

Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0778.01 Caroline Martin x5902

HOUSE BILL 26-1266

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A BILL FOR AN ACT

101 CONCERNING THE REPEAL OF RETAIL DELIVERY FEES.

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Bill Summary

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

A retail delivery is a retail sale of tangible personal property that is subject to state sales tax by a retailer for delivery by a motor vehicle to the purchaser at any location in the state. As authorized by current law, retail delivery fees are imposed on each retail delivery by the:

- State;
- Community access enterprise;
- Clean fleet enterprise;
- Statewide bridge and tunnel enterprise;

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

- Clean transit enterprise; and
- Nonattainment area air pollution mitigation enterprise.

Effective 90 days after the final adjournment of the general assembly in 2026, the bill eliminates the retail delivery fees.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-38.5-301, **repeal**  
3 (1)(a), (1)(b), (1)(c), (1)(d), and (2) as follows:

4 **24-38.5-301. Legislative declaration.** (1) The general assembly  
5 hereby finds and declares that:

6 (a) ~~Retail deliveries are increasing and are expected to continue~~  
7 ~~to increase in urban and rural communities;~~

8 (b) ~~The motor vehicles used to make retail deliveries are some of~~  
9 ~~the most polluting vehicles on the road, which has resulted in additional~~  
10 ~~and increasing air and greenhouse gas pollution at the local community~~  
11 ~~level from idling delivery vehicles in neighborhoods;~~

12 (c) ~~The adverse environmental and health impacts of increased~~  
13 ~~local emissions from motor vehicles used to make retail deliveries can be~~  
14 ~~mitigated and offset by investing in the charging and fueling~~  
15 ~~infrastructure needed to support widespread public adoption of electric~~  
16 ~~motor vehicles and zero emission vehicles and by replacing the state's~~  
17 ~~dirtiest passenger vehicles with zero emission vehicles;~~

18 (d) ~~Instead of reducing the impacts of retail deliveries by limiting~~  
19 ~~retail delivery activity through regulation, it is more appropriate to~~  
20 ~~continue to allow persons who receive retail deliveries to benefit from the~~  
21 ~~convenience afforded by unfettered retail deliveries and instead impose~~  
22 ~~a small fee on each retail delivery and use fee revenue to fund necessary~~  
23 ~~mitigation activities;~~

1           (2) The general assembly further finds and declares that:

2           ~~(a) To incentivize, support, and accelerate the construction of~~  
3 ~~electric motor vehicle charging and fueling infrastructure in communities~~  
4 ~~throughout the state; incentivize, support, and accelerate the adoption of~~  
5 ~~electric motor vehicles by businesses, including transportation network~~  
6 ~~companies, governmental entities, and individuals; and thereby increase~~  
7 ~~access to electric motor vehicles, minimize and mitigate the~~  
8 ~~environmental and health impacts caused by transportation-related~~  
9 ~~emissions of air pollutants and greenhouse gases, and allow the state and~~  
10 ~~its citizens to reap the environmental, health, business and governmental~~  
11 ~~operational efficiency, and personal motor vehicle total ownership cost~~  
12 ~~savings benefits of widespread adoption of electric motor vehicles, it is~~  
13 ~~necessary, appropriate, and in the best interest of the state to create a~~  
14 ~~community access enterprise that can provide specialized business~~  
15 ~~services, including impact remediation services, that help communities,~~  
16 ~~businesses, and governmental entities construct the electric motor vehicle~~  
17 ~~charging and fueling infrastructure needed to support widespread~~  
18 ~~adoption of electric motor vehicles, including light-duty, medium-duty,~~  
19 ~~and heavy-duty motor vehicles and motor vehicles used to make retail~~  
20 ~~deliveries, and thereby assuage range anxiety concerns, supply chain~~  
21 ~~disruption concerns, and any other concerns that currently disincentivize~~  
22 ~~the widespread adoption of electric motor vehicles;~~

23           ~~(b) The specific focus of the enterprise is the equitable reduction~~  
24 ~~and mitigation of the adverse environmental and health impacts of air~~  
25 ~~pollution and greenhouse gas emissions at the community level through~~  
26 ~~support of the adoption of electric motor vehicles and electric alternatives~~  
27 ~~to motor vehicles at the community level, including but not limited to~~

1 within disproportionately impacted communities throughout the state;

2 (c) The enterprise provides impact remediation services when, in  
3 exchange for the payment of community access retail delivery fees by or  
4 on behalf of purchasers of tangible personal property for retail delivery,  
5 it acts to mitigate the impacts of residential and commercial deliveries on  
6 the state's transportation infrastructure, air quality, and emissions by:

7 (I) Funding the construction of electric motor vehicle charging  
8 infrastructure that supports the use of clean and quiet electric motor  
9 vehicles, including motor vehicles used to make retail deliveries;

10 (II) Specifically supporting and incentivizing the retirement of old  
11 and inefficient motor vehicles powered by internal combustion engines  
12 and the adoption of electric motor vehicles, electric alternatives to motor  
13 vehicles, and transit use in communities, including but not limited to  
14 disproportionately impacted communities, that generally bear the greatest  
15 burden of the environmental and health impacts of transportation  
16 emissions due to disparities in transportation pollution exposure;

17 (III) Providing outreach, education, planning funds, or training to  
18 support the successful applications for funding and the performance of  
19 entities receiving funds;

20 (IV) Contributing to the comprehensive regulatory scheme  
21 required for the planning, funding, development, construction,  
22 maintenance, and supervision of a sustainable transportation system; and

23 (V) Providing additional remediation services to offset impacts  
24 caused by fee payers as may be provided by law;

25 (d) By providing remediation services as authorized by this  
26 section, the enterprise provides a benefit to fee payers when it remediates  
27 the impacts they cause and therefore operates as a business in accordance

1 with the determination of the Colorado supreme court in *Colorado Union*  
2 *of Taxpayers Foundation v. City of Aspen*, 2018 CO 36;

3 ~~(e) Consistent with the determination of the Colorado supreme~~  
4 ~~court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo.~~  
5 ~~1995), that the power to impose taxes is inconsistent with enterprise status~~  
6 ~~under section 20 of article X of the state constitution, it is the conclusion~~  
7 ~~of the general assembly that the revenue collected by the enterprise is~~  
8 ~~generated by fees, not taxes, because the community access retail delivery~~  
9 ~~fee imposed by the enterprise as authorized by section 24-38.5-303 (7) is:~~

10 ~~(I) Imposed for the specific purpose of allowing the enterprise to~~  
11 ~~defray the costs of providing the remediation services specified in this~~  
12 ~~section, including mitigating impacts to air quality and greenhouse gas~~  
13 ~~emissions caused by the activities on which the fee is assessed, and~~  
14 ~~contributes to the implementation of the comprehensive regulatory~~  
15 ~~scheme required for the planning, funding, development, construction,~~  
16 ~~maintenance, and supervision of a sustainable transportation system; and~~

17 ~~(II) Collected at rates that are reasonably calculated based on the~~  
18 ~~impacts caused by fee payers and the cost of remediating those impacts;~~  
19 ~~and~~

20 ~~(f) So long as the enterprise qualifies as an enterprise for purposes~~  
21 ~~of section 20 of article X of the state constitution, the revenue from the~~  
22 ~~community access retail delivery fee collected by the enterprise is not~~  
23 ~~state fiscal year spending, as defined in section 24-77-102 (17), or state~~  
24 ~~revenues, as defined in section 24-77-103.6 (6)(c), and does not count~~  
25 ~~against either the state fiscal year spending limit imposed by section 20~~  
26 ~~of article X of the state constitution or the excess state revenues cap, as~~  
27 ~~defined in section 24-77-103.6 (6)(b)(I)(D).~~

1           **SECTION 2.** In Colorado Revised Statutes, 24-38.5-302, **repeal**  
2 (11), (17), and (18) as follows:

3           **24-38.5-302. Definitions.** As used in this part 3, unless the  
4 context otherwise requires:

5           (11) ~~"Inflation" means the average annual percentage change in~~  
6 ~~the United States department of labor, bureau of labor statistics, consumer~~  
7 ~~price index for Denver-Aurora-Lakewood for all items and all urban~~  
8 ~~consumers, or its applicable predecessor or successor index, for the five~~  
9 ~~years ending on the last December 31 before the state fiscal year for~~  
10 ~~which an inflation adjustment to be made to the community access retail~~  
11 ~~delivery fee imposed pursuant to section 24-38.5-303 (7) begins.~~

12           (17) ~~"Retail delivery" has the same meaning as set forth in section~~  
13 ~~43-4-218 (2)(c).~~

14           (18) ~~"Retailer" has the same meaning as set forth in section~~  
15 ~~39-26-102 (8).~~

16           **SECTION 3.** In Colorado Revised Statutes, 24-38.5-303, **amend**  
17 (5)(a) and (6)(f); and **repeal** (3)(a), (6)(g), and (7) as follows:

18           **24-38.5-303. Community access enterprise - creation - board**  
19 **- powers and duties - fund - transparency and reporting.**

20           (3) The business purpose of the enterprise is to support the  
21 widespread adoption of electric motor vehicles, including motor vehicles  
22 that originally were powered exclusively by internal combustion engines  
23 but have been converted into electric motor vehicles, in an equitable  
24 manner by directly investing in transportation infrastructure, making  
25 grants or providing rebates or other financing options to fund the  
26 construction of electric motor vehicle charging infrastructure throughout  
27 the state, and incentivizing the acquisition and use of electric motor

1 vehicles and electric alternatives to motor vehicles in communities,  
2 including but not limited to disproportionately impacted communities,  
3 and by owners of older, less fuel efficient, and higher polluting vehicles.  
4 To allow the enterprise to accomplish this business purpose and fully  
5 exercise its powers and duties through the board, the enterprise may:

6 (a) ~~Impose a community access retail delivery fee as authorized~~  
7 ~~by subsection (7) of this section;~~

8 (5) (a) The community access enterprise fund is hereby created in  
9 the state treasury. The fund consists of ~~community access retail delivery~~  
10 ~~fee revenue credited to the fund pursuant to subsection (7) of this section;~~  
11 any monetary gifts, grants, donations, or other payments received by the  
12 enterprise, any federal money that may be credited to the fund, and any  
13 other money that the general assembly may appropriate or transfer to the  
14 fund. The state treasurer shall credit all interest and income derived from  
15 the deposit and investment of money in the fund to the fund. Money in the  
16 fund is continuously appropriated to the enterprise and may be expended  
17 to provide grants and rebates, pay its reasonable and necessary operating  
18 expenses, including the repayment of any loan received pursuant to  
19 subsection (5)(b) of this section, and otherwise exercise its powers and  
20 perform its duties as authorized by this part 3.

