

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

June 7, 2021

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB21-1266 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

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,

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

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

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

23 (c) Declares that:

24 (I) Nothing in this act:

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

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

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

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

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

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

37 Page 15, after line 3 insert:



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

3 **25-7-114.1. Air pollutant emission notices - rules.** (1) (a) No
4 person shall permit emission of air pollutants from, or construction or
5 alteration of, any facility, process, or activity except residential structures
6 from which air pollutants are, or are to be, emitted unless and until an air
7 pollutant emission notice has been filed with the division with respect to
8 such emission. THE COMMISSION MAY REQUIRE THAT AIR POLLUTANT
9 EMISSION NOTICES FOR GREENHOUSE GAS, AS DEFINED IN SECTION
10 25-7-140 (6), REPORT THE PREVIOUS CALENDAR YEAR'S EMISSIONS OF
11 GREENHOUSE GAS IN THE FORM OF CARBON DIOXIDE EQUIVALENT. An air
12 pollutant emission notice ~~shall be~~ IS valid for a period of NO MORE THAN
13 five years.

14 (b) 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 AIR QUALITY CONTROL COMMISSION'S
21 EXISTING AUTHORITY TO REQUIRE MORE THAN THE MINIMUM GREENHOUSE
22 GAS EMISSION REDUCTION GOALS AND DEADLINES PREVIOUSLY
23 ESTABLISHED IN SECTION 25-7-102 (2)(g); AND

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

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

38 (3) The commission shall promulgate a list of air pollutants ~~which~~
39 THAT are required to be reported in an air pollutant emission notice. NO
40 LATER THAN DECEMBER 31, 2022, THE COMMISSION SHALL INCLUDE
41 GREENHOUSE GAS, AS DEFINED IN SECTION 25-7-140 (6), IN THE LIST OF AIR

1 POLLUTANTS REQUIRED TO BE REPORTED IN AN AIR POLLUTANT EMISSION
2 NOTICE AND SHALL IDENTIFY THE CATEGORIES OF SOURCES FOR WHICH
3 AND THE THRESHOLDS BELOW WHICH GREENHOUSE GAS DOES NOT NEED
4 TO BE REPORTED IN AN AIR POLLUTANT EMISSION NOTICE. AN AIR
5 POLLUTANT EMISSION NOTICE FOR GREENHOUSE GASES NEED NOT BE
6 REQUIRED FOR A FACILITY OR ENTITY THAT IS OTHERWISE EXEMPT FROM
7 REPORTING GREENHOUSE GAS EMISSIONS TO THE DIVISION PURSUANT TO
8 A RULE ADOPTED BY THE COMMISSION. Prior to the commission's
9 promulgation of such a list of air pollutants to be reported in an air
10 pollutant emission notice, sources shall report any emissions of the
11 following ~~which~~ THAT are in excess of de minimis quantities:

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

14 **25-7-114.4. Permit applications - contents - rules - definitions.**

15 **(5) Provisions for permits for sources that affect disproportionately**
16 **impacted communities. (a) Rules. (I)** NO LATER THAN JUNE 1, 2023,
17 THE COMMISSION SHALL ADOPT RULES TO IMPLEMENT THE REQUIREMENTS
18 OF THIS SUBSECTION (5).

19 (II) THE COMMISSION MAY SET THRESHOLDS OF AFFECTED
20 POLLUTANTS BELOW WHICH THE REQUIREMENTS OF THIS SECTION DO NOT
21 APPLY.

22 (III) IN ADOPTING RULES TO IMPLEMENT THIS SUBSECTION (5), THE
23 COMMISSION SHALL IDENTIFY DISPROPORTIONATELY IMPACTED
24 COMMUNITIES.

25 (IV) THE COMMISSION SHALL PERIODICALLY, BUT NOT LESS OFTEN
26 THAN EVERY THREE YEARS, REVISIT ITS IDENTIFICATION OF
27 DISPROPORTIONATELY IMPACTED COMMUNITIES AND DETERMINATIONS OF
28 AFFECTED POLLUTANTS.

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

32 (II) (A) THE COMMISSION'S RULES MUST PROVIDE FOR ENHANCED
33 MODELING AND MONITORING REQUIREMENTS FOR NEW AND MODIFIED
34 SOURCES OF AFFECTED POLLUTANTS IN DISPROPORTIONATELY IMPACTED
35 COMMUNITIES THAT ARE IDENTIFIED OR APPROVED AT THE TIME OF PERMIT
36 APPLICATION. IN ADOPTING THE RULES, THE COMMISSION SHALL ALSO
37 CONSIDER REQUIRING ENHANCED MONITORING FOR EXISTING SOURCES OF
38 AFFECTED POLLUTANTS.

39 (B) THE COMMISSION'S RULES MUST IDENTIFY THE TYPES OF
40 MONITORING TECHNOLOGY THAT CAN BE USED BY THE SOURCES OF
41 AFFECTED POLLUTANTS AND MUST ALLOW FOR THE USE OF ALTERNATIVE

1 METHODS OF MONITORING AS APPROVED BY THE DIVISION.

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

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

11 (I) "AFFECTED POLLUTANTS" MEANS THOSE AIR POLLUTANTS AS
12 DETERMINED BY THE COMMISSION WITH THE POTENTIAL TO CAUSE OR
13 CONTRIBUTE TO SIGNIFICANT HEALTH OR ENVIRONMENTAL IMPACTS. THE
14 TERM INCLUDES:

15 (A) VOLATILE ORGANIC COMPOUNDS;

16 (B) OXIDES OF NITROGEN;

17 (C) HAZARDOUS AIR POLLUTANTS AS IDENTIFIED BY THE
18 COMMISSION, INCLUDING BENZENE, TOLUENE, ETHYLBENZENE AND
19 XYLENE; AND

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

22 (II) "COST-BURDENED" MEANS A HOUSEHOLD THAT SPENDS MORE
23 THAN THIRTY PERCENT OF ITS INCOME ON HOUSING.

24 (III) "DISPROPORTIONATELY IMPACTED COMMUNITY" MEANS A
25 COMMUNITY THAT:

26 (A) IS IN A CENSUS BLOCK GROUP, AS DETERMINED IN
27 ACCORDANCE WITH THE MOST RECENT UNITED STATES CENSUS, WHERE
28 THE PROPORTION OF HOUSEHOLDS THAT ARE LOW INCOME IS GREATER
29 THAN FORTY PERCENT, THE PROPORTION OF HOUSEHOLDS THAT IDENTIFY
30 AS MINORITY IS GREATER THAN FORTY PERCENT, OR THE PROPORTION OF
31 HOUSEHOLDS THAT ARE HOUSING COST-BURDENED IS GREATER THAN
32 FORTY PERCENT; OR

33 (B) IS ANY OTHER COMMUNITY AS IDENTIFIED OR APPROVED BY A
34 STATE AGENCY, IF THE COMMUNITY: HAS A HISTORY OF ENVIRONMENTAL
35 RACISM PERPETUATED THROUGH REDLINING, ANTI-IMMIGRANT,
36 ANTI-BLACK, ANTI-LATINO, ANTI-ASIAN AMERICAN, OR ANTI-INDIGENOUS
37 LAWS; OR IS ONE IN WHICH MULTIPLE FACTORS, INCLUDING
38 SOCIOECONOMIC STRESSORS, DISPROPORTIONATE ENVIRONMENTAL
39 BURDENS, VULNERABILITY TO ENVIRONMENTAL DEGRADATION, AND LACK
40 OF PUBLIC PARTICIPATION, MAY ACT CUMULATIVELY TO AFFECT HEALTH
41 AND THE ENVIRONMENT AND CONTRIBUTE TO PERSISTENT DISPARITIES.

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

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

7 **SECTION 8.** In Colorado Revised Statutes, 25-7-114.5, **amend**
8 (12.5)(a)(I) introductory portion, (12.5)(a)(I)(C), (12.5)(a)(I)(D), and
9 (12.5)(b); and **add** (12.5)(a)(I)(E) as follows:

10 **25-7-114.5. Application review - public participation.**
11 (12.5) (a) (I) Except for sources involved in agricultural, horticultural, or
12 floricultural production such as farming, seasonal crop drying, animal
13 feeding, or pesticide application, upon determination by the division that
14 the criteria set forth in ~~paragraph (b) of this subsection (12.5)~~ SUBSECTION
15 (12.5)(b) OF THIS SECTION applies to a source that is not required to obtain
16 a renewable operating permit, the division may reopen such construction
17 permit for the purpose of imposing any or all of the following additional
18 terms and conditions:

- 19 (C) Operating and maintenance requirements; ~~and~~
- 20 (D) Emission control requirements pursuant to section 25-7-109.3;

21 AND

22 (E) ADDITIONAL MONITORING REQUIREMENTS FOR SOURCES
23 AFFECTING DISPROPORTIONATELY IMPACTED COMMUNITIES.

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

33 (I) The control equipment utilized by the source requires an
34 unusually high degree of maintenance or operational sensitivity when
35 compared to control equipment in general; ~~or~~

36 (II) The design characteristics of the source require an unusually
37 high degree of maintenance or operational sensitivity when compared to
38 the design characteristics of all sources in general; ~~or~~

39 (III) The application of the control equipment utilized is unique
40 or untested; ~~or~~

41 (IV) The operational variability of the source may impact the

1 effectiveness of the controls; ~~or~~

2 (V) The emissions from the source will threaten public health, as

3 determined pursuant to section 25-7-109.3; OR

4 (VI) THE EMISSIONS FROM THE SOURCE WILL AFFECT A

5 DISPROPORTIONATELY IMPACTED COMMUNITY AS DEFINED IN SECTION

6 25-7-114.4 (5)(d)(III).

7 **SECTION 9.** In Colorado Revised Statutes, 25-7-114.7, **amend**

8 (1)(a)(II), (2)(a)(I) introductory portion, (2)(b)(III) introductory portion,

9 and (2)(b)(III)(G); and **add** (2)(a)(VII), (2)(b)(III)(I), (2)(b)(III)(J), and

10 (2)(h) as follows:

11 **25-7-114.7. Emission fees - fund - rules - definition - repeal.**

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

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

14 (II) Implementing and enforcing the terms and conditions of any

15 ~~such~~ permit OR RULE, not including court costs or other legal costs

16 associated with any enforcement action;

17 (2) (a) (I) EXCEPT AS SPECIFIED IN SUBSECTION (2)(a)(VII) OF THIS

18 SECTION, the commission shall designate by rule those classes of sources

19 of air pollution that are exempt from the requirement to pay an annual

20 emission fee. Every owner or operator of an air pollution source not

21 otherwise exempt in accordance with such commission rules shall pay an

22 annual fee as follows:

23 (VII) THE COMMISSION SHALL ESTABLISH, BY RULE, A FEE PER TON

24 OF GREENHOUSE GAS, IN THE FORM OF CARBON DIOXIDE EQUIVALENT,

25 THAT WAS REPORTED IN THE MOST RECENT AIR POLLUTANT EMISSION

26 NOTICE ON FILE WITH THE DIVISION IN AN AMOUNT THAT IS SUFFICIENT TO

27 COVER THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND

28 ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7

29 THAT PERTAIN TO EMISSIONS OF GREENHOUSE GAS. THE COMMISSION MAY

30 SET THRESHOLDS OF REPORTED GREENHOUSE GAS BELOW WHICH NO SUCH

31 FEE SHALL BE ASSESSED. NO MORE FREQUENTLY THAN ANNUALLY, THE

32 COMMISSION MAY ADJUST THE FEE FOR GREENHOUSE GAS BY RULE TO

33 COVER THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND

34 ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7

35 THAT PERTAIN TO EMISSIONS OF GREENHOUSE GAS.

36 (b) (III) The division shall expend the portion of the fee revenue

37 collected pursuant to subsections (2)(a)(I)(A), (2)(a)(I)(B), ~~and~~ (2)(a)(III),

38 AND (2)(a)(VII) of this section and section 25-7-114.1 (6)(a) attributable

39 to the increases authorized in 2020 by Senate Bill 20-204 AND IN 2021 BY

40 HOUSE BILL 21-1266 for the following purposes:

41 (G) Expanding the division's capacity to quickly respond to and

1 better understand public health issues that are related to exposure to air
2 toxics, such as benzene and other volatile organic compounds; and

3 (I) ENABLING OUTREACH TO AND ENGAGEMENT OF
4 DISPROPORTIONATELY IMPACTED COMMUNITIES; AND

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

7 (h) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL
8 21-1266:

9 (I) NOTHING:

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

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

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

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

23 **25-7-115. Enforcement.** (3) (b) If, after any such conference, a
24 violation or noncompliance is determined to have occurred, the division
25 shall issue an order requiring the owner or operator or any other
26 responsible person to comply, unless the owner or operator demonstrates
27 that ~~such~~ THE violation occurred during a period of start-up, shutdown, or
28 malfunction and timely notice was given to the division of ~~such~~ THE
29 condition. ~~Such~~ THE order may include termination, modification, or
30 revocation and reissuance of the subject permit, ~~and~~ the assessment of
31 civil penalties in accordance with section 25-7-122, ~~Such~~ AND, IN
32 ADDITION TO CIVIL PENALTIES, A REQUIREMENT TO PERFORM ONE OR MORE
33 PROJECTS TO MITIGATE VIOLATIONS RELATED TO EXCESS EMISSIONS. THE
34 order may also require the calculation of a noncompliance penalty under
35 subsection (5) of this section. Unless enforcement of its order has been
36 stayed as provided in ~~paragraph (b) of subsection (4)~~ SUBSECTION (4)(b)
37 of this section, the division may seek enforcement, pursuant to section
38 25-7-121 or 25-7-122, of the applicable ~~regulation~~ RULE of the
39 commission, order issued pursuant to section 25-7-121 or 25-7-122 ~~of~~ OR
40 the applicable ~~regulation~~ RULE of the commission, order issued pursuant
41 to section 25-7-118, requirement of the state implementation plan,

1 provision of this ~~article~~ ARTICLE 7, or terms or conditions of a permit
2 required pursuant to this ~~article~~ ARTICLE 7 in the district court for the
3 district where the affected air pollution source is located. The court shall
4 issue an appropriate order, which may include a schedule for compliance
5 by the owner or operator of the source.

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

8 **25-1-132. Environmental justice - ombudsperson - advisory**
9 **board - grant program - definitions - repeal. (1) Environmental**

10 **justice ombudsperson.** (a) THERE IS HEREBY CREATED IN THE
11 DEPARTMENT THE POSITION OF AN ENVIRONMENTAL JUSTICE
12 OMBUDSPERSON. THE OMBUDSPERSON REPORTS TO THE EXECUTIVE
13 DIRECTOR OF THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE
14 ADMINISTRATIVE SUPPORT FOR THE OMBUDSPERSON. THE OMBUDSPERSON
15 OTHERWISE FUNCTIONS INDEPENDENTLY IN EXERCISING ITS POWERS.

16 (b) THE GOVERNOR SHALL APPOINT THE OMBUDSPERSON AS SOON
17 AS PRACTICABLE BUT NO LATER THAN FEBRUARY 1, 2022, AND AS
18 NECESSARY THEREAFTER TO FILL A VACANCY. PRIOR TO AN APPOINTMENT,
19 THE GOVERNOR OR THE GOVERNOR'S DESIGNEE SHALL CONSULT WITH, AND
20 MAY RECEIVE RECOMMENDATIONS FROM, THE ADVISORY BOARD, THE
21 GENERAL ASSEMBLY, REPRESENTATIVES OF DISPROPORTIONATELY
22 IMPACTED COMMUNITIES, AND OTHER RELEVANT STAKEHOLDERS
23 REGARDING THE SELECTION OF THE OMBUDSPERSON.

24 (c) THE OMBUDSPERSON MUST BE QUALIFIED BY TRAINING OR
25 EXPERIENCE IN ENVIRONMENTAL JUSTICE, AND SHOULD HAVE BEEN A
26 RESIDENT OF ONE OR MORE DISPROPORTIONATELY IMPACTED
27 COMMUNITIES OR HAVE WORKED TO ADVANCE ENVIRONMENTAL JUSTICE
28 WITHIN DISPROPORTIONATELY IMPACTED COMMUNITIES.

29 (d) THE OMBUDSPERSON SHALL:

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

33 (II) SERVE AS AN ADVOCATE FOR DISPROPORTIONATELY IMPACTED
34 COMMUNITIES AND AS A LIAISON BETWEEN DISPROPORTIONATELY
35 IMPACTED COMMUNITIES AND THE DEPARTMENT, INCLUDING WITH
36 RESPECT TO COMMUNICATIONS REGARDING THE GRANT PROGRAM TO FUND
37 ENVIRONMENTAL MITIGATION PROJECTS;

38 (III) WORK TO IMPROVE THE RELATIONSHIPS AND INTERACTIONS
39 BETWEEN DISPROPORTIONATELY IMPACTED COMMUNITIES AND THE
40 DEPARTMENT;

41 (IV) INCREASE THE FLOW OF INFORMATION BETWEEN THE

1 DEPARTMENT AND DISPROPORTIONATELY IMPACTED COMMUNITIES
2 CONCERNING THE ENVIRONMENT AND DEPARTMENTAL PROGRAMS USING
3 METHODS OF OUTREACH THAT INCLUDE, AT A MINIMUM:

4 (A) DISSEMINATING INFORMATION THROUGH LOCAL SCHOOLS,
5 SOCIAL MEDIA, LOCAL SOCIAL AND ACTIVITY CLUBS, LIBRARIES, OR OTHER
6 LOCAL SERVICES; AND

