

**Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**REVISED**

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

LLS NO. 20-0814.02 Thomas Morris x4218

**SENATE BILL 20-204**

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**SENATE SPONSORSHIP**

**Fenberg**, Bridges, Danielson, Fields, Foote, Garcia, Ginal, Gonzales, Hansen, Lee, Moreno, Pettersen, Rodriguez, Story, Todd, Winter

**HOUSE SPONSORSHIP**

**Jackson and Caraveo**,

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**Senate Committees**

Transportation & Energy  
Finance  
Appropriations

**House Committees**

Energy & Environment  
Finance  
Appropriations

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**A BILL FOR AN ACT**

101      **CONCERNING THE PROVISION OF ADDITIONAL RESOURCES TO PROTECT**  
102              **AIR QUALITY, AND, IN CONNECTION THEREWITH, INCREASING**  
103              **FEES, CREATING THE AIR QUALITY ENTERPRISE, AND MAKING AN**  
104              **APPROPRIATION.**

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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>.)*

**Section 3** of the bill creates the air quality enterprise and specifies that its revenues are exempt from the state constitution's TABOR provisions. The enterprise will conduct air quality modeling, monitoring,

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

HOUSE  
2nd Reading Unamended  
June 10, 2020

SENATE  
3rd Reading Unamended  
June 5, 2020

SENATE  
Amended 2nd Reading  
June 4, 2020

data assessment, and research; implement emission mitigation projects; and provide its data to the division of administration and the air quality control commission in the department of public health and environment to facilitate the administration of the state's air quality laws, including by facilitating the timely issuance and effective enforcement of appropriate emission permits.

The enterprise's board of directors shall establish by rule the following enterprise fees in an amount sufficient, in aggregate, to cover its indirect and direct costs in implementing its powers and duties:

- ! A fee per ton of air pollutant; and
- ! A fee for services performed for third parties for air quality modeling, monitoring, assessment, or research and to conduct mitigation and monitoring projects.

The fees are credited to the newly created air quality enterprise cash fund.

**Section 4** removes the statutory maximum for fees assessed for air pollutant emission notices, establishes a fee for fiscal year 2020-21, and allows the commission to thereafter adjust the fees by rule. **Section 5** removes the statutory maximums for annual per-ton emission fees and processing fees, establishes a fee for fiscal year 2020-21, allows the commission to thereafter adjust these fees by rule, and specifies the purposes for which these increased revenues may be spent.

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

2           **SECTION 1. Short title.** The short title of this act is the "Clean  
3 Up Colorado's Air Act".

4           **SECTION 2.** In Colorado Revised Statutes, **add** 25-7-103.5 as  
5 follows:

6           **25-7-103.5. Air quality enterprise - legislative declaration -  
7 fund - definitions - gifts, grants, or donations - rules - report - repeal.**

8 (1) **Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND  
9 DECLARES THAT:

10           (a) COLORADO FACES NUMEROUS SERIOUS AIR QUALITY  
11 CHALLENGES, WHICH ARE HAVING SUBSTANTIAL ADVERSE HEALTH AND  
12 ENVIRONMENTAL IMPACTS AND IMPOSE ADDITIONAL BURDENS ON  
13 COLORADO'S ECONOMY;

1 (b) THE STATE OF COLORADO AND STATIONARY SOURCES SHARE  
2 THE NEED FOR SCIENCE-BASED AIR QUALITY OBJECTIVES THAT WILL  
3 REQUIRE REDUCTIONS IN EMISSIONS OF OZONE PRECURSORS, GREENHOUSE  
4 GASES, AND OTHER POLLUTANTS;

5 (c) COLORADO RESIDENTS AND STATIONARY SOURCES WILL  
6 BENEFIT FROM EFFECTIVE OZONE CONTROL STRATEGIES THAT ARE  
7 INFORMED BY THE BEST AVAILABLE SCIENCE TO AVOID RECLASSIFICATION  
8 OF AREAS IN ATTAINMENT TO NONATTAINMENT STATUS OR  
9 RECLASSIFICATION FROM SERIOUS TO A MORE STRINGENT CATEGORY OF  
10 NONATTAINMENT THAT WILL IMPOSE ADDITIONAL REGULATORY  
11 REQUIREMENTS;

12 (d) ENHANCED MONITORING TECHNIQUES, CAPACITY, AND  
13 TECHNOLOGY WILL PROVIDE BETTER ENVIRONMENTAL RESULTS AT A  
14 LOWER LONG-TERM COST;

15 (e) AIR QUALITY MONITORING CONDUCTED BY AN ENTERPRISE IN  
16 AREAS WITH A HIGH CONCENTRATION OF AIR POLLUTION SOURCES WILL  
17 PROVIDE TRUSTED DATA ON THE OVERALL IMPACT OF THESE AIR  
18 POLLUTION SOURCES ON NEARBY RESIDENTS, WHILE PROVIDING A  
19 COST-EFFECTIVE METHOD TO MONITOR THE EMISSIONS THEY PRODUCE;

20 (f) EFFECTIVE ENGAGEMENT WITH LOCAL COMMUNITIES OFTEN  
21 REQUIRES TRUSTED THIRD-PARTY DATA AND VERIFICATION REGARDING  
22 EMISSIONS AND ENVIRONMENTAL PERFORMANCE;

23 (g) IMPROVED MONITORING OF EMISSIONS, BETTER ACCURACY OF  
24 EMISSION INVENTORIES, AND ACCESS TO TRUSTED SCIENