030, RELATIVE TO 2005 LEVELS.

(J) AN ELECTRIC UTILITY THAT IS NOT A QUALIFYING RETAIL UTILITY AS DEFINED IN SECTION 40-2-125.5 (2)(c)(I) THAT IS REQUIRED TO SUBMIT A CLEAN ENERGY PLAN OR A WHOLESALE GENERATION AND TRANSMISSION COOPERATIVE THAT INTENDS TO FILE A CLEAN ENERGY PLAN PURSUANT TO THIS SUBSECTION (1)(e) SHALL PROVIDE WRITTEN NOTICE TO THE DIVISION OF INTENT TO FILE A CLEAN ENERGY PLAN BY AUGUST 1, 2021. AN INVESTOR-OWNED UTILITY THAT HAS NOT ALREADY FILED A CLEAN ENERGY PLAN AND THAT INDICATES AN INTENT TO FILE A CLEAN ENERGY PLAN SHALL FILE A CLEAN ENERGY PLAN WITH THE PUBLIC UTILITIES COMMISSION WITH ITS NEXT RESOURCE PLAN FILING. THE DIVISION SHALL VERIFY EMISSION REDUCTIONS AS PART OF THE PUBLIC UTILITIES COMMISSION PROCEEDING THAT REVIEWS THE RESOURCE PLAN. A UTILITY THAT IS NOT INVESTOR-OWNED OR A WHOLESALE GENERATION AND TRANSMISSION COOPERATIVE UTILITY THAT PROVIDED WRITTEN NOTICE OF INTENT TO FILE A VOLUNTARY CLEAN ENERGY PLAN SHALL PROVIDE ALL INFORMATION THE DIVISION DEEMS NECESSARY TO EVALUATE AND VERIFY THE EMISSION REDUCTIONS CLAIMED AS PART OF A CLEAN ENERGY PLAN NO LATER THAN DECEMBER 31, 2021. THE DIVISION SHALL, IN CONSULTATION WITH THE PUBLIC UTILITIES COMMISSION, FULLY EVALUATE AND VERIFY THE CLEAN ENERGY PLAN. THE UTILITY MUST SUBMIT THE VERIFIED CLEAN ENERGY PLAN TO THE PUBLIC UTILITIES COMMISSION IN ACCORDANCE WITH SECTION 40-2-125.5 (5)(g)(I) NO LATER THAN JULY 1, 2022.

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

34 (C) CLEAN ENERGY PLAN FILINGS MUST INCLUDE PROJECTED
35 EMISSIONS FOR EACH CALENDAR YEAR THROUGH 2030 TO INFORM THE
36 STATEWIDE GREENHOUSE GAS PLANNING PROCESS. THE DIVISION SHALL
37 EVALUATE THE REPORTED EMISSIONS AND SUPPLEMENTAL INFORMATION
38 IN THE ELECTRIC UTILITY'S ANNUAL GREENHOUSE GAS REPORTING DATA
39 SUBMISSION MADE PURSUANT TO THE COMMISSION'S RULES TO DETERMINE
40 WHETHER AN ELECTRIC UTILITY IS PROGRESSING CONSISTENT WITH THE
41 ANNUAL EMISSIONS PROJECTED BY THE PLAN AND REMAINS ON TRACK TO
42 ACHIEVE THE REDUCTIONS OF THE CLEAN ENERGY PLAN BY 2030. IF THE
43 DIVISION DETERMINES THAT THE ELECTRIC UTILITY IS NOT PROGRESSING

1 AS PLANNED, THE ELECTRIC UTILITY'S ANNUAL GREENHOUSE GAS
2 EMISSIONS EXCEED ANNUAL EMISSIONS PROJECTED AS PART OF AN
3 APPROVED CLEAN ENERGY PLAN FOR TWO CONSECUTIVE YEARS, OR THE
4 ELECTRIC UTILITY'S ANNUAL GREENHOUSE GAS EMISSION REDUCTIONS ARE
5 NOT ON TRACK TO ACHIEVE AT LEAST AN EIGHTY PERCENT REDUCTION
6 BELOW 2005 LEVELS IN GREENHOUSE GAS EMISSIONS BY 2030, THE
7 DIVISION SHALL INCLUDE THIS INFORMATION IN THE NEXT GREENHOUSE
8 GAS PROGRESS BRIEFING TO THE COMMISSION AND THE COMMISSION
9 SHALL, WITHIN NINE MONTHS AFTER RECEIVING THE BRIEFING FROM THE
10 DIVISION, ADOPT RULES THAT REQUIRE AN UPDATED CLEAN ENERGY PLAN
11 TO BE FILED THAT DEMONSTRATES ACHIEVEMENT OF THE 2030 TARGETS
12 AND THE CUMULATIVE EMISSION REDUCTIONS THAT WERE PROJECTED IN
13 THE INITIAL CLEAN ENERGY PLAN. THE UPDATED CLEAN ENERGY PLAN,
14 ONCE VERIFIED BY THE DIVISION, BECOMES THE OPERATIVE PLAN FOR
15 PURPOSES OF SUBSECTION (1)(e)(VIII) OF THIS SECTION REGARDING THE
16 COMMISSION'S REGULATORY REQUIREMENTS.

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

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

36 (B.5) "INDUSTRIAL AND MANUFACTURING SECTOR" MEANS
37 ENERGY COMBUSTION AND ENERGY USE BY INDUSTRY, INCLUDING:
38 COMBUSTION FROM COAL, DIESEL, GASOLINE, HEAT, LIQUIFIED PETROLEUM
39 GAS, NATURAL GAS, REFINERY FEEDSTOCKS, AND RESIDUAL FUEL OIL; AND
40 INDUSTRIAL PROCESSES, INCLUDING CEMENT MANUFACTURE, ELECTRIC
41 TRANSMISSION AND DISTRIBUTION EQUIPMENT, IRON AND STEEL
42 PRODUCTION, LIME MANUFACTURE, LIMESTONE AND DOLOMITE USE,
43 OZONE DEPLETING SUBSTANCES SUBSTITUTES, SEMICONDUCTOR

1 MANUFACTURE, SODA ASH, AND UREA CONSUMPTION. THE TERM DOES NOT
2 INCLUDE OIL AND GAS EXPLORATION, PRODUCTION, PROCESSING,
3 TRANSMISSION, AND STORAGE OPERATIONS OTHER THAN ENERGY
4 COMBUSTION EMISSIONS THAT ARE INCLUDED IN THE INDUSTRIAL AND
5 MANUFACTURING SECTOR.

6 (XII) NO LATER THAN JANUARY 1, 2022, THE COMMISSION SHALL
7 ADOPT, AND THE DIVISION SHALL BEGIN IMPLEMENTING, COMPREHENSIVE
8 RULES THAT WILL REDUCE STATEWIDE GREENHOUSE GAS EMISSIONS FROM
9 OIL AND GAS EXPLORATION, PRODUCTION, PROCESSING, TRANSMISSION,
10 AND STORAGE OPERATIONS IN THE STATE BELOW THE 2005 BASELINE
11 ESTABLISHED FOR OIL AND GAS FUGITIVE EMISSIONS PURSUANT TO
12 SECTION 25-7-140 (2)(a)(II), TAKING INTO ACCOUNT SUBSECTIONS
13 (1)(e)(II) TO (1)(e)(VI) OF THIS SECTION, BY AT LEAST THIRTY-SIX
14 PERCENT BY 2025 AND SIXTY PERCENT BY 2030. THE COMMISSION SHALL
15 DESIGN THE RULES TO PRIORITIZE NEAR-TERM REDUCTIONS IN
16 GREENHOUSE GAS EMISSIONS. THE RULES MUST INCLUDE:

17 (A) PROTECTIONS FOR DISPROPORTIONATELY IMPACTED
18 COMMUNITIES, ACHIEVING REDUCTION OF GREENHOUSE GASES AND
19 CO-POLLUTANTS; AND

20 (B) MORE ROBUST MONITORING, LEAK DETECTION, AND REPAIR
21 REQUIREMENTS, REPORTING, AND RECORD-KEEPING REQUIREMENTS TO
22 ENSURE THAT THE DIVISION CAN ACCURATELY QUANTIFY GREENHOUSE
23 GAS EMISSIONS DURING ALL OPERATING CONDITIONS, INCLUDING
24 EQUIPMENT MALFUNCTIONS; AND

25 (C) ADDITIONAL DIRECT EMISSION REDUCTION CONTROLS.