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

11 (V) IDENTIFY WAYS TO ENABLE MEANINGFUL PARTICIPATION BY
12 DISPROPORTIONATELY IMPACTED COMMUNITIES IN THE DECISION-MAKING
13 PROCESSES OF THE DEPARTMENT;

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

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

19 (VIII) ESTABLISH PROCEDURES TO ADDRESS COMPLAINTS
20 PERTAINING TO ENVIRONMENTAL JUSTICE TO THE EXTENT PRACTICABLE;

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

25 (X) SERVE IN AN ADVISORY CAPACITY, AS REQUESTED, TO OTHER
26 STATE AGENCIES CONDUCTING OUTREACH TO AND ENGAGEMENT OF
27 DISPROPORTIONATELY IMPACTED COMMUNITIES IN LIGHT OF A PROPOSED
28 AGENCY ACTION.

29 (2) **Environmental justice advisory board.** (a) THERE IS
30 HEREBY CREATED IN THE DEPARTMENT THE ENVIRONMENTAL JUSTICE
31 ADVISORY BOARD.

32 (b) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2), THE
33 MEMBERS OF THE ADVISORY BOARD ARE APPOINTED BY THE GOVERNOR.
34 THE GOVERNOR SHALL MAKE THE INITIAL APPOINTMENTS AS SOON AS
35 PRACTICABLE, BUT NO LATER THAN FOUR MONTHS AFTER THE EFFECTIVE
36 DATE OF THIS SECTION. AN APPOINTING AUTHORITY MAY REMOVE A
37 MEMBER OF THE ADVISORY BOARD FOR MALFEASANCE IN OFFICE, FAILURE
38 TO REGULARLY ATTEND MEETINGS, OR ANY CAUSE THAT RENDERS THE
39 MEMBER UNABLE OR UNFIT TO DISCHARGE THE MEMBER'S DUTIES.

40 (c) THE ADVISORY BOARD CONSISTS OF THE FOLLOWING TWELVE
41 MEMBERS WHO, TO THE EXTENT PRACTICABLE, MUST RESIDE IN DIFFERENT

1 GEOGRAPHIC AREAS OF THE STATE, REFLECT THE RACIAL AND ETHNIC
2 DIVERSITY OF THE STATE, AND HAVE EXPERIENCE WITH A RANGE OF
3 ENVIRONMENTAL ISSUES, INCLUDING AIR POLLUTION, WATER
4 CONTAMINATION, AND PUBLIC HEALTH IMPACTS:

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

8 (II) THREE VOTING MEMBERS APPOINTED BY THE GOVERNOR, ONE
9 OF WHOM MUST BE FROM A NONGOVERNMENTAL ORGANIZATION THAT
10 REPRESENTS STATEWIDE INTERESTS TO ADVANCE RACIAL JUSTICE, ONE OF
11 WHOM MUST BE FROM A NONGOVERNMENTAL ORGANIZATION THAT
12 REPRESENTS STATEWIDE INTERESTS TO ADVANCE ENVIRONMENTAL
13 JUSTICE, AND ONE OF WHOM MUST REPRESENT WORKER INTERESTS IN
14 DISPROPORTIONATELY IMPACTED COMMUNITIES;

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

17 (IV) FOUR VOTING MEMBERS APPOINTED BY THE EXECUTIVE
18 DIRECTOR OF THE DEPARTMENT.

19 (d) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(d)(II) OF THIS
20 SECTION, EACH MEMBER'S TERM OF APPOINTMENT IS FOUR YEARS. VOTING
21 MEMBERS MAY SERVE NO MORE THAN TWO TERMS. THE GOVERNOR SHALL
22 FILL ANY VACANCIES ON THE ADVISORY BOARD, INCLUDING FOR THE
23 REMAINDER OF ANY UNEXPIRED TERM. A MEMBER APPOINTED TO FILL A
24 VACANCY MAY SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE
25 MEMBER WHOSE VACANCY IS BEING FILLED, AND THIS REMAINDER COUNTS
26 AS ONE TERM FOR THAT APPOINTEE.

27 (II) IN ORDER TO ENSURE STAGGERED TERMS OF OFFICE, THE
28 INITIAL TERM OF TWO MEMBERS APPOINTED BY THE GOVERNOR PURSUANT
29 TO SUBSECTION (2)(c)(I) OF THIS SECTION, AS SPECIFIED BY THE
30 GOVERNOR, AND TWO MEMBERS APPOINTED PURSUANT TO SUBSECTION
31 (2)(c)(IV) OF THIS SECTION AS SPECIFIED BY THE EXECUTIVE DIRECTOR OF
32 THE DEPARTMENT IS TWO YEARS.

33 (e) (I) EACH VOTING MEMBER OF THE ADVISORY BOARD APPOINTED
34 PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION IS ENTITLED TO RECEIVE
35 A PER DIEM OF TWO HUNDRED DOLLARS FOR ATTENDANCE AT REGULARLY
36 SCHEDULED MEETINGS OF THE BOARD DURING THE 2021-22 STATE FISCAL
37 YEAR. FOR EACH STATE FISCAL YEAR THEREAFTER, THE PER DIEM AMOUNT
38 SHALL BE ANNUALLY ADJUSTED FOR INFLATION BASED ON THE
39 PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S
40 BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR
41 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL URBAN

1 CONSUMERS, OR ITS APPLICABLE SUCCESSOR INDEX. VOTING MEMBERS OF
2 THE BOARD ARE ALSO ENTITLED TO RECEIVE REIMBURSEMENT FOR ACTUAL
3 AND NECESSARY EXPENSES INCURRED WHILE PERFORMING OFFICIAL
4 DUTIES.