21 (6) In addition to any other powers and duties specified in this  
22 section, the board has the following general powers and duties:

23 (f) To publish grant and similar program processes by which the  
24 enterprise accepts applications, the criteria used for evaluating  
25 applications, and a list of grantees pursuant to subsection (8) of this  
26 section; AND

27 (g) ~~To promulgate rules for the sole purpose of setting the amount~~

1 of the community access retail delivery fee at or below the maximum  
2 amount authorized in this section; and

3 (7) (a) ~~In furtherance of its business purpose, beginning in state~~  
4 ~~fiscal year 2022-23, the enterprise shall impose, and the department of~~  
5 ~~revenue shall collect on behalf of the enterprise, a community access~~  
6 ~~retail delivery fee on each retail delivery. Each retailer who makes a retail~~  
7 ~~delivery shall either collect and remit or elect to pay the community~~  
8 ~~access retail delivery fee in the manner prescribed by the department in~~  
9 ~~accordance with section 43-4-218 (6). For the purpose of minimizing~~  
10 ~~compliance costs for retailers and administrative costs for the state, the~~  
11 ~~department of revenue shall collect and administer the community access~~  
12 ~~retail delivery fee on behalf of the enterprise in the same manner in which~~  
13 ~~it collects and administers the retail delivery fee imposed by section~~  
14 ~~43-4-218 (3).~~

15 (b) ~~For retail deliveries of tangible personal property purchased~~  
16 ~~during state fiscal year 2022-23, the enterprise shall impose the~~  
17 ~~community access retail delivery fee in a maximum amount of six and~~  
18 ~~nine-tenths cents.~~

19 (c) (I) ~~Except as otherwise provided in subsection (7)(c)(II) of this~~  
20 ~~section, for retail deliveries of tangible personal property purchased~~  
21 ~~during state fiscal year 2023-24 or during any subsequent state fiscal year,~~  
22 ~~the enterprise shall impose the community access retail delivery fee in a~~  
23 ~~maximum amount that is the maximum amount for the prior state fiscal~~  
24 ~~year adjusted for inflation. The enterprise shall notify the department of~~  
25 ~~revenue of the amount of the community access retail delivery fee to be~~  
26 ~~collected for retail deliveries of tangible personal property purchased~~  
27 ~~during each state fiscal year no later than March 15 of the calendar year~~

1 in which the state fiscal year begins, and the department of revenue shall  
2 publish the amount no later than April 15 of the calendar year in which the  
3 state fiscal year begins.

4 ~~(H) The enterprise is authorized to adjust the amount of the~~  
5 ~~community access retail delivery fee for retail deliveries of tangible~~  
6 ~~personal property purchased during a state fiscal year only if the~~  
7 ~~department of revenue adjusts the amount of the retail delivery fee~~  
8 ~~imposed by section 43-4-218 (3) for retail deliveries of tangible personal~~  
9 ~~property purchased during the state fiscal year.~~

10 **SECTION 4.** In Colorado Revised Statutes, 25-7.5-101, **amend**  
11 **(2)(d); and repeal (1) and (2)(e) as follows:**

12 **25-7.5-101. Legislative declaration.**

13 (1) ~~The general assembly hereby finds and declares that:~~

14 ~~(a) An increasing number of fleet motor vehicles are on the road~~  
15 ~~to meet increasing demands for retail deliveries and rides arranged~~  
16 ~~through transportation network companies;~~

17 ~~(b) These fleet vehicles are some of the most polluting vehicles on~~  
18 ~~the road, which has resulted in additional and increasing air and~~  
19 ~~greenhouse gas pollution and related adverse environmental and health~~  
20 ~~impacts across the state;~~

21 ~~(c) The adverse environmental and health impacts of increased~~  
22 ~~emissions from fleet motor vehicles used to make retail deliveries and~~  
23 ~~provide rides arranged through transportation network companies can be~~  
24 ~~mitigated and offset by supporting the widespread adoption of electric~~  
25 ~~motor vehicles for use in motor vehicle fleets;~~

26 ~~(d) Instead of reducing the impacts of retail deliveries and rides~~  
27 ~~arranged through transportation network companies by limiting retail~~

1 ~~delivery and transportation network company ride activity through~~  
2 ~~regulation, it is more appropriate to continue to allow persons who~~  
3 ~~receive retail deliveries and benefit from the convenience afforded by~~  
4 ~~unfettered retail deliveries and to allow transportation network companies~~  
5 ~~that arrange prearranged rides to continue to provide that service without~~  
6 ~~undue restrictions and instead impose a small fee on each retail delivery~~  
7 ~~and ride and use fee revenue to fund necessary mitigation activities; and~~

8 (e) ~~It is necessary, appropriate, and in the best interest of the state~~  
9 ~~and all Coloradans to incentivize and support the use of electric motor~~  
10 ~~vehicles and, to the extent temporarily necessitated by the limitations of~~  
11 ~~current electric motor vehicle technology and availability for certain fleet~~  
12 ~~uses, compressed natural gas motor vehicles that are fueled by recovered~~  
13 ~~methane and that produce fewer emissions than gasoline or diesel~~  
14 ~~powered motor vehicles, by businesses and governmental entities that use~~  
15 ~~fleets of motor vehicles, including fleets composed of personal motor~~  
16 ~~vehicles owned by individual contractors who provide prearranged rides~~  
17 ~~for transportation network companies or make retail deliveries, and to~~  
18 ~~enable the state to achieve its stated electric motor vehicle adoption goals~~  
19 ~~because increased usage of electric motor vehicles in motor vehicle fleets:~~

20 (f) ~~Generally reduces emissions of air pollutants, including ozone~~  
21 ~~precursors, particulate matter pollutants, other hazardous air pollutants,~~  
22 ~~and greenhouse gases, that contribute to adverse environmental effects~~  
23 ~~such as climate change and adverse human health effects, including but~~  
24 ~~not limited to asthma, reduced lung capacity, increased susceptibility to~~  
25 ~~respiratory illnesses, chronic bronchitis, heart disease, and lung cancer,~~  
26 ~~and helps the state meet its statewide greenhouse gas pollution reduction~~  
27 ~~targets established in section 25-7-102 (2)(g), comply with air quality~~

1 attainment standards, and reduce adverse environmental and health  
2 impacts across the state and in communities, including but not limited to  
3 disproportionately impacted communities;

4 (H) Specifically reduces higher localized emissions of such air  
5 pollutants in communities, including but not limited to disproportionately  
6 impacted communities, where:

7 (A) Fleet yards, warehouses, distribution centers, refineries, fuel  
8 depots, waste facilities, and major interstate highways are located;

9 (B) Usage of fleet motor vehicles is concentrated; and

10 (C) Residents experience increased risks of air-pollution-related  
11 health impacts such as asthma, reduced lung capacity, increased  
12 susceptibility to respiratory illnesses, heart disease, and lung cancer; and

13 (H) By reducing fuel and maintenance costs, helps businesses and  
14 governmental entities operate more efficiently over time, allowing the  
15 cost savings to be reinvested in business growth or used for beneficial  
16 public purposes.

17 (2) The general assembly further finds and declares that:

18 (d) By providing remediation services as authorized by this  
19 section, the enterprise provides a benefit to fee payers when it remediates  
20 the impacts they cause and therefore operates as a business in accordance  
21 with the determination of the Colorado supreme court in *Colorado Union  
22 of Taxpayers Foundation v. City of Aspen*, 2018 CO 36; AND

23 (e) Consistent with the determination of the Colorado supreme  
24 court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo.  
25 1995), that the power to impose taxes is inconsistent with enterprise status  
26 under section 20 of article X of the state constitution, it is the conclusion  
27 of the general assembly that the revenue collected by the enterprise is

1 generated by fees, not taxes, because the fees imposed by the enterprise  
2 as authorized by section 25-7.5-103 (7) and (8) are:

3 (I) ~~Imposed for the specific purpose of allowing the enterprise to~~  
4 ~~defray the costs of providing the remediation services specified in this~~  
5 ~~section, including mitigating impacts to air quality and greenhouse gas~~  
6 ~~emissions caused by the activities on which the fee is assessed, and~~  
7 ~~contributes to the implementation of the comprehensive regulatory~~  
8 ~~scheme required for the planning, funding, development, construction,~~  
9 ~~maintenance, and supervision of a sustainable transportation system; and~~

10 (II) ~~Collected at rates that are reasonably calculated based on the~~  
11 ~~impacts caused by fee payers and the cost of remediating those impacts;~~  
12 ~~and~~

13 **SECTION 5.** In Colorado Revised Statutes, 25-7.5-102, **amend**  
14 (13); and **repeal** (21) as follows:

15 **25-7.5-102. Definitions.**

16 As used in this article 7.5, unless the context otherwise requires:

17 (13) "Inflation" means the average annual percentage change in  
18 the United States department of labor, bureau of labor statistics, consumer  
19 price index for Denver-Aurora-Lakewood for all items and all urban  
20 consumers, or its applicable predecessor or successor index, for the five  
21 years ending on the last December 31 before a state fiscal year for which  
22 an inflation adjustment to be made to the clean fleet per ride fee imposed  
23 by section 25-7.5-103 (7) ~~or the clean fleet retail delivery fee imposed by~~  
24 ~~section 25-7.5-103 (8)~~ begins.

25 (21) ~~"Retail delivery" has the same meaning as set forth in section~~  
26 ~~43-4-218 (2)(c).~~

27 **SECTION 6.** In Colorado Revised Statutes, 25-7.5-103, **amend**

1 (3)(a), (5)(a), and (6)(h); and **repeal** (8) as follows:

2 **25-7.5-103. Clean fleet enterprise - creation - board - powers**  
3 **and duties - fees - fund.** (3) The business purpose of the enterprise is to  
4 incentivize and support the use of electric motor vehicles, including  
5 motor vehicles that originally were powered exclusively by internal  
6 combustion engines but have been converted into electric motor vehicles,  
7 and, to the extent temporarily necessitated by the limitations of current  
8 electric motor vehicle technology for certain fleet uses, compressed  
9 natural gas motor vehicles that are fueled by recovered methane, by  
10 businesses and governmental entities that own or operate fleets of motor  
11 vehicles, including fleets composed of personal motor vehicles owned or  
12 leased by individual contractors who provide prearranged rides for  
13 transportation network companies or deliver goods for a third-party  
14 delivery service. To allow the enterprise to accomplish this purpose and  
15 fully exercise its powers and duties through the board, the enterprise may:

16 (a) Impose a clean fleet per ride fee ~~and a clean fleet retail~~  
17 ~~delivery fee~~ as authorized by ~~subsections (7) and (8)~~ SUBSECTION (7) of  
18 this section;

19 (5)(a) The clean fleet enterprise fund is hereby created in the state  
20 treasury. The fund consists of clean fleet per ride fee revenue ~~and clean~~  
21 ~~fleet retail delivery fee revenue~~ credited to the fund pursuant to  
22 ~~subsections (7) and (8)~~ SUBSECTION (7) of this section, any monetary  
23 gifts, grants, donations, or other payments received by the enterprise, any  
24 federal money that may be credited to the fund, and any other money that  
25 the general assembly may appropriate or transfer to the fund. The state  
26 treasurer shall credit all interest and income derived from the deposit and  
27 investment of money in the fund to the fund. Money in the fund is

1 continuously appropriated to the enterprise for the purposes set forth in  
2 this article 7.5 and to pay the enterprise's reasonable and necessary  
3 operating expenses, including the repayment of any loan received  
4 pursuant to subsection (5)(b) of this section.

5 (6) In addition to any other powers and duties specified in this  
6 section, the board has the following general powers and duties:

7 (h) To ~~promulgate~~ ADOPT rules for the sole purpose of setting the  
8 ~~amounts~~ AMOUNT of the clean fleet per ride fee and the clean fleet retail  
9 ~~delivery fee~~ at or below the maximum ~~amounts~~ AMOUNT authorized in  
10 this section; and

11 (8) (a) ~~In furtherance of its business purpose, beginning in state~~  
12 ~~fiscal year 2022-23, the enterprise shall impose, and the department of~~  
13 ~~revenue shall collect on behalf of the enterprise, a clean fleet retail~~  
14 ~~delivery fee on each retail delivery. Each retailer who makes a retail~~  
15 ~~delivery shall either collect and remit or elect to pay the clean fleet retail~~  
16 ~~delivery fee in the manner prescribed by the department in accordance~~  
17 ~~with section 43-4-218 (6). For the purpose of minimizing compliance~~  
18 ~~costs for retailers and administrative costs for the state, the department of~~  
19 ~~revenue shall collect and administer the clean fleet retail delivery fee on~~  
20 ~~behalf of the enterprise in the same manner in which it collects and~~  
21 ~~administers the retail delivery fee imposed by section 43-4-218 (3).~~

22 (b) ~~For retail deliveries of tangible personal property purchased~~  
23 ~~during state fiscal year 2022-23, the enterprise shall impose the clean fleet~~  
24 ~~retail delivery fee in a maximum amount of five and three-tenths cents.~~

25 (c) (I) ~~Except as otherwise provided in subsection (8)(c)(II) of this~~  
26 ~~section, for retail deliveries of tangible personal property purchased~~  
27 ~~during state fiscal year 2023-24 or during any subsequent state fiscal year,~~

1 ~~the enterprise shall impose the clean fleet retail delivery fee in a~~  
2 ~~maximum amount that is the maximum amount for the prior state fiscal~~  
3 ~~year adjusted for inflation. The enterprise shall notify the department of~~  
4 ~~revenue of the amount of the clean fleet retail delivery fee to be collected~~  
5 ~~for retail deliveries of tangible personal property purchased during each~~  
6 ~~state fiscal year no later than March 15 of the calendar year in which the~~  
7 ~~state fiscal year begins, and the department of revenue shall publish the~~  
8 ~~amount no later than April 15 of the calendar year in which the state fiscal~~  
9 ~~year begins.~~

10 ~~(H) The enterprise is authorized to adjust the amount of the clean~~  
11 ~~fleet retail delivery fee for retail deliveries of tangible personal property~~  
12 ~~purchased during a state fiscal year only if the department of revenue~~  
13 ~~adjusts the amount of the retail delivery fee imposed by section 43-4-218~~  
14 ~~(3) for retail deliveries of tangible personal property purchased during the~~  
15 ~~state fiscal year.~~

16 **SECTION 7.** In Colorado Revised Statutes, 39-21-119.5, **amend**  
17 **(2)(s) and (2)(t); and repeal (2)(u) as follows:**

18 **39-21-119.5. Mandatory electronic filing of returns -**  
19 **mandatory electronic payment - penalty - waiver - definitions.**

20 (2) Except as provided in subsection (6) of this section, the  
21 executive director may, as specified in subsection (3) of this section,  
22 require the electronic filing of returns and require the payment of any tax  
23 or fee due by electronic funds transfer for the following:

24 (s) Any prepaid wireless 911 charge report required to be filed and  
25 payment required to be made pursuant to section 29-11-102.5 (3); AND

26 (t) Any prepaid telephone disability access charge report required  
27 to be filed and payment required to be made pursuant to section

1 40-17-104. and

2 (u) ~~Any retail delivery fee or enterprise retail delivery fees return~~  
3 ~~required to be filed pursuant to section 43-4-218 (6).~~

4 **SECTION 8.** In Colorado Revised Statutes, 39-26-102, **amend**  
5 (7)(a) introductory portion as follows:

6 **39-26-102. Definitions.** As used in this article 26, unless the  
7 context otherwise requires:

8 (7) (a) "Purchase price" means the price to the consumer,  
9 exclusive of any direct tax imposed by the federal government or by this  
10 article 26, ~~exclusive of any retail delivery fee and enterprise retail~~  
11 ~~delivery fees imposed or collected as specified in section 43-4-218,~~ and,  
12 in the case of all retail sales involving the exchange of property, also  
13 exclusive of the fair market value of the property exchanged at the time  
14 and place of the exchange, if:

15 **SECTION 9.** In Colorado Revised Statutes, 39-37-103, **repeal**  
16 (15)(a)(IV) as follows:

17 **39-37-103. Definitions.**

18 As used in this article 37, unless the context otherwise requires:

19 (15) (a) "Purchase price" means the aggregate consideration  
20 valued in money paid or delivered or promised to be paid or delivered by  
21 the user or consumer in consummation of a sale, exclusive of:

22 (IV) ~~Any retail delivery fee and enterprise retail delivery fees~~  
23 ~~imposed or collected as specified in section 43-4-218;~~

24 **SECTION 10.** In Colorado Revised Statutes, 43-4-205, **repeal**  
25 (6.8)(b) as follows:

26 **43-4-205. Allocation of fund - repeal.**

27 (6.8) (b) (F) ~~Revenue from the retail delivery fee imposed pursuant~~

1 to section ~~43-4-218~~ (3) that is credited to the highway users tax fund as  
2 required by section ~~43-4-218~~ (5)(a)(I) must be allocated and expended as  
3 follows:

4 (A) ~~Forty percent must be paid to the state highway fund and~~  
5 ~~expended as provided in section 43-4-206;~~

6 (B) ~~Thirty-three percent must be paid to the county treasurers of~~  
7 ~~the respective counties, subject to annual appropriation by the general~~  
8 ~~assembly, and allocated and expended as provided in section 43-4-207;~~  
9 ~~and~~

10 (C) ~~Twenty-seven percent must be paid to the cities and~~  
11 ~~incorporated towns, subject to annual appropriation by the general~~  
12 ~~assembly, and must be allocated and expended as provided in section~~  
13 ~~43-4-208 (2)(b) and (6)(a).~~

14 (H) ~~Revenue from the retail delivery fee may be expended for the~~  
15 ~~purposes specified in subsection (6)(b) of this section and may also be~~  
16 ~~expended for transit-related projects needed to integrate different~~  
17 ~~transportation modes within a multimodal transportation system.~~

18 **SECTION 11.** In Colorado Revised Statutes, **repeal** 43-4-218 as  
19 follows:

20 **43-4-218. Additional funding - retail delivery fee - fund**  
21 **created - simultaneous collection of enterprise fees - rules - legislative**  
22 **declaration - definitions.**

23 (1) ~~The general assembly hereby finds and declares that:~~

24 (a) ~~In recent years, the number of retail deliveries of tangible~~  
25 ~~personal property, including restaurant food, has rapidly increased, and~~  
26 ~~this rapid growth is expected to continue;~~

27 (b) ~~The world economic forum estimates that by 2030 there will~~

1 ~~be over thirty percent more delivery vehicles on roads to deliver~~  
2 ~~seventy-eight percent more packages, which will increase usage of the~~  
3 ~~highways, roads, and streets of the state by motor vehicles used to make~~  
4 ~~retail deliveries, traffic congestion, and retail-delivery-related emissions;~~

5 ~~(c) This additional usage has accelerated and is expected to~~  
6 ~~continue to accelerate deterioration of surface transportation system~~  
7 ~~infrastructure, and has required and is expected to continue to require the~~  
8 ~~state, counties, and municipalities to perform more maintenance and~~  
9 ~~reconstruction of state highways, county roads, and city streets;~~

10 ~~(d) This additional usage has also increased and is expected to~~  
11 ~~continue to increase motor-vehicle-related emissions of air pollutants,~~  
12 ~~including ozone precursors, particulate matter pollutants, other hazardous~~  
13 ~~air pollutants, and greenhouse gases, that contribute to adverse~~  
14 ~~environmental effects, including but not limited to climate change, and~~  
15 ~~adverse human health effects;~~

16 ~~(d.3) There are administrative costs for a retailer when the state~~  
17 ~~imposes a fee on retail deliveries, and the benefits from the fee revenue~~  
18 ~~need to be balanced with the potential economic impacts on the retailers;~~

19 ~~(d.7) Fees on retail deliveries should only be imposed on retailers~~  
20 ~~that are large enough to absorb these administrative costs without~~  
21 ~~significant economic harm;~~

22 ~~(e) It is therefore necessary and appropriate:~~

23 ~~(f) To impose a retail delivery fee as specified in this section and~~  
24 ~~to credit the proceeds of the fee to the highway users tax fund created in~~  
25 ~~section 43-4-201 for allocation to the state, counties, and municipalities~~  
26 ~~and to the multimodal transportation and mitigation options fund created~~  
27 ~~in section 43-4-1103 (1)(a);~~