26 (XIII) IN IMPLEMENTING THIS SUBSECTION (1)(e), THE
27 COMMISSION SHALL ADOPT RULES TO REDUCE STATEWIDE GREENHOUSE
28 GAS EMISSIONS FROM THE INDUSTRIAL AND MANUFACTURING SECTOR IN
29 THE STATE BY AT LEAST TWENTY PERCENT BY 2030 BELOW THE 2005
30 BASELINE ESTABLISHED PURSUANT TO SECTION 25-7-140 (2)(a)(II),
31 TAKING INTO ACCOUNT THE FACTORS SET OUT IN SUBSECTIONS (1)(e)(II)
32 TO (1)(e)(VI) OF THIS SECTION. THE RULES MUST INCLUDE PROTECTIONS
33 FOR DISPROPORTIONATELY IMPACTED COMMUNITIES AND PRIORITIZE
34 EMISSION REDUCTIONS THAT WILL REDUCE EMISSIONS OF CO-POLLUTANTS
35 THAT ADVERSELY AFFECT DISPROPORTIONATELY IMPACTED COMMUNITIES,
36 BE DESIGNED TO ACCELERATE NEAR-TERM REDUCTIONS, AND SECURE
37 MEANINGFUL EMISSION REDUCTIONS FROM THIS SECTOR TO BE REALIZED
38 BEGINNING NO LATER THAN SEPTEMBER 30, 2024. THE RULES MUST:

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

41 (B) REQUIRE A FIVE PERCENT REDUCTION IN THE GREENHOUSE GAS
42 EMISSIONS ASSOCIATED WITH ENERGY-INTENSIVE, TRADE-EXPOSED
43 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
28 DIVISION TO CREATE A COMPREHENSIVE AND CENTRALIZED ACCOUNTING
29 SYSTEM TO TRACK EMISSIONS FROM, AT A MINIMUM, ALL REGULATED
30 SOURCES IN THE STATE COVERED BY OR THAT MAY OTHERWISE
31 PARTICIPATE IN THAT TRADING PROGRAM, WHICH SYSTEM MUST:

32 (A) ENABLE THE DIVISION AND THE PUBLIC TO TRACK EMISSION
33 REDUCTIONS, TRADES, AND OTHER TRANSACTIONS BY SOURCES UTILIZING
34 GHG CREDITS OR OTHERWISE PARTICIPATING IN A TRADING PROGRAM,
35 AND TO TRACK ANY TRANSACTIONS THAT TAKE PLACE CONSISTENT WITH
36 THE REQUIREMENTS SET FORTH IN THIS SUBSECTION (1)(f), INCLUDING ALL
37 RULES PROMULGATED PURSUANT TO THIS SUBSECTION (1)(f);

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

40 (C) IDENTIFY REGULATED SOURCES THAT ADVERSELY AFFECT
41 DISPROPORTIONATELY IMPACTED COMMUNITIES THROUGH THEIR
42 EMISSIONS OF LOCALLY HARMFUL AIR POLLUTANTS.

43 (III) THE COMMISSION MAY ADOPT A TRADING PROGRAM AMONG

1 REGULATED SOURCES AS NECESSARY TO TIMELY IMPLEMENT SUBSECTION
2 (1)(e)(IX) OF THIS SECTION IF THAT PROGRAM:

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

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

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

11 (D) IDENTIFIES REGULATED SOURCES THAT ADVERSELY AFFECT
12 DISPROPORTIONATELY IMPACTED COMMUNITIES THROUGH THEIR
13 EMISSIONS OF LOCALLY HARMFUL AIR POLLUTANTS.

14 (g) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL
15 21-1266:

16 (I) NOTHING:

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

20 (B) DETRACTS FROM THE COMMISSION'S EXISTING AUTHORITY TO
21 REQUIRE MORE THAN THE MINIMUM GREENHOUSE GAS EMISSION
22 REDUCTION GOALS AND DEADLINES PREVIOUSLY ESTABLISHED IN SECTION
23 25-7-102 (2)(g); AND

24 (II) THE CHANGES ADD TO, BUT DO NOT OTHERWISE ALTER, THE
25 COMMISSION'S AUTHORITY AND OBLIGATION TO PROMULGATE AND
26 PUBLISH RULES PURSUANT TO THIS SECTION AND SECTIONS 25-7-102 (2)(g)
27 AND 25-7-140.