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

8 (f) THE ADVISORY BOARD SHALL ELECT A CHAIR FROM AMONG ITS
9 MEMBERS EVERY YEAR. THE ADVISORY BOARD SHALL MEET AT LEAST
10 ONCE EVERY QUARTER. THE CHAIR MAY SCHEDULE ALL SUCH ADDITIONAL
11 MEETINGS AS ARE NECESSARY FOR THE ADVISORY BOARD TO COMPLETE
12 ITS DUTIES.

13 (g) THE ADVISORY BOARD SHALL:

14 (I) SERVE IN AN ADVISORY CAPACITY TO THE OMBUDSPERSON IN
15 THE PERFORMANCE OF THE DUTIES OF THE OMBUDSPERSON;

16 (II) HOLD A PORTION OF ADVISORY BOARD MEETINGS FOR THE
17 OMBUDSPERSON TO JOINTLY RECEIVE STAKEHOLDER INPUT INTO THE
18 ACTIVITIES AND PRIORITIES OF THE OMBUDSPERSON;

19 (III) DEVELOP A PUBLIC COMPLAINT PROCESS RELATED TO THE
20 PERFORMANCE OF THE OMBUDSPERSON;

21 (IV) DEVELOP RECOMMENDATIONS TO ADDRESS ANY OTHER
22 MATTERS RELATING TO ADVERSE ENVIRONMENTAL EFFECTS ON
23 DISPROPORTIONATELY IMPACTED COMMUNITIES AS REFERRED TO THE
24 ADVISORY BOARD BY THE GOVERNOR OR THE EXECUTIVE DIRECTOR OF THE
25 DEPARTMENT;

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

35 (VI) ADVISE THE DEPARTMENT ON MATTERS TO ENABLE THE
36 DEPARTMENT TO INTERACT WITH DISPROPORTIONATELY IMPACTED
37 COMMUNITIES IN THE BEST MANNER POSSIBLE;

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

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

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

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

32 (h) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1,
33 2027. BEFORE THE REPEAL, THE ADVISORY BOARD AND ITS FUNCTIONS ARE
34 SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

35 (3) **Records and meetings.** THE ADVISORY BOARD AND THE
36 OMBUDSPERSON ARE SUBJECT TO ALL THE APPLICABLE REQUIREMENTS OF
37 THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE
38 24, AND THE OPEN MEETINGS LAW CONTAINED IN PART 4 OF ARTICLE 6 OF
39 TITLE 24.

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

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

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

10 (c) "OMBUDSPERSON" MEANS THE ENVIRONMENTAL JUSTICE
11 OMBUDSPERSON APPOINTED PURSUANT TO SUBSECTION (1) OF THIS
12 SECTION.

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

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

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

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

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

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

40 (IV) FOR STATE FISCAL YEAR 2024-25, EIGHTY PERCENT OF THE
41 RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR

1 SHALL BE CREDITED TO THE FUND, AND TWENTY PERCENT TO THE GENERAL
2 FUND; AND

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

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

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

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

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

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

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

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

32 **25-7-105. Duties of commission - rules - legislative declaration**
33 **- definitions.** (1) Except as provided in sections 25-7-130 and 25-7-131,
34 the commission shall promulgate such rules ~~and regulations~~ as are
35 consistent with the legislative declaration set forth in section 25-7-102
36 and necessary for the proper implementation and administration of this
37 article 7, including, but not limited to:

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

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

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

33 (VIII) (G) THE COMMISSION IS ENCOURAGED TO PURSUE
34 PROGRAMS AND POLICIES THAT ARE CONSISTENT WITH THIS SUBSECTION
35 (1)(e)(VIII) AND THAT INCENTIVIZE VOLUNTARY ADDITIONAL NEAR-TERM
36 GREENHOUSE GAS REDUCTIONS FROM ELECTRIC UTILITIES WITH THE AIM
37 OF REDUCING GREENHOUSE GAS EMISSIONS FROM ELECTRIC UTILITIES BY
38 AT LEAST FORTY-EIGHT PERCENT BY 2025 AND EIGHTY PERCENT BY 2030,
39 INCLUDING EMISSIONS ASSOCIATED WITH IMPORTED ELECTRICITY, AS
40 COMPARED TO A 2005 BASELINE AND ACCELERATING NEAR-TERM
41 REDUCTIONS IN GREENHOUSE GAS EMISSIONS TO INCREASE CUMULATIVE

1 REDUCTIONS FROM ELECTRIC UTILITIES. NOTHING IN THIS SUBSECTION
2 (1)(e)(VIII)(G) LIMITS THE AUTHORITY OF THE PUBLIC UTILITIES
3 COMMISSION.

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

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

24 (J) AN ELECTRIC UTILITY THAT IS NOT A QUALIFYING RETAIL
25 UTILITY AS DEFINED IN SECTION 40-2-125.5 (2)(c)(I) THAT IS REQUIRED TO
26 SUBMIT A CLEAN ENERGY PLAN OR A WHOLESALE GENERATION AND
27 TRANSMISSION COOPERATIVE THAT INTENDS TO FILE A CLEAN ENERGY
28 PLAN PURSUANT TO THIS SUBSECTION (1)(e) SHALL PROVIDE WRITTEN
29 NOTICE TO THE DIVISION OF INTENT TO FILE A CLEAN ENERGY PLAN BY
30 AUGUST 1, 2021. AN INVESTOR-OWNED UTILITY THAT HAS NOT ALREADY
31 FILED A CLEAN ENERGY PLAN AND THAT INDICATES AN INTENT TO FILE A
32 CLEAN ENERGY PLAN SHALL FILE A CLEAN ENERGY PLAN WITH THE PUBLIC
33 UTILITIES COMMISSION WITH ITS NEXT RESOURCE PLAN FILING. THE
34 DIVISION SHALL VERIFY EMISSION REDUCTIONS AS PART OF THE PUBLIC
35 UTILITIES COMMISSION PROCEEDING THAT REVIEWS THE RESOURCE PLAN.
36 A UTILITY THAT IS NOT INVESTOR-OWNED OR A WHOLESALE GENERATION
37 AND TRANSMISSION COOPERATIVE UTILITY THAT PROVIDED WRITTEN
38 NOTICE OF INTENT TO FILE A VOLUNTARY CLEAN ENERGY PLAN SHALL
39 PROVIDE ALL INFORMATION THE DIVISION DEEMS NECESSARY TO
40 EVALUATE AND VERIFY THE EMISSION REDUCTIONS CLAIMED AS PART OF
41 A CLEAN ENERGY PLAN NO LATER THAN DECEMBER 31, 2021. THE