1           ~~(H) To authorize the community access enterprise created in~~  
2 ~~section 24-38.5-303 (1) to impose a community access retail delivery fee~~  
3 ~~as specified in section 24-38.5-303 (7), authorize the clean fleet enterprise~~  
4 ~~created in section 25-7.5-103 (1)(a) to impose a clean fleet retail delivery~~  
5 ~~fee as specified in section 25-7.5-103 (8), authorize the statewide bridge~~  
6 ~~and tunnel enterprise created in section 43-4-805 (2)(a)(I) to impose a~~  
7 ~~bridge and tunnel retail delivery fee as specified in section 43-4-805~~  
8 ~~(5)(g.7), authorize the clean transit enterprise created in section~~  
9 ~~43-4-1203 (1)(a) to impose a clean transit retail delivery fee as specified~~  
10 ~~in section 43-4-1203 (7), and authorize the nonattainment area air~~  
11 ~~pollution mitigation enterprise created in section 43-4-1303 (1)(a) to~~  
12 ~~impose an air pollution mitigation retail delivery fee as specified in~~  
13 ~~section 43-1-1303 (8) to help fund the enterprises' pursuit of their~~  
14 ~~respective business purposes;~~

15           ~~(H) For the purpose of minimizing compliance costs for fee~~  
16 ~~payers and administrative costs for the state, to require the department of~~  
17 ~~revenue to collect the retail delivery fees imposed by the enterprises on~~  
18 ~~behalf of the enterprises when it collects the retail delivery fee imposed~~  
19 ~~by subsection (3) of this section and to distribute the enterprise fee~~  
20 ~~revenue to the enterprises; and~~

21           ~~(IV) To create an exemption from the retail delivery fees for~~  
22 ~~retailers with retail sales of five hundred thousand dollars or less.~~

23           ~~(2) As used in this section, unless the context otherwise requires:~~

24           ~~(a) "Enterprise retail delivery fees" means:~~

25           ~~(I) The community access retail delivery fee imposed by the~~  
26 ~~community access enterprise created in section 24-38.5-303 (1), as~~  
27 ~~specified in section 24-38.5-303 (7);~~

1           ~~(II) The clean fleet retail delivery fee imposed by the clean fleet~~  
2 ~~enterprise created in section 25-7.5-103 (1)(a), as specified in section~~  
3 ~~25-7.5-103 (8);~~

4           ~~(III) The bridge and tunnel retail delivery fee imposed by the~~  
5 ~~statewide bridge and tunnel enterprise created in section 43-4-805~~  
6 ~~(2)(a)(I), as specified in section 43-4-805 (5)(g.7);~~

7           ~~(IV) The clean transit retail delivery fee imposed by the clean~~  
8 ~~transit enterprise created in section 43-4-1203 (1)(a) as specified in~~  
9 ~~section 43-4-1203 (7); and~~

10           ~~(V) The air pollution mitigation retail delivery fee imposed by the~~  
11 ~~nonattainment area air pollution mitigation enterprise created in section~~  
12 ~~43-4-1303 (1)(a) as specified in section 43-1-1303 (8).~~

13           ~~(b) "Inflation" means the average annual percentage change in the~~  
14 ~~United States department of labor, bureau of labor statistics, consumer~~  
15 ~~price index for Denver-Aurora-Lakewood for all items and all urban~~  
16 ~~consumers, or its applicable predecessor or successor index, for the five~~  
17 ~~years ending on the last December 31 before the calendar year in which~~  
18 ~~a state fiscal year for which an inflation adjustment to the retail delivery~~  
19 ~~fee imposed by subsection (3) of this section is to be made begins.~~

20           ~~(c) "Motor vehicle" has the same meaning as set forth in section~~  
21 ~~42-1-102 (58). The term does not include a personal delivery device.~~

22           ~~(d) "Personal delivery device" means an autonomously operated~~  
23 ~~robot that is:~~

24           ~~(I) Designed and manufactured for the purpose of transporting~~  
25 ~~tangible personal property primarily on sidewalks, crosswalks, and other~~  
26 ~~public rights-of-way that are typically used by pedestrians;~~

27           ~~(II) Weighs no more than five hundred fifty pounds, excluding~~

1 any tangible personal property being transported; and

2 (H) Operates at speeds of less than ten miles per hour when on  
3 sidewalks, crosswalks, and other public rights-of-way that are typically  
4 used by pedestrians.

5 (e) "Retail delivery" means a retail sale of tangible personal  
6 property by a retailer for delivery by a motor vehicle owned or operated  
7 by the retailer or any other person to the purchaser at a location in this  
8 state, which sale includes at least one item of tangible personal property  
9 that is subject to taxation under article 26 of title 39. Each such retail sale  
10 is a single retail delivery regardless of the number of shipments necessary  
11 to deliver the items of tangible personal property purchased.

12 (f) "Retailer" has the same meaning as set forth in section  
13 39-26-102 (8).

14 (g) "Retail sale" has the same meaning as set forth in section  
15 39-26-102 (9).

16 (h) "Tangible personal property" has the same meaning as set  
17 forth in section 39-26-102 (15).

18 (3) (a) A retail delivery fee in an amount set forth in this  
19 subsection (3)(a) and subsection (3)(b) of this section is imposed on each  
20 retail delivery. Except as otherwise provided in subsection (6)(b)(H) of  
21 this section, for retail deliveries of tangible personal property purchased  
22 during state fiscal year 2022-23, each retailer who makes a retail delivery  
23 shall add to the price of the retail delivery, collect from the purchaser, and  
24 pay to the department of revenue at the time and in the manner prescribed  
25 by the department in accordance with subsection (6) of this section a  
26 retail delivery fee in the amount of eight and four-tenths cents.

27 (b)(I) Except as otherwise provided in subsection (6)(b)(H) of this

1 section, for retail deliveries of tangible personal property purchased  
2 during state fiscal year 2023-24 or during any subsequent state fiscal year,  
3 each retailer who makes a retail delivery shall add to the price of the retail  
4 delivery, collect from the purchaser, and pay to the department of revenue  
5 at the time and in the manner prescribed by the department in accordance  
6 with subsection (6) of this section a retail delivery fee equal to the amount  
7 of the retail delivery fee for retail deliveries of tangible personal property  
8 purchased during the prior state fiscal year adjusted for inflation. The  
9 department of revenue shall annually calculate the inflation adjusted  
10 amount of the retail delivery fee to be imposed on retail deliveries of  
11 tangible personal property purchased during each state fiscal year and  
12 shall publish the amount no later than April 15 of the calendar year in  
13 which the state fiscal year begins.

14 (H) ~~The department of revenue shall adjust the amount of the~~  
15 ~~retail delivery fee for retail deliveries of tangible personal property~~  
16 ~~purchased during a state fiscal year only if inflation is positive and~~  
17 ~~cumulative inflation from the time of the last adjustment in the amount of~~  
18 ~~the retail delivery fee, when applied to the sum of the current retail~~  
19 ~~delivery fee and all current enterprise retail delivery fees and rounded to~~  
20 ~~the nearest whole cent, will result in an increase of at least one whole cent~~  
21 ~~in the total amount of the retail delivery fee and all enterprise retail~~  
22 ~~delivery fees imposed on each retail delivery. The amount of cumulative~~  
23 ~~inflation to be applied to the sum of the current retail delivery fee and all~~  
24 ~~current enterprise retail delivery fees and rounded to the nearest whole~~  
25 ~~cent is the lesser of actual cumulative inflation or five percent.~~

26 (c) A retail delivery that includes only tangible personal property,  
27 the sale of which is exempt from state sales tax under article 26 of title

1     ~~39, is exempt from the retail delivery fee and from the enterprise retail~~  
2     ~~delivery fees. A retail delivery made to a purchaser who is exempt from~~  
3     ~~paying state sales tax under article 26 of title 39 is exempt from the retail~~  
4     ~~delivery fee and from the enterprise retail delivery fees.~~

5             ~~(d) (I) Notwithstanding any other provision of law, a retail~~  
6     ~~delivery by a qualified business made on or after July 1, 2022, is exempt~~  
7     ~~from the retail delivery fee imposed by this subsection (3) and the~~  
8     ~~enterprise retail delivery fees.~~

9             ~~(H) There are no refunds under section 39-26-703 of any retail~~  
10    ~~delivery fees for a retail delivery made on or after July 1, 2022, but before~~  
11    ~~July 1, 2023, on the basis of the exemption set forth in subsection~~  
12    ~~(3)(d)(I) of this section.~~

13            ~~(HH) As used in this subsection (3)(d), "qualified business" means~~  
14    ~~a retailer that in the previous calendar year made retail sales of tangible~~  
15    ~~personal property, commodities, or services in the state totaling five~~  
16    ~~hundred thousand dollars or less. If the retailer had no retail sales in the~~  
17    ~~state in the previous calendar year, then the retailer is deemed to be a~~  
18    ~~"qualified business" for the current calendar year, until the first day of the~~  
19    ~~month after the ninetieth day after the retailer has made retail sales of~~  
20    ~~tangible personal property, commodities, or services in the state that total~~  
21    ~~more than five hundred thousand dollars.~~

22            ~~(4) (a) For the purpose of minimizing compliance costs for~~  
23    ~~retailers and administrative costs for the state, the department of revenue~~  
24    ~~shall, when it collects the retail delivery fee imposed by subsection (3) of~~  
25    ~~this section, also collect on behalf of the community access enterprise~~  
26    ~~created in section 24-38.5-303 (1), the clean fleet enterprise created in~~  
27    ~~section 25-7.5-103 (1)(a), the statewide bridge and tunnel enterprise~~

1 ~~created in section 43-4-805 (2)(a)(I), the clean transit enterprise created~~  
2 ~~in section 43-1-1203 (1)(a), and the nonattainment area air pollution~~  
3 ~~mitigation enterprise created in section 43-4-1303 (1)(a), the enterprise~~  
4 ~~retail delivery fees.~~

5 ~~(b) When collecting the retail delivery fee and, in accordance with~~  
6 ~~subsection (4)(a) of this section, the enterprise retail delivery fees, the~~  
7 ~~department of revenue shall retain an amount that does not exceed the~~  
8 ~~total cost of collecting, administering, and enforcing the retail delivery fee~~  
9 ~~and the enterprise retail delivery fees and shall transmit the amount~~  
10 ~~retained to the state treasurer, who shall credit it to the retail delivery fees~~  
11 ~~fund, which is hereby created in the state treasury. All money in the retail~~  
12 ~~delivery fees fund is continuously appropriated to the department of~~  
13 ~~revenue to defray the costs incurred by the department in collecting,~~  
14 ~~enforcing, and administering the retail delivery fee and the enterprise~~  
15 ~~retail delivery fees.~~