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

30 **25-7-109.3. Colorado hazardous air pollutant control and**
31 **reduction program - rules.** (2) EXCEPT AS PROVIDED IN SECTION
32 25-7-114.4 (5), the commission may only promulgate ~~regulations~~ RULES
33 pertaining to hazardous air pollutants as defined in section 25-7-103 (13)
34 in accordance with this section. In order to minimize additional regulatory
35 and compliance costs to the state's economy, any program created by the
36 commission pursuant to this section ~~shall~~ MUST contain a provision ~~which~~
37 THAT exempts those sources or categories of sources ~~which~~ THAT it
38 determines to be of minor significance from the requirements of the
39 program. Consistent with the provisions of section 25-7-105.1, the
40 commission shall authorize synthetic minor sources of hazardous air
41 pollutants by the issuance of construction permits or prohibitory ~~OR~~
42 OTHER rules. ~~or other regulations.~~ Such permits ~~OR~~ rules ~~or regulations~~
43 ~~shall~~ MUST only be as stringent as necessary to establish synthetic minor

1 status. The commission shall expeditiously implement this subsection (2)
2 to assure that all sources may be able to timely qualify as a synthetic
3 minor source, thereby avoiding the costs of the operating permit program.

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

6 **25-7-110.5. Required analysis of proposed air quality rules.**

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

12 (f) FOR A RULE THAT IMPLEMENTS SECTION 25-7-105 (1)(e) THAT
13 MAY MATERIALLY AFFECT GREENHOUSE GAS EMISSIONS, THE ECONOMIC
14 IMPACT ANALYSIS REQUIRED BY THIS SUBSECTION (4) MUST INCLUDE AN
15 ANALYSIS OF THE SOCIAL COST OF GREENHOUSE GASES RELATED TO THE
16 ESTIMATED EMISSION REDUCTIONS FROM THE PROPOSED RULE. THE
17 ANALYSIS MUST USE THE MOST RECENT ASSESSMENT OF THE SOCIAL COST
18 FOR THOSE GREENHOUSE GASES FOR WHICH THE FEDERAL GOVERNMENT
19 HAS DETERMINED THE COST, AND THE CONSIDERATION OF THE SOCIAL
20 COST OF GREENHOUSE GASES MUST BE CONSISTENT WITH EXISTING LAW
21 AND INCLUDE USE OF A DISCOUNT RATE OF NO MORE THAN TWO AND
22 ONE-HALF PERCENT; EXCEPT THAT THE SOCIAL COST OF GREENHOUSE
23 GASES THAT IS USED MAY NOT BE LOWER THAN THAT ESTABLISHED IN
24 2016, USING A TWO AND ONE-HALF PERCENT DISCOUNT RATE, BY THE
25 FEDERAL INTERAGENCY WORKING GROUP ON THE SOCIAL COST OF CARBON
26 OR THAN THE FINAL SOCIAL COST OF GREENHOUSE GASES, USING A TWO
27 AND ONE-HALF PERCENT OR LOWER EFFECTIVE DISCOUNT RATE,
28 ESTABLISHED BY THE FEDERAL INTERAGENCY WORKING GROUP ON THE
29 SOCIAL COST OF GREENHOUSE GASES PURSUANT TO FEDERAL EXECUTIVE
30 ORDER 13990, DATED JANUARY 20, 2021, WHICHEVER IS HIGHER.

31 (g) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL
32 21-1266:

33 (I) NOTHING:

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

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

41 (II) THE CHANGES ADD TO, BUT DO NOT OTHERWISE ALTER, THE
42 AIR QUALITY CONTROL COMMISSION'S AUTHORITY AND OBLIGATION TO
43 PROMULGATE AND PUBLISH RULES PURSUANT TO SECTIONS 25-7-102

1 (2)(g), 25-7-105, AND 25-7-140.