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

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

26 (B) IF AN ELECTRIC UTILITY DOES NOT PROVIDE WRITTEN NOTICE
27 OF INTENT TO FILE A CLEAN ENERGY PLAN WITH THE DIVISION OR DOES
28 NOT SUBMIT A CLEAN ENERGY PLAN AFTER EXPRESSING WRITTEN INTENT
29 TO FILE A PLAN, THE COMMISSION SHALL, WITHIN FIFTEEN MONTHS AFTER
30 THE ELECTRIC UTILITY'S FAILURE TO PROVIDE WRITTEN NOTICE OR SUBMIT
31 A PLAN, ADOPT A RULE TO REDUCE GREENHOUSE GAS EMISSIONS CAUSED
32 BY THE ELECTRIC UTILITY'S COLORADO RETAIL ELECTRICITY SALES OF AT
33 LEAST FORTY-EIGHT PERCENT BY 2025 AND EIGHTY PERCENT BY 2030,
34 INCLUDING EMISSIONS ASSOCIATED WITH IMPORTED ELECTRICITY, AS
35 COMPARED TO A 2005 BASELINE. THE COMMISSION SHALL DESIGN THE
36 RULES TO ACCELERATE NEAR-TERM REDUCTIONS IN GREENHOUSE GAS
37 EMISSIONS IN ORDER TO REDUCE TOTAL CUMULATIVE EMISSIONS BETWEEN
38 THE DATE OF ADOPTION AND 2030.

39 (C) CLEAN ENERGY PLAN FILINGS MUST INCLUDE PROJECTED
40 EMISSIONS FOR EACH CALENDAR YEAR THROUGH 2030 TO INFORM THE
41 STATEWIDE GREENHOUSE GAS PLANNING PROCESS. THE DIVISION SHALL

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

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

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

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

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

28 (A) PROTECTIONS FOR DISPROPORTIONATELY IMPACTED
29 COMMUNITIES, ACHIEVING REDUCTION OF GREENHOUSE GASES AND
30 CO-POLLUTANTS; AND

31 (B) MORE ROBUST MONITORING, LEAK DETECTION, AND REPAIR
32 REQUIREMENTS, REPORTING, AND RECORD-KEEPING REQUIREMENTS TO
33 ENSURE THAT THE DIVISION CAN ACCURATELY QUANTIFY GREENHOUSE
34 GAS EMISSIONS DURING ALL OPERATING CONDITIONS, INCLUDING
35 EQUIPMENT MALFUNCTIONS; AND

36 (C) ADDITIONAL DIRECT EMISSION REDUCTION CONTROLS.

37 (XIII) IN IMPLEMENTING THIS SUBSECTION (1)(e), THE
38 COMMISSION SHALL ADOPT RULES TO REDUCE STATEWIDE GREENHOUSE
39 GAS EMISSIONS FROM THE INDUSTRIAL AND MANUFACTURING SECTOR IN
40 THE STATE BY AT LEAST TWENTY PERCENT BY 2030 BELOW THE 2005
41 BASELINE ESTABLISHED PURSUANT TO SECTION 25-7-140 (2)(a)(II),

1 TAKING INTO ACCOUNT THE FACTORS SET OUT IN SUBSECTIONS (1)(e)(II)
2 TO (1)(e)(VI) OF THIS SECTION. THE RULES MUST INCLUDE PROTECTIONS
3 FOR DISPROPORTIONATELY IMPACTED COMMUNITIES AND PRIORITIZE
4 EMISSION REDUCTIONS THAT WILL REDUCE EMISSIONS OF CO-POLLUTANTS
5 THAT ADVERSELY AFFECT DISPROPORTIONATELY IMPACTED COMMUNITIES,
6 BE DESIGNED TO ACCELERATE NEAR-TERM REDUCTIONS, AND SECURE
7 MEANINGFUL EMISSION REDUCTIONS FROM THIS SECTOR TO BE REALIZED
8 BEGINNING NO LATER THAN SEPTEMBER 30, 2024. THE RULES MUST:

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

11 (B) REQUIRE A FIVE PERCENT REDUCTION IN THE GREENHOUSE GAS
12 EMISSIONS ASSOCIATED WITH ENERGY-INTENSIVE, TRADE-EXPOSED
13 MANUFACTURING SOURCES THAT CURRENTLY EMPLOY BEST AVAILABLE
14 EMISSION CONTROL TECHNOLOGIES FOR GREENHOUSE GAS EMISSIONS AND
15 BEST AVAILABLE ENERGY EFFICIENCY PRACTICES, AS DETERMINED BY THE
16 COMMISSION, PURSUANT TO SUBSECTION (1)(e)(IX)(A) OF THIS SECTION.

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

20 (A) "GHG CREDIT" MEANS A TRADEABLE COMPLIANCE
21 INSTRUMENT IN A PHYSICAL OR ELECTRONIC FORMAT, THE USE OF WHICH
22 IS AUTHORIZED PURSUANT TO A REGULATORY PROGRAM ADOPTED BY THE
23 COMMISSION THAT REPRESENTS THE REDUCTION OF ONE METRIC TON OF
24 CARBON-DIOXIDE EQUIVALENT OF GREENHOUSE GAS BY A REGULATED
25 SOURCE.

26 (B) "REGULATED SOURCE" MEANS A SOURCE OF GREENHOUSE GAS
27 THAT IS SUBJECT TO A RULE ADOPTED BY THE COMMISSION UNDER
28 SUBSECTION (1)(e) OF THIS SECTION THAT IMPOSES SPECIFIC AND
29 QUANTIFIABLE GREENHOUSE GAS REDUCTION OBLIGATIONS UPON THAT
30 SOURCE OR GROUP OF SOURCES.