16 ~~(5) (a) The department of revenue shall transmit all net revenue~~  
17 ~~collected from the retail delivery fee imposed by subsection (3) of this~~  
18 ~~section to the state treasurer, who shall credit the net revenue as follows:~~

19 ~~(I) Seventy-one and one-tenth percent shall be credited to the~~  
20 ~~highway users tax fund created in section 43-4-201 and allocated from the~~  
21 ~~highway users tax fund to the state, counties, and municipalities as~~  
22 ~~required by section 43-4-205 (6.8); and~~

23 ~~(II) Twenty-eight and nine-tenths percent shall be credited to the~~  
24 ~~multimodal transportation and mitigation options fund created in section~~  
25 ~~43-4-1103 (1)(a);~~

26 ~~(b) The department of revenue shall transmit all net revenue~~  
27 ~~collected from enterprise retail delivery fees to the state treasurer who~~

1 shall credit the net revenue as follows:

2 ~~(I) All net community access retail delivery fee revenue shall be~~  
3 ~~credited to the community access enterprise fund created in section~~  
4 ~~24-38.5-303 (5);~~

5 ~~(II) All net clean fleet retail delivery fee revenue shall be credited~~  
6 ~~to the clean fleet enterprise fund created in section 25-7.5-103 (5);~~

7 ~~(III) All net bridge and tunnel retail delivery fee revenue shall be~~  
8 ~~credited to the statewide bridge and tunnel enterprise special revenue~~  
9 ~~fund created in section 43-4-805 (3)(a);~~

10 ~~(IV) All net clean transit retail delivery fee revenue shall be~~  
11 ~~credited to the clean transit enterprise fund created in section 43-4-1203~~  
12 ~~(5); and~~

13 ~~(V) All net air pollution mitigation retail delivery fee revenue~~  
14 ~~shall be credited to the nonattainment area air pollution mitigation~~  
15 ~~enterprise fund created in section 43-4-1303 (5).~~

16 ~~(6) (a) Except as otherwise provided in this subsection (6), the~~  
17 ~~collection, administration, and enforcement of the retail delivery fee~~  
18 ~~imposed by subsection (3) of this section and the enterprise retail delivery~~  
19 ~~fees shall be performed by the executive director of the department of~~  
20 ~~revenue in the same manner as the collection, administration, and~~  
21 ~~enforcement of state sales tax pursuant to article 26 of title 39.~~

22 ~~(b)(I) Except as otherwise provided in subsection (6)(b)(II) of this~~  
23 ~~section, every retailer who makes a retail delivery shall add the retail~~  
24 ~~delivery fee imposed by subsection (3) of this section and the enterprise~~  
25 ~~retail delivery fees to the price or charge for the retail delivery showing~~  
26 ~~the total of the fees as one item called "retail delivery fees" that is~~  
27 ~~separate and distinct from the price and any other taxes or fees imposed~~

1 ~~on the retail delivery. If added, the fees constitute a part of the retail~~  
2 ~~delivery price or charge, are a debt from the purchaser to the retailer until~~  
3 ~~paid, and are recoverable at law in the same manner as other debts.~~

4 ~~(H) A retailer may elect to pay the retail delivery fee imposed by~~  
5 ~~subsection (3) of this section and the enterprise retail delivery fees for a~~  
6 ~~retail delivery on behalf of a purchaser. If a retailer elects to pay these~~  
7 ~~fees, then:~~

8 ~~(A) The retailer shall not add the fees to the price or charge for the~~  
9 ~~retail delivery showing the total of the fees as one item called "retail~~  
10 ~~delivery fees" that is separate and distinct from the price and any other~~  
11 ~~taxes or fees imposed on the retail delivery;~~

12 ~~(B) The purchaser is neither liable nor responsible for the payment~~  
13 ~~of the fees; and~~

14 ~~(C) The purchaser is not entitled to a refund for fees that are paid~~  
15 ~~for a retail delivery that is exempt under subsection (3)(c) or (3)(d) of this~~  
16 ~~section. A retailer may claim a refund under section 39-26-703 for the~~  
17 ~~exempt fees paid; except that section 39-26-703 (2.5)(b)(I)(B) shall not~~  
18 ~~apply in this circumstance.~~

19 ~~(c) Every retailer who makes a retail delivery is liable and~~  
20 ~~responsible for the payment of an amount equivalent to the total amount~~  
21 ~~of the retail delivery fee imposed by subsection (3) of this section and the~~  
22 ~~enterprise retail delivery fees for each retail delivery made irrespective of~~  
23 ~~the requirements of subsection (6)(b) of this section. The burden of~~  
24 ~~proving that a retailer is exempt from collecting or electing to pay the fees~~  
25 ~~on any retail delivery and paying the fees to the executive director of the~~  
26 ~~department of revenue is on the retailer under such reasonable~~  
27 ~~requirements of proof as the executive director may prescribe. The retailer~~

1 is entitled, as collecting agent for the state, to apply and credit the amount  
2 of the retailer's collections, if any, against the amount to be paid pursuant  
3 to this subsection (6)(c).

4 ~~(d) (I) A retailer who collects the retail delivery fee imposed by~~  
5 ~~subsection (3) of this section and the enterprise retail delivery fees shall~~  
6 ~~remit the fees to the department of revenue at the same time and in the~~  
7 ~~same manner as the retailer remits sales tax revenue collected to the~~  
8 ~~department as required by article 26 of title 39 unless the department~~  
9 ~~requires or authorizes the fees to be remitted at another time or in another~~  
10 ~~manner.~~

11 ~~(H) A retailer who elects to pay the retail delivery fee imposed by~~  
12 ~~subsection (3) of this section and the enterprise retail delivery fees on~~  
13 ~~behalf of a purchaser in accordance with subsection (6)(b)(H) of this~~  
14 ~~section shall remit the fees to the department of revenue as if the fees had~~  
15 ~~been collected from the purchaser on the date of the retail delivery, as~~  
16 ~~specified in subsection (6)(d)(I) of this section.~~

17 ~~(e) All money paid to a retailer as a retail delivery fee imposed by~~  
18 ~~subsection (3) of this section, or as one or more of the enterprise retail~~  
19 ~~delivery fees, shall be and remains public money, the property of the state~~  
20 ~~of Colorado, in the hands of the retailer, and the retailer shall hold the~~  
21 ~~money in trust for the sole use and benefit of the state of Colorado until~~  
22 ~~paid to the executive director of the department of revenue, and, for~~  
23 ~~failure to pay the money to the executive director, a retailer shall be~~  
24 ~~punished as provided by law. If any retailer collects fees in excess of the~~  
25 ~~amount imposed by this section and sections 24-38.5-303 (7), 25-7.5-103~~  
26 ~~(8), 43-4-1203 (7), and 43-4-1303 (8), the retailer shall remit to the~~  
27 ~~executive director of the department of revenue the full amount of the~~

1 fees and also the full amount of the excess.

2 ~~(f) The department of revenue shall waive any processing costs,~~  
3 ~~as defined in section 39-21-119.5 (7)(d)(II), for electronic payment of the~~  
4 ~~retail delivery fee imposed by subsection (3) of this section and the~~  
5 ~~enterprise retail delivery fees if:~~

6 ~~(I) The processing costs would exceed the amount of the retail~~  
7 ~~delivery fees the retailer is remitting; and~~

8 ~~(II) The electronic payment is by automated clearing house (ACH)~~  
9 ~~debit.~~

10 ~~(7) The department of revenue may promulgate rules to implement~~  
11 ~~this section.~~

12 **SECTION 12.** In Colorado Revised Statutes, 43-4-805, **amend**  
13 **(2)(b)(I), (2)(c), (3)(a), (5)(r)(I), and (5)(r)(III)(A); and repeal (1)(b) and**  
14 **(5)(g.7) as follows:**

15 **43-4-805. Statewide bridge enterprise - creation - board -**  
16 **funds - powers and duties - legislative declaration - definitions.**

17 (1) The general assembly hereby finds and declares that:

18 (b) ~~Due to the limited availability of state and federal funding and~~  
19 ~~the need to accomplish the financing, repair, reconstruction, and~~  
20 ~~replacement of designated bridges; the completion of preventative~~  
21 ~~maintenance bridge projects; and the completion of tunnel projects as~~  
22 ~~promptly and efficiently as possible, it is necessary to create a statewide~~  
23 ~~bridge and tunnel enterprise and to authorize the enterprise to:~~

24 ~~(I) Enter into agreements with the commission or the department~~  
25 ~~to finance, repair, reconstruct, and replace designated bridges, complete~~  
26 ~~preventative maintenance bridge projects, and complete tunnel projects~~  
27 ~~in the state; and~~

1           ~~(H) Impose a bridge safety surcharge, a bridge and tunnel impact~~  
2 ~~fee and a bridge and tunnel retail delivery fee at rates reasonably~~  
3 ~~calculated to defray the costs of completing designated bridge projects,~~  
4 ~~preventative maintenance bridge projects, and tunnel projects and~~  
5 ~~distribute the burden of defraying the costs in a manner based on the~~  
6 ~~benefits received by persons paying the fees and using designated bridges~~  
7 ~~and tunnels, and receiving retail deliveries, receive and expend revenue~~  
8 ~~generated by the surcharge and fees and other money, issue revenue~~  
9 ~~bonds and other obligations, contract with the state, if required approvals~~  
10 ~~are obtained, to receive one or more loans of money received by the state~~  
11 ~~under the terms of one or more financed purchase of an asset or certificate~~  
12 ~~of participation agreements authorized by this part 8, expend revenue~~  
13 ~~generated by the surcharge to repay any such loan or loans received, and~~  
14 ~~exercise other powers necessary and appropriate to carry out its purposes;~~  
15 ~~and~~

16           (2) (b) The business purpose of the bridge enterprise is to finance,  
17 repair, reconstruct, and replace any designated bridge in the state,  
18 complete preventative maintenance bridge projects, and complete tunnel  
19 projects and, as agreed upon by the enterprise and the commission, or the  
20 department to the extent authorized by the commission, to maintain the  
21 bridges it finances, repairs, reconstructs, and replaces. To allow the  
22 bridge enterprise to accomplish this purpose and fully exercise its powers  
23 and duties through the bridge enterprise board, the bridge enterprise may:

24           (I) Impose a bridge safety surcharge AND a bridge and tunnel  
25 impact fee ~~and a bridge and tunnel retail delivery fee~~ as authorized by  
26 subsections (5)(g) AND (5)(g.5) ~~and (5)(g.7)~~ of this section;

27           (c) The bridge enterprise constitutes an enterprise for purposes of

1 section 20 of article X of the state constitution so long as it retains the  
2 authority to issue revenue bonds and receives less than ten percent of its  
3 total revenues in grants from all Colorado state and local governments  
4 combined. So long as it constitutes an enterprise pursuant to this  
5 subsection (2)(c), the bridge enterprise shall not be subject to any  
6 provisions of section 20 of article X of the state constitution. Consistent  
7 with the determination of the Colorado supreme court in *Nicholl v. E-470*  
8 *Public Highway Authority*, 896 P.2d 859 (Colo. 1995), that the power to  
9 impose taxes is inconsistent with "enterprise" status under section 20 of  
10 article X of the state constitution, the general assembly finds and declares  
11 that a bridge safety surcharge OR a bridge and tunnel impact fee ~~or a~~  
12 ~~bridge and tunnel retail delivery fee~~ imposed by the bridge enterprise as  
13 authorized by subsection (5)(g) OR (5)(g.5) ~~or (5)(g.7)~~ of this section is  
14 not a tax but is instead a fee imposed by the bridge enterprise to defray  
15 the cost of completing designated bridge projects, preventative  
16 maintenance bridge projects, and tunnel projects that the enterprise  
17 provides as a specific service to the persons upon whom the fee is  
18 imposed and at rates reasonably calculated based on the benefits received  
19 by such persons.