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

4 **25-7-140. Greenhouse gas emissions - data collection -**
5 **legislative declaration - rules - reporting - forecasting - public**
6 **information - definitions.** (2) **Rules.** (a) The commission shall:

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

24 (II) Direct the division to update the statewide inventory of
25 greenhouse gas emissions by sector, up to on an annual basis as
26 determined by the commission, but in no event less frequently than every
27 two years. The division shall update the inventory in a manner that allows
28 reasonable tracking of progress in reducing greenhouse gas emissions
29 over time. The commission shall take reasonable steps to ensure that
30 emission abatement that counts toward meeting the state's greenhouse gas
31 emission reduction goals is durable and rigorously tracked. The inventory
32 must include a forecast of Colorado's greenhouse gas emissions for the
33 milestone year of 2025, as well as 2030, 2035, 2040, and 2045. **THE**
34 **DIVISION SHALL MAKE PUBLICLY AVAILABLE THE DATA UPON WHICH**
35 **PROJECTIONS ARE BASED, INCLUDING THE SOURCES OF THAT DATA, THE**
36 **INPUTS FOR ANY MODEL USED, AND A DESCRIPTION OF THE ANALYSIS**
37 **UNDERLYING THE PROJECTIONS. THE FORECAST MUST INCLUDE AT LEAST**
38 **ONE SCENARIO THAT DOES NOT INCLUDE EMISSION REDUCTIONS**
39 **PROJECTED TO OCCUR FROM ANY FEDERAL, STATE, OR LOCAL LAW, RULE,**
40 **REGULATION, POLICY, OR PROGRAM THAT IS NOT IN PLACE AS OF THE DATE**
41 **OF PUBLICATION OF THE INVENTORY.** The initial inventory required under
42 this subsection (2) must include a recalculation of Colorado's 2005
43 greenhouse gas emissions to serve as a baseline for measuring progress

1 against Colorado's greenhouse gas emission reduction goals.

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

4 (A) NOTHING ALTERS THE GREENHOUSE GAS EMISSION REDUCTION
5 GOALS PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g), IN EITHER
6 AMOUNT OR TIMING, OR DETRACTS FROM THE COMMISSION'S EXISTING
7 AUTHORITY TO REQUIRE MORE THAN THE MINIMUM GREENHOUSE GAS
8 EMISSION REDUCTION GOALS AND DEADLINES PREVIOUSLY ESTABLISHED
9 IN SECTION 25-7-102 (2)(g); AND

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

14 **SECTION 17.** In Colorado Revised Statutes, 2-3-1203, **add**
15 (18.5)(a)(II) as follows:

16 **2-3-1203. Sunset review of advisory committees - legislative**
17 **declaration - definition - repeal.** (18.5) (a) The following statutory
18 authorizations for the designated advisory committees will repeal on
19 September 1, 2027:

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

22 **SECTION 18.** In Colorado Revised Statutes, 8-83-503, **add** (7)
23 as follows:

24 **8-83-503. Just transition office - advisory committee - repeal.**
25 (7) THE OFFICE, IN CONSULTATION WITH THE ADVISORY COMMITTEE,
26 SHALL DEVELOP A PROPOSED LONG-TERM BUDGET TO ADEQUATELY
27 FINANCE THE JUST TRANSITION PLAN. THE OFFICE SHALL SUBMIT THE
28 PROPOSED BUDGET TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT NO
29 LATER THAN JULY 1, 2022. THE BUDGET MUST INCLUDE FINANCING
30 OPTIONS FROM STATE, FEDERAL, AND OTHER SOURCES. THE DEPARTMENT
31 SHALL CONSIDER THE PROPOSED BUDGET AS PART OF ITS BUDGET
32 PROPOSAL FOR STATE FISCAL YEAR 2023-24.

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

35 **24-38.5-101. Colorado energy office - creation.** (1) THERE IS
36 HEREBY CREATED WITHIN THE OFFICE OF THE GOVERNOR THE COLORADO
37 ENERGY OFFICE, THE HEAD OF WHICH IS THE DIRECTOR OF THE COLORADO
38 ENERGY OFFICE. THE DIRECTOR OF THE OFFICE SHALL BE ASSISTED BY A
39 DEPUTY DIRECTOR AND A STAFF TO FULFILL THE OFFICE'S MISSION TO:

40 (a) SUPPORT COLORADO'S TRANSITION TO A MORE EQUITABLE,
41 LOW-CARBON, AND CLEAN ENERGY ECONOMY AND PROMOTE RESOURCES
42 THAT REDUCE AIR POLLUTION AND GREENHOUSE GAS EMISSIONS,
43 INCLUDING POLLUTION AND EMISSIONS FROM ELECTRICITY GENERATION,