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

37 (II) **Greenhouse gas accounting system.** EXCEPT AS SPECIFIED IN
38 SUBSECTION (1)(f)(III) OF THIS SECTION, BEFORE THE COMMISSION ADOPTS
39 A RULE OR PROGRAM THAT PROVIDES FOR THE USE OF A TRADING
40 PROGRAM, THE COMMISSION SHALL ADOPT A RULE THAT DIRECTS THE
41 DIVISION TO CREATE A COMPREHENSIVE AND CENTRALIZED ACCOUNTING

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

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

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

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

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

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

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

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

26 (D) IDENTIFIES REGULATED SOURCES THAT ADVERSELY AFFECT
27 DISPROPORTIONATELY IMPACTED COMMUNITIES THROUGH THEIR
28 EMISSIONS OF LOCALLY HARMFUL AIR POLLUTANTS.

29 (g) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL
30 21-1266:

31 (I) NOTHING:

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

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

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

1 AND 25-7-140.

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

4 **25-7-109.3. Colorado hazardous air pollutant control and**
5 **reduction program - rules.** (2) EXCEPT AS PROVIDED IN SECTION
6 25-7-114.4 (5), the commission may only promulgate ~~regulations~~ RULES
7 pertaining to hazardous air pollutants as defined in section 25-7-103 (13)
8 in accordance with this section. In order to minimize additional regulatory
9 and compliance costs to the state's economy, any program created by the
10 commission pursuant to this section ~~shall~~ MUST contain a provision ~~which~~
11 THAT exempts those sources or categories of sources ~~which~~ THAT it
12 determines to be of minor significance from the requirements of the
13 program. Consistent with the provisions of section 25-7-105.1, the
14 commission shall authorize synthetic minor sources of hazardous air
15 pollutants by the issuance of construction permits or prohibitory OR
16 OTHER rules. ~~or other regulations.~~ Such permits OR rules ~~or regulations~~
17 ~~shall~~ MUST only be as stringent as necessary to establish synthetic minor
18 status. The commission shall expeditiously implement this subsection (2)
19 to assure that all sources may be able to timely qualify as a synthetic
20 minor source, thereby avoiding the costs of the operating permit program.

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

23 **25-7-110.5. Required analysis of proposed air quality rules.**
24 (4) (e) EXCEPT AS PROVIDED IN SUBSECTION (4)(f) OF THIS SECTION, the
25 economic impact analysis required by this subsection (4) ~~shall~~ MUST not
26 consist of an analysis of any nonmarket costs or external costs asserted to
27 occur notwithstanding compliance by a source with applicable
28 environmental regulations.

29 (f) FOR A RULE THAT IMPLEMENTS SECTION 25-7-105 (1)(e) THAT
30 MAY MATERIALLY AFFECT GREENHOUSE GAS EMISSIONS, THE ECONOMIC
31 IMPACT ANALYSIS REQUIRED BY THIS SUBSECTION (4) MUST INCLUDE AN
32 ANALYSIS OF THE SOCIAL COST OF GREENHOUSE GASES RELATED TO THE
33 ESTIMATED EMISSION REDUCTIONS FROM THE PROPOSED RULE. THE
34 ANALYSIS MUST USE THE MOST RECENT ASSESSMENT OF THE SOCIAL COST
35 FOR THOSE GREENHOUSE GASES FOR WHICH THE FEDERAL GOVERNMENT
36 HAS DETERMINED THE COST, AND THE CONSIDERATION OF THE SOCIAL
37 COST OF GREENHOUSE GASES MUST BE CONSISTENT WITH EXISTING LAW
38 AND INCLUDE USE OF A DISCOUNT RATE OF NO MORE THAN TWO AND
39 ONE-HALF PERCENT; EXCEPT THAT THE SOCIAL COST OF GREENHOUSE
40 GASES THAT IS USED MAY NOT BE LOWER THAN THAT ESTABLISHED IN
41 2016, USING A TWO AND ONE-HALF PERCENT DISCOUNT RATE, BY THE

1 FEDERAL INTERAGENCY WORKING GROUP ON THE SOCIAL COST OF CARBON
2 OR THAN THE FINAL SOCIAL COST OF GREENHOUSE GASES, USING A TWO
3 AND ONE-HALF PERCENT OR LOWER EFFECTIVE DISCOUNT RATE,
4 ESTABLISHED BY THE FEDERAL INTERAGENCY WORKING GROUP ON THE
5 SOCIAL COST OF GREENHOUSE GASES PURSUANT TO FEDERAL EXECUTIVE
6 ORDER 13990, DATED JANUARY 20, 2021, WHICHEVER IS HIGHER.

7 (g) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL
8 21-1266:

9 (I) NOTHING:

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

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

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

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

23 **25-7-140. Greenhouse gas emissions - data collection -**
24 **legislative declaration - rules - reporting - forecasting - public**
25 **information - definitions. (2) Rules. (a)** The commission shall:

26 (I) ~~By June 1, 2020;~~ Adopt rules requiring greenhouse
27 gas-emitting entities to monitor and publicly report their emissions as the
28 commission deems appropriate to support Colorado's greenhouse gas
29 emission inventory efforts and to facilitate implementation of rules that
30 will timely achieve Colorado's greenhouse gas emission reduction goals.
31 The commission shall consider what information is already being publicly
32 reported by the federal environmental protection agency and tailor new
33 reporting requirements to fill any gaps in data, as it determines is
34 appropriate, to allow for maintaining and updating state inventories that
35 are sufficiently comprehensive and robust. The rules must include
36 requirements for providers of retail or wholesale electric service in the
37 state of Colorado to track and report emissions from all generation
38 sources within the state and elsewhere that electricity consumption by
39 their customers in this state causes to be emitted. The commission may
40 require emitting entities to report the amount of emissions of each of the
41 seven individual components of greenhouse gases as well as the carbon

1 dioxide equivalent of those emissions.