20 (3) (a) The statewide bridge and tunnel enterprise special revenue  
21 fund, referred to in this part 8 as the "bridge special fund", is hereby  
22 created in the state treasury. All revenue received by the bridge enterprise,  
23 including, but not limited to, revenue from a bridge safety surcharge  
24 imposed as authorized by subsection (5)(g) of this section, revenue from  
25 a bridge and tunnel impact fee imposed as authorized by subsection  
26 (5)(g.5) of this section, ~~revenue from a bridge and tunnel retail delivery~~  
27 ~~fee imposed as authorized by subsection (5)(g.7) of this section~~, and any

1 money loaned to the enterprise by the state pursuant to subsection (5)(r)  
2 of this section, shall be deposited into the bridge special fund. The bridge  
3 enterprise board may establish separate accounts within the bridge special  
4 fund as needed in connection with any specific designated bridge project,  
5 preventative maintenance bridge project, or tunnel project. The bridge  
6 enterprise also may deposit or permit others to deposit other money into  
7 the bridge special fund, but in no event may revenue from any tax  
8 otherwise available for general purposes be deposited into the bridge  
9 special fund. The state treasurer, after consulting with the bridge  
10 enterprise board, shall invest any money in the bridge special fund,  
11 including any surplus or reserves, but excluding any proceeds from the  
12 sale of bonds or earnings on such proceeds invested pursuant to section  
13 43-4-807 (2), that are not needed for immediate use. Such money may be  
14 invested in the types of investments authorized in sections 24-36-109,  
15 24-36-112, and 24-36-113.

16 (5) In addition to any other powers and duties specified in this  
17 section, the bridge enterprise board has the following powers and duties:

18 ~~(g.7) (f) In furtherance of its business purpose, beginning in state~~  
19 ~~fiscal year 2022-23, the bridge enterprise shall impose, and the~~  
20 ~~department of revenue shall collect on behalf of the bridge enterprise, a~~  
21 ~~bridge and tunnel retail delivery fee on each retail delivery. Each retailer~~  
22 ~~who makes a retail delivery shall either collect and remit or elect to pay~~  
23 ~~the bridge and tunnel retail delivery fee in the manner prescribed by the~~  
24 ~~department in accordance with section 43-4-218 (6). For the purpose of~~  
25 ~~minimizing compliance costs for retailers and administrative costs for the~~  
26 ~~state, the department of revenue shall collect and administer the bridge~~  
27 ~~and tunnel retail delivery fee on behalf of the bridge enterprise in the~~

1 same manner in which it collects and administers the retail delivery fee  
2 imposed by section 43-4-218 (3).

3 ~~(H) For retail deliveries of tangible personal property purchased~~  
4 ~~during state fiscal year 2022-23, the bridge enterprise shall impose the~~  
5 ~~bridge and tunnel retail delivery fee in a maximum amount of two and~~  
6 ~~seven-tenths cents.~~

7 ~~(H) (A) Except as otherwise provided in subsection~~  
8 ~~(5)(g.7)(H)(B) of this section, for retail deliveries of tangible personal~~  
9 ~~property purchased during state fiscal year 2023-24 or during any~~  
10 ~~subsequent state fiscal year, the bridge enterprise shall impose the bridge~~  
11 ~~and tunnel retail delivery fee in a maximum amount that is the maximum~~  
12 ~~amount for the prior state fiscal year adjusted for inflation. The bridge~~  
13 ~~enterprise shall notify the department of revenue of the amount of the~~  
14 ~~bridge and tunnel retail delivery fee to be collected for retail deliveries of~~  
15 ~~tangible personal property purchased during each state fiscal year no later~~  
16 ~~than March 15 of the calendar year in which the state fiscal year begins,~~  
17 ~~and the department of revenue shall publish the amount no later than~~  
18 ~~April 15 of the calendar year in which the state fiscal year begins.~~

19 ~~(B) The bridge enterprise is authorized to adjust the amount of the~~  
20 ~~bridge and tunnel retail delivery fee for retail deliveries of tangible~~  
21 ~~personal property purchased during a state fiscal year only if the~~  
22 ~~department of revenue adjusts the amount of the retail delivery fee~~  
23 ~~imposed by section 43-4-218 (3) for retail deliveries of tangible personal~~  
24 ~~property purchased during the state fiscal year.~~

25 ~~(IV) As used in this subsection (5)(g.7):~~

26 ~~(A) "Inflation" means the average annual percentage change in the~~  
27 ~~United States department of labor, bureau of labor statistics, consumer~~

1 ~~price index for Denver-Aurora-Lakewood for all items and all urban~~  
2 ~~consumers, or its applicable predecessor or successor index, for the five~~  
3 ~~years ending on the last December 31 before a state fiscal year for which~~  
4 ~~an inflation adjustment to be made to the bridge and tunnel retail delivery~~  
5 ~~fee imposed pursuant to this subsection (5)(g.7) begins.~~

6 ~~(B) "Retail delivery" has the same meaning as set forth in section~~  
7 ~~43-4-218 (2)(c).~~

8 ~~(C) "Retailer" has the same meaning as set forth in section~~  
9 ~~39-26-102 (8).~~

10 (r) (I) To contract with the state to borrow money under the terms  
11 of one or more loan contracts entered into by the state and the bridge  
12 enterprise pursuant to subsection (5)(r)(III) of this section, to expend any  
13 money borrowed from the state for the purpose of completing designated  
14 bridge projects, preventative maintenance bridge projects, and tunnel  
15 projects and for any other authorized purpose that constitutes the  
16 construction, supervision, and maintenance of the public highways of this  
17 state for purposes of section 18 of article X of the state constitution, and  
18 to use revenue generated by any bridge safety surcharge OR bridge and  
19 tunnel impact fee ~~or bridge and tunnel retail delivery fee~~ imposed  
20 pursuant to subsection (5)(g) OR (5)(g.5) ~~or (5)(g.7)~~ of this section and  
21 any other legally available money of the bridge enterprise to repay the  
22 money borrowed and any other amounts payable under the terms of the  
23 loan contract.

24 (III) (A) If the state treasurer receives a list from the governor  
25 pursuant to subsection (5)(r)(II) of this section, the state, acting by and  
26 through the state treasurer, may enter into a loan contract with the bridge  
27 enterprise and may raise the money needed to make a loan pursuant to the

1 terms of the loan contract by selling or leasing one or more of the state  
2 buildings or other state capital facilities on the list. The state treasurer  
3 shall have sole discretion to enter into a loan contract on behalf of the  
4 state and to determine the amount of a loan; except that the principal  
5 amount of a loan shall not exceed the maximum amount specified by the  
6 governor pursuant to subsection (5)(r)(II) of this section. The state  
7 treasurer shall also have sole discretion to determine the timing of the  
8 entry of the state into any loan contract or the sale or lease of one or more  
9 state buildings or other state capital facilities. The loan contract shall  
10 require the bridge enterprise to pledge to the state all or a portion of the  
11 revenues of any bridge safety surcharge OR bridge and tunnel impact fee  
12 ~~or bridge and tunnel retail delivery fee~~ imposed pursuant to subsection  
13 (5)(g) OR (5)(g.5) ~~or (5)(g.7)~~ of this section for the repayment of the loan  
14 and may also require the bridge enterprise to pledge to the state any other  
15 legally available revenue of the bridge enterprise. Any loan contract  
16 entered into by the state, acting by and through the state treasurer, and the  
17 bridge enterprise pursuant to this subsection (5)(r)(III)(A) and any pledge  
18 of revenue by the bridge enterprise pursuant to such a loan contract shall  
19 be only for the benefit of, and enforceable only by, the state and the  
20 bridge enterprise. Specifically, but without limiting the generality of said  
21 limitation, no such loan contract or pledge shall be for the benefit of, or  
22 enforceable by, a seller under a financed purchase of an asset or  
23 certificate of participation agreement entered into pursuant to this  
24 subsection (5)(r)(III), an owner of any instrument evidencing rights to  
25 receive rentals or other payments made and to be made under such a  
26 financed purchase of an asset or certificate of participation agreement as  
27 authorized by subsection (5)(r)(IV)(B) of this section, a party to any

1 ancillary agreement or instrument entered into pursuant to subsection  
2 (5)(r)(V) of this section, or a party to any interest rate exchange  
3 agreement entered into pursuant to subsection (5)(r)(VII)(A) of this  
4 section.

5 **SECTION 13.** In Colorado Revised Statutes, 43-4-1101, **amend**  
6 (1) introductory portion as follows:

7 **43-4-1101. Legislative declaration.**

8 (1) The general assembly hereby finds and declares that it is  
9 necessary, appropriate, and in the best interest of the state to use a portion  
10 of the general fund money that is dedicated for transportation purposes  
11 pursuant to section 24-75-219 to fund multimodal transportation projects  
12 and operations throughout the state ~~and to use a portion of the money that~~  
13 ~~is generated by the retail delivery fee imposed on the delivery of retail~~  
14 ~~goods transported to the delivery site by motor vehicle pursuant to section~~  
15 ~~43-4-218 (3) to fund transportation-related greenhouse gas mitigation~~  
16 expenses throughout the state as authorized by this part 11 because, in  
17 addition to the general benefits that it provides to all Coloradans, a  
18 complete and integrated multimodal transportation system that includes  
19 greenhouse gas mitigation projects and services:

20 **SECTION 14.** In Colorado Revised Statutes, 43-4-1201, **amend**  
21 (2)(g); and **repeal** (1)(a), (1)(b), (1)(c), (1)(d), (1)(f), (2)(e) and (2)(f) as  
22 follows:

23 **43-4-1201. Legislative declaration.** (1) The general assembly  
24 hereby finds and declares that:

25 (a) ~~Retail deliveries are increasing and are expected to continue~~  
26 ~~to increase in communities across the state;~~

27 (b) ~~The motor vehicles used to make retail deliveries are some of~~

1 the most polluting vehicles on the road, which has resulted in additional  
2 and increasing air and greenhouse gas pollution;

3 (c) ~~The adverse environmental and health impacts of increased~~  
4 ~~emissions from motor vehicles used to make retail deliveries can be~~  
5 ~~mitigated and offset by supporting the widespread adoption of electric~~  
6 ~~buses for transit fleets and reducing vehicle miles traveled by encouraging~~  
7 ~~people to choose clean, efficient, public transit options instead of personal~~  
8 ~~motor vehicle travel;~~

9 (d) ~~Instead of reducing the impacts of retail deliveries by limiting~~  
10 ~~retail delivery activity through regulation, it is more appropriate to~~  
11 ~~continue to allow persons who receive retail deliveries to benefit from the~~  
12 ~~convenience afforded by unfettered retail deliveries and instead impose~~  
13 ~~a small fee on each retail delivery and use fee revenue to fund necessary~~  
14 ~~mitigation activities;~~

15 (f) ~~By reducing motor vehicle emissions, transit fleet~~  
16 ~~electrification effectively remediates some of the impacts of retail~~  
17 ~~deliveries by offsetting a portion of the increased motor vehicle emissions~~  
18 ~~resulting from such deliveries.~~

19 (2) The general assembly further finds and declares that:

20 (e) ~~Consistent with the determination of the Colorado supreme~~  
21 ~~court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo.~~  
22 ~~1995), that the power to impose taxes is inconsistent with enterprise status~~  
23 ~~under section 20 of article X of the state constitution, it is the conclusion~~  
24 ~~of the general assembly that the revenue collected by the enterprise is~~  
25 ~~generated by fees, not taxes, because the clean transit retail delivery fee~~  
26 ~~imposed by the enterprise as authorized by section 43-4-1203 (7) and the~~  
27 ~~production fee for clean transit are:~~

1           (I) ~~Imposed for the specific purpose of allowing the enterprise to~~  
2 ~~defray the costs of providing the remediation services specified in this~~  
3 ~~section, including mitigating impacts to air quality and greenhouse gas~~  
4 ~~emissions caused by the activities on which the fee is assessed, and~~  
5 ~~contributes to the implementation of the comprehensive regulatory~~  
6 ~~scheme required for the planning, funding, development, construction,~~  
7 ~~maintenance, and supervision of a sustainable transportation system~~  
8 ~~specified in this section; and~~

9           (II) ~~Collected at rates that are reasonably calculated based on the~~  
10 ~~impacts caused by fee payers and the cost of remediating those impacts;~~

11           (f) ~~So long as the enterprise qualifies as an enterprise for purposes~~  
12 ~~of section 20 of article X of the state constitution, the revenue from the~~  
13 ~~clean transit retail delivery fee collected by the enterprise is not state~~  
14 ~~fiscal year spending, as defined in section 24-77-102 (17), or state~~  
15 ~~revenues, as defined in section 24-77-103.6 (6)(c), and does not count~~  
16 ~~against either the state fiscal year spending limit imposed by section 20~~  
17 ~~of article X of the state constitution or the excess state revenues cap, as~~  
18 ~~defined in section 24-77-103.6 (6)(b)(I)(D); and~~

19           (g) The addition of the production fee for clean transit continues  
20 to serve the enterprise's primary business purposes set forth in section  
21 43-4-1203 (3)(a). If the ~~addition~~ COLLECTION of the production fee for  
22 clean transit combined with the clean transit retail delivery fee THAT WAS  
23 COLLECTED BY THE ENTERPRISE PRIOR TO THE REPEAL OF THAT FEE BY  
24 THIS HOUSE BILL 26-\_\_\_\_, ENACTED IN 2026, is estimated to result in the  
25 collection of fees and surcharges that exceed one hundred million dollars  
26 in the enterprise's first five fiscal years, the board shall adjust the ~~fees~~  
27 PRODUCTION FEE, lower the ~~fees~~ FEE, or stop collecting the ~~fees~~ FEE in

1 order to not collect fees or surcharges that exceed one hundred million  
2 dollars in the enterprise's first five fiscal years, which five-year period, for  
3 the purpose of section 24-77-108, ends on June 30, 2026. Therefore, the  
4 enterprise, originally created in section 43-4-1203, is in compliance with  
5 section 24-77-108.

6 **SECTION 15.** In Colorado Revised Statutes, 43-4-1202, **repeal**  
7 (11), (15), and (16), as follows:

8 **43-4-1202. Definitions.** As used in this part 12, unless the context  
9 otherwise requires:

10 (11) ~~"Inflation" means the average annual percentage change in~~  
11 ~~the United States department of labor, bureau of labor statistics, consumer~~  
12 ~~price index for Denver-Aurora-Lakewood for all items and all urban~~  
13 ~~consumers, or its applicable predecessor or successor index, for the five~~  
14 ~~years ending on the last December 31 before a state fiscal year for which~~  
15 ~~an inflation adjustment to be made to the clean transit retail delivery fee~~  
16 ~~imposed pursuant to section 43-4-1203 (7) begins.~~

17 (15) ~~"Retail delivery" has the same meaning as set forth in section~~  
18 ~~43-4-218 (2)(c).~~

19 (16) ~~"Retailer" has the same meaning as set forth in section~~  
20 ~~39-26-102 (8).~~

21 **SECTION 16.** In Colorado Revised Statutes, 43-4-1203, **amend**  
22 (3)(a)(I), (5)(a), and (6)(g); and **repeal** (3)(b)(I) and (7) as follows:

23 **43-4-1203. Clean transit enterprise - creation - board - powers**  
24 **and duties - rules - fees - fund.**

25 (3) (a) The primary business purposes of the enterprise are to:  
26 (I) Reduce and mitigate the adverse environmental and health  
27 impacts of air pollution and greenhouse gas emissions produced by motor

1 vehicles ~~used to make retail deliveries~~ by supporting the replacement of  
2 existing gasoline and diesel transit vehicles with electric motor vehicles,  
3 including motor vehicles that originally were powered exclusively by  
4 internal combustion engines but have been converted into electric motor  
5 vehicles; providing the associated charging infrastructure for electric  
6 transit fleet motor vehicles; supporting facility modifications that allow  
7 for the safe operation and maintenance of electric transit motor vehicles;  
8 and funding planning studies that enable transit agencies to plan for  
9 transit vehicle electrification; and

10 (b) To allow the enterprise to accomplish the business purposes  
11 described in subsection (3)(a) of this section and fully exercise its powers  
12 and duties through the board, the enterprise may:

13 (I) ~~Impose a clean transit retail delivery fee as authorized by~~  
14 ~~subsection (7) of this section;~~

15 (5) (a) The clean transit enterprise fund is hereby created in the  
16 state treasury. The fund consists of ~~clean transit retail delivery fee~~  
17 ~~revenue credited to the fund pursuant to subsection (7) of this section~~, any  
18 monetary gifts, grants, donations, or other money received by the  
19 enterprise, any federal money that may be credited to the fund, and any  
20 other money that the general assembly may appropriate or transfer to the  
21 fund. The state treasurer shall credit all interest and income derived from  
22 the deposit and investment of money in the fund to the fund. Subject to  
23 annual appropriation by the general assembly, the enterprise may expend  
24 money from the fund to provide grants, pay its reasonable and necessary  
25 operating expenses, including repayment of any loan received by the  
26 enterprise pursuant to subsection (5)(b) of this section, and otherwise  
27 exercise its powers and perform its duties as authorized by this part 3.

1           (6) In addition to any other powers and duties specified in this  
2 section, the board has the following general powers and duties:

3           (g) To ~~promulgate~~ ADOPT rules to ~~set the amount of the clean~~  
4 ~~transit retail delivery fee at or below the maximum amount authorized in~~  
5 ~~this section and to govern the process by which the enterprise accepts~~  
6 ~~applications for, awards, and oversees grants, loans, and rebates pursuant~~  
7 ~~to subsection (8) of this section; and~~

8           (7) (a) ~~In furtherance of its business purpose, beginning in state~~  
9 ~~fiscal year 2022-23, the enterprise shall impose, and the department of~~  
10 ~~revenue shall collect on behalf of the enterprise, a clean transit retail~~  
11 ~~delivery fee on each retail delivery. Each retailer who makes a retail~~  
12 ~~delivery shall either collect and remit or elect to pay the clean transit retail~~  
13 ~~delivery fee in the manner prescribed by the department in accordance~~  
14 ~~with section 43-4-218 (6). For the purpose of minimizing compliance~~  
15 ~~costs for retailers and administrative costs for the state, the department of~~  
16 ~~revenue shall collect and administer the clean transit retail delivery fee on~~  
17 ~~behalf of the enterprise in the same manner in which it collects and~~  
18 ~~administers the retail delivery fee imposed by section 43-4-218 (3).~~

19           (b) ~~For retail deliveries of tangible personal property purchased~~  
20 ~~during state fiscal year 2022-23, the enterprise shall impose the clean~~  
21 ~~transit retail delivery fee in a maximum amount of three cents.~~

22           (c) (I) ~~Except as otherwise provided in subsection (7)(c)(II) of this~~  
23 ~~section, for retail deliveries of tangible personal property purchased~~  
24 ~~during state fiscal year 2023-24 or during any subsequent state fiscal year,~~  
25 ~~the enterprise shall impose the clean transit retail delivery fee in a~~  
26 ~~maximum amount that is the maximum amount for the prior state fiscal~~  
27 ~~year adjusted for inflation. The enterprise shall notify the department of~~

1 ~~revenue of the amount of the clean transit retail delivery fee to be~~  
2 ~~collected for retail deliveries of tangible personal property purchased~~  
3 ~~during each state fiscal year no later than March 15 of the calendar year~~  
4 ~~in which the state fiscal year begins, and the department of revenue shall~~  
5 ~~publish the amount no later than April 15 of the calendar year in which~~  
6 ~~the state fiscal year begins.~~

7 ~~(H) The enterprise is authorized to adjust the amount of the clean~~  
8 ~~transit retail delivery fee for retail deliveries of tangible personal property~~  
9 ~~purchased during a state fiscal year only if the department of revenue~~  
10 ~~adjusts the amount of the retail delivery fee imposed by section 43-4-218~~  
11 ~~(3) for retail deliveries of tangible personal property purchased during the~~  
12 ~~state fiscal year.~~

13 **SECTION 17.** In Colorado Revised Statutes, 43-4-1302, **amend**  
14 **(15); and repeal (19), (20), and (23) as follows:**

15 **43-4-1302. Definitions.** As used in this part 13, unless the context  
16 otherwise requires:

17 (15) "Inflation" means the average annual percentage change in  
18 the United States department of labor, bureau of labor statistics, consumer  
19 price index for Denver-Aurora-Lakewood for all items and all urban  
20 consumers, or its applicable predecessor or successor index, for the five  
21 years ending on the last December 31 before a state fiscal year for which  
22 an inflation adjustment to be made to the air pollution mitigation per ride  
23 fee imposed by section 43-4-1303 (7) ~~or the air pollution mitigation retail~~  
24 ~~delivery fee imposed by section 43-4-1303 (8) begins.~~

25 (19) "Retail delivery" ~~has the same meaning as set forth in section~~  
26 ~~43-4-218 (2)(c).~~

27 (20) "Retailer" ~~has the same meaning as set forth in section~~

1 ~~39-26-102 (8).~~

2 (23) ~~"Tangible personal property has the same meaning as set~~  
3 ~~forth in section 39-26-102 (15).~~

4 **SECTION 18.** In Colorado Revised Statutes, 43-4-1303, **amend**  
5 (3) introductory portion, (3)(a), (5)(a), and (6)(h); and **repeal** (8) as  
6 follows:

7 **43-4-1303. Nonattainment area air pollution mitigation**  
8 **enterprise - creation - board - powers and duties - rules - fees - fund.**

9 (3) The business purpose of the enterprise is to mitigate the  
10 environmental and health impacts of increased air pollution from motor  
11 vehicle emissions in nonattainment areas that results from the rapid and  
12 continuing growth ~~in retail deliveries made by motor vehicles and in~~  
13 ~~prearranged rides provided by transportation network companies by~~  
14 ~~providing funding for eligible projects that reduce traffic, including~~  
15 ~~demand management projects that encourage alternatives to driving alone~~  
16 ~~or that directly reduce air pollution, such as retrofitting of construction~~  
17 ~~equipment, construction of roadside vegetation barriers, and planting trees~~  
18 ~~along medians. To allow the enterprise to accomplish this purpose and~~  
19 ~~fully exercise its powers and duties through the board, the enterprise may:~~

20 (a) Impose an air pollution mitigation per ride fee ~~and an air~~  
21 ~~pollution mitigation retail delivery fee~~ as authorized by ~~subsections (7)~~  
22 ~~and (8)~~ SUBSECTION (7) of this section;

23 (5) (a) The nonattainment area air pollution mitigation enterprise  
24 fund is hereby created in the state treasury. The fund consists of air  
25 pollution mitigation per ride fee revenue ~~and air pollution mitigation retail~~  
26 ~~delivery fee revenue~~ credited to the fund pursuant to ~~subsections (7) and~~  
27 ~~(8)~~ SUBSECTION (7) of this section, any monetary gifts, grants, donations,

1 or other payments received by the enterprise, any federal money that may  
2 be credited to the fund, and any other money that the general assembly  
3 may appropriate or transfer to the fund. The state treasurer shall credit all  
4 interest and income derived from the deposit and investment of money in  
5 the fund to the fund. Money in the fund is continuously appropriated to  
6 the enterprise for the purposes set forth in this part 13 and to pay the  
7 enterprise's reasonable and necessary operating expenses, including the  
8 repayment of any loan received pursuant to subsection (5)(b) of this  
9 section.

10 (6) In addition to any other powers and duties specified in this  
11 section, the board has the following general powers and duties:

12 (h) To ~~promulgate~~ ADOPT rules for the sole purpose of setting the  
13 ~~amounts~~ AMOUNT of the air pollution mitigation per ride fee ~~and the air~~  
14 ~~pollution mitigation retail delivery fee~~ at or below the maximum amounts  
15 authorized in this section; and

16 (8) (a) ~~In furtherance of its business purpose, beginning in state~~  
17 ~~fiscal year 2022-23, the enterprise shall impose, and the department of~~  
18 ~~revenue shall collect on behalf of the enterprise, an air pollution~~  
19 ~~mitigation retail delivery fee on each retail delivery. Each retailer who~~  
20 ~~makes a retail delivery shall either collect and remit or elect to pay the air~~  
21 ~~pollution mitigation retail delivery fee in the manner prescribed by the~~  
22 ~~department in accordance with section 43-4-218 (6). For the purpose of~~  
23 ~~minimizing compliance costs for retailers and administrative costs for the~~  
24 ~~state, the department of revenue shall collect and administer the air~~  
25 ~~pollution mitigation retail delivery fee on behalf of the enterprise in the~~  
26 ~~same manner in which it collects and administers the retail delivery fee~~  
27 ~~imposed by section 43-4-218 (3).~~

1           ~~(b) For retail deliveries of tangible personal property purchased~~  
2 ~~during state fiscal year 2022-23, the enterprise shall impose the air~~  
3 ~~pollution mitigation retail delivery fee in a maximum amount of~~  
4 ~~seven-tenths of one cent.~~

5           ~~(c)(I) Except as otherwise provided in subsection (8)(c)(II) of this~~  
6 ~~section, for retail deliveries of tangible personal property purchased~~  
7 ~~during state fiscal year 2023-24 or during any subsequent state fiscal year,~~  
8 ~~the enterprise shall impose the air pollution mitigation retail delivery fee~~  
9 ~~in a maximum amount that is the maximum amount for the prior state~~  
10 ~~fiscal year adjusted for inflation. The enterprise shall notify the~~  
11 ~~department of revenue of the amount of the air pollution mitigation retail~~  
12 ~~delivery fee to be collected for retail deliveries of tangible personal~~  
13 ~~property purchased during each state fiscal year no later than March 15~~  
14 ~~of the calendar year in which the state fiscal year begins, and the~~  
15 ~~department of revenue shall publish the amount no later than April 15 of~~  
16 ~~the calendar year in which the state fiscal year begins.~~

17           ~~(II) The enterprise is authorized to adjust the amount of the air~~  
18 ~~pollution mitigation retail delivery fee for retail deliveries of tangible~~  
19 ~~personal property purchased during a state fiscal year only if the~~  
20 ~~department of revenue adjusts the amount of the retail delivery fee~~  
21 ~~imposed by section 43-4-218 (3) for retail deliveries of tangible personal~~  
22 ~~property purchased during the state fiscal year.~~

23           **SECTION 19.** In Colorado Revised Statutes, 39-37-103, **repeal**  
24 **(15)(a)(IV)** as follows:

25           **39-37-103. Definitions.** As used in this article 37, unless the  
26 context otherwise requires:

27           (15) (a) "Purchase price" means the aggregate consideration

1 valued in money paid or delivered or promised to be paid or delivered by  
2 the user or consumer in consummation of a sale, exclusive of:

3 (IV) ~~Any retail delivery fee and enterprise retail delivery fees~~  
4 ~~imposed or collected as specified in section 43-4-218;~~

5 **SECTION 20.** In Colorado Revised Statutes, 43-4-1103, **amend**  
6 (1)(a), (2)(d)(I), and (2)(d)(II) as follows:

7 **43-4-1103. Multimodal transportation options fund - creation**  
8 **- revenue sources for fund - use of fund.**

9 (1) (a) The multimodal transportation and mitigation options fund  
10 is hereby created in the state treasury. The fund consists of money  
11 transferred from the general fund to the fund pursuant to section  
12 ~~24-75-219 retail delivery fee revenue credited to the fund pursuant to~~  
13 ~~section 43-4-218 (5)(a)(H);~~ and any other money that the general  
14 assembly may appropriate or transfer to the fund. The state treasurer shall  
15 credit all interest and income derived from the deposit and investment of  
16 money in the fund to the fund.

17 (2) (d) (I) On and after October 1, 2022, unless the department has  
18 both adopted implementing guidelines and procedures that satisfy the  
19 requirements of section 43-1-128 (3) and updated its ten-year vision plan  
20 to comply with the implementing guidelines and procedures, expenditures  
21 from the funds made available for multimodal projects pursuant to  
22 sections 24-75-219 (7)(c)(I) and (7)(f)(II) ~~and 43-4-218 (5)(a)(H)~~ for state  
23 multimodal projects shall only be made for multimodal projects that the  
24 department, in consultation with the department of public health and  
25 environment, determines will help bring the ten-year vision plan into  
26 compliance with the requirements of section 43-1-128 (3).

27 (II) On and after October 1, 2022, unless the department has

1 adopted implementing guidelines and procedures that satisfy the  
2 requirements of section 43-1-128 (3) and a metropolitan planning  
3 organization that is in an area or includes an area that has been out of  
4 attainment for national ambient air quality standards for ozone for two  
5 years or more has updated its regional transportation plan to comply with  
6 the implementing guidelines and procedures, expenditures from the funds  
7 made available for multimodal projects pursuant to sections 24-75-219  
8 (7)(c)(I) and (7)(f)(II) ~~and 43-4-218 (5)(a)(H)~~ for local multimodal  
9 projects within the territory of the metropolitan planning organization  
10 shall only be made for multimodal projects that the department, in  
11 consultation with the department of public health and environment,  
12 determines will help bring the regional transportation plan into  
13 compliance with the requirements of section 43-1-128 (3).

14         **SECTION 21. Act subject to petition - effective date.** This act  
15 takes effect at 12:01 a.m. on the day following the expiration of the  
16 ninety-day period after final adjournment of the general assembly; except  
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
18 of the state constitution against this act or an item, section, or part of this  
19 act within such period, then the act, item, section, or part will not take  
20 effect unless approved by the people at the general election to be held in  
21 November 2026 and, in such case, will take effect on the date of the  
22 official declaration of the vote thereon by the governor.