1 BUILDINGS, INDUSTRY, AGRICULTURE, AND TRANSPORTATION;

2 (b) PROMOTE ECONOMIC DEVELOPMENT AND HIGH QUALITY JOBS

3 IN COLORADO THROUGH ADVANCING CLEAN ENERGY, TRANSPORTATION

4 ELECTRIFICATION, AND OTHER TECHNOLOGIES THAT REDUCE AIR

5 POLLUTION AND GREENHOUSE GAS EMISSIONS, INCLUDING HELPING TO

6 FINANCE THOSE INVESTMENTS;

7 (c) PROMOTE ENERGY EFFICIENCY;

8 (d) PROMOTE AN EQUITABLE TRANSITION TOWARD ZERO EMISSION

9 BUILDINGS;

10 (e) PROMOTE AN EQUITABLE TRANSITION TO TRANSPORTATION

11 ELECTRIFICATION, ZERO EMISSION VEHICLES, TRANSPORTATION SYSTEMS,

12 AND LAND USE PATTERNS THAT REDUCE ENERGY USE AND GREENHOUSE

13 GAS EMISSIONS;

14 (f) INCREASE ENERGY SECURITY;

15 (g) SUPPORT LOWER LONG-TERM CONSUMER COSTS AND SUPPORT

16 REDUCED ENERGY COST BURDEN FOR LOWER-INCOME COLORADANS; AND

17 (h) PROTECT THE ENVIRONMENT AND PUBLIC HEALTH.

18 **SECTION 20.** In Colorado Revised Statutes, 24-75-402, **add**

19 (5)(tt) as follows:

20 **24-75-402. Cash funds - limit on uncommitted reserves -**

21 **reduction in the amount of fees - exclusions.** (5) Notwithstanding any

22 provision of this section to the contrary, the following cash funds are

23 excluded from the limitations specified in this section:

24 (tt) THE COMMUNITY IMPACT CASH FUND CREATED IN SECTION

25 25-7-129 (1).

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

27 as follows:

28 **40-2-129. New resource acquisitions - factors in determination**

29 **- local employment - "best value" metrics.** (4) (a) THE STATE AUDITOR

30 SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PERFORMANCE AUDIT OF

31 THE COMMISSION'S IMPLEMENTATION OF THE "BEST VALUE" EMPLOYMENT

32 METRICS REQUIREMENTS OF THIS SECTION, INCLUDING REVIEW OF:

33 (I) THE PROJECTS SUBJECT TO SUBSECTION (1)(a) OF THIS SECTION

34 THAT HAVE BEEN APPROVED IN THE PREVIOUS TEN YEARS;

35 (II) WHETHER THE WORK DONE USED CONTRACTORS THAT MET

36 THE CRITERIA SPECIFIED IN THIS SECTION;

37 (III) ANY SHORTFALLS IN ENFORCEMENT CAPACITY OR

38 IMPLEMENTATION BY THE COMMISSION;

39 (IV) CURRENT ENFORCEMENT PROCEDURES FOR INVESTOR-OWNED

40 UTILITIES, INDEPENDENT POWER PRODUCERS, AND WHOLESALE

41 GENERATION AND TRANSMISSION ELECTRIC COOPERATIVES; AND

42 (V) WHETHER AND HOW DELAYED RULE-MAKING PROCEEDINGS

43 HAVE PREVENTED THE "BEST VALUE" EMPLOYMENT METRICS

1 REQUIREMENTS OF THIS SECTION FROM BEING IMPLEMENTED.

2 (b) THE GOVERNOR'S OFFICE, THE COMMISSION, AND COMMISSION
3 STAFF SHALL COOPERATE WITH STAKEHOLDERS AND THE STATE AUDITOR
4 IN CONDUCTING THE AUDIT AND MAKING RECOMMENDATIONS FOR
5 REFORMS OF, OR POTENTIAL ALTERNATIVES TO, THE IMPLEMENTATION AND
6 ENFORCEMENT OF "BEST VALUE" EMPLOYMENT METRICS.

7 (c) UPON COMPLETION OF A PERFORMANCE AUDIT, THE STATE
8 AUDITOR SHALL SUBMIT A WRITTEN REPORT TO THE LEGISLATIVE AUDIT
9 COMMITTEE, TOGETHER WITH ANY FINDINGS AND RECOMMENDATIONS.".

10 Rerumber succeeding sections accordingly.

11 Page 15, after line 20 insert:

12 "**SECTION 23. Applicability.** This act applies to conduct
13 occurring on or after the effective date of this act.".

14 Rerumber succeeding section accordingly.

*** *** *** *** *