2 (II) Direct the division to update the statewide inventory of
3 greenhouse gas emissions by sector, up to on an annual basis as
4 determined by the commission, but in no event less frequently than every
5 two years. The division shall update the inventory in a manner that allows
6 reasonable tracking of progress in reducing greenhouse gas emissions
7 over time. The commission shall take reasonable steps to ensure that
8 emission abatement that counts toward meeting the state's greenhouse gas
9 emission reduction goals is durable and rigorously tracked. The inventory
10 must include a forecast of Colorado's greenhouse gas emissions for the
11 milestone year of 2025, as well as 2030, 2035, 2040, and 2045. THE
12 DIVISION SHALL MAKE PUBLICLY AVAILABLE THE DATA UPON WHICH
13 PROJECTIONS ARE BASED, INCLUDING THE SOURCES OF THAT DATA, THE
14 INPUTS FOR ANY MODEL USED, AND A DESCRIPTION OF THE ANALYSIS
15 UNDERLYING THE PROJECTIONS. THE FORECAST MUST INCLUDE AT LEAST
16 ONE SCENARIO THAT DOES NOT INCLUDE EMISSION REDUCTIONS
17 PROJECTED TO OCCUR FROM ANY FEDERAL, STATE, OR LOCAL LAW, RULE,
18 REGULATION, POLICY, OR PROGRAM THAT IS NOT IN PLACE AS OF THE DATE
19 OF PUBLICATION OF THE INVENTORY. The initial inventory required under
20 this subsection (2) must include a recalculation of Colorado's 2005
21 greenhouse gas emissions to serve as a baseline for measuring progress
22 against Colorado's greenhouse gas emission reduction goals.

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

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

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

35 **SECTION 17.** In Colorado Revised Statutes, 2-3-1203, **add**
36 (18.5)(a)(II) as follows:

37 **2-3-1203. Sunset review of advisory committees - legislative**
38 **declaration - definition - repeal.** (18.5) (a) The following statutory
39 authorizations for the designated advisory committees will repeal on
40 September 1, 2027:

41 (II) THE ENVIRONMENTAL JUSTICE ADVISORY BOARD CREATED IN

1 SECTION 25-1-132 (2).

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

4 **8-83-503. Just transition office - advisory committee - repeal.**

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

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

15 **24-38.5-101. Colorado energy office - creation.** (1) THERE IS
16 HEREBY CREATED WITHIN THE OFFICE OF THE GOVERNOR THE COLORADO
17 ENERGY OFFICE, THE HEAD OF WHICH IS THE DIRECTOR OF THE COLORADO
18 ENERGY OFFICE. THE DIRECTOR OF THE OFFICE SHALL BE ASSISTED BY A
19 DEPUTY DIRECTOR AND A STAFF TO FULFILL THE OFFICE'S MISSION TO:

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

25 (b) PROMOTE ECONOMIC DEVELOPMENT AND HIGH QUALITY JOBS
26 IN COLORADO THROUGH ADVANCING CLEAN ENERGY, TRANSPORTATION
27 ELECTRIFICATION, AND OTHER TECHNOLOGIES THAT REDUCE AIR
28 POLLUTION AND GREENHOUSE GAS EMISSIONS, INCLUDING HELPING TO
29 FINANCE THOSE INVESTMENTS;

30 (c) PROMOTE ENERGY EFFICIENCY;

31 (d) PROMOTE AN EQUITABLE TRANSITION TOWARD ZERO EMISSION
32 BUILDINGS;

33 (e) PROMOTE AN EQUITABLE TRANSITION TO TRANSPORTATION
34 ELECTRIFICATION, ZERO EMISSION VEHICLES, TRANSPORTATION SYSTEMS,
35 AND LAND USE PATTERNS THAT REDUCE ENERGY USE AND GREENHOUSE
36 GAS EMISSIONS;

37 (f) INCREASE ENERGY SECURITY;

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

40 (h) PROTECT THE ENVIRONMENT AND PUBLIC HEALTH.

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



1 (5)(tt) as follows:

2 **24-75-402. Cash funds - limit on uncommitted reserves -**
3 **reduction in the amount of fees - exclusions.** (5) Notwithstanding any
4 provision of this section to the contrary, the following cash funds are
5 excluded from the limitations specified in this section:

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

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

10 **40-2-129. New resource acquisitions - factors in determination**
11 **- local employment - "best value" metrics.** (4) (a) THE STATE AUDITOR
12 SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PERFORMANCE AUDIT OF
13 THE COMMISSION'S IMPLEMENTATION OF THE "BEST VALUE" EMPLOYMENT
14 METRICS REQUIREMENTS OF THIS SECTION, INCLUDING REVIEW OF:

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

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

19 (III) ANY SHORTFALLS IN ENFORCEMENT CAPACITY OR
20 IMPLEMENTATION BY THE COMMISSION;

21 (IV) CURRENT ENFORCEMENT PROCEDURES FOR INVESTOR-OWNED
22 UTILITIES, INDEPENDENT POWER PRODUCERS, AND WHOLESALE
23 GENERATION AND TRANSMISSION ELECTRIC COOPERATIVES; AND

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

27 (b) THE GOVERNOR'S OFFICE, THE COMMISSION, AND COMMISSION
28 STAFF SHALL COOPERATE WITH STAKEHOLDERS AND THE STATE AUDITOR
29 IN CONDUCTING THE AUDIT AND MAKING RECOMMENDATIONS FOR
30 REFORMS OF, OR POTENTIAL ALTERNATIVES TO, THE IMPLEMENTATION AND
31 ENFORCEMENT OF "BEST VALUE" EMPLOYMENT METRICS.

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

35 Renumber succeeding sections accordingly.

36 Page 15, after line 20 insert:

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



1 Renumber succeeding section accordingly.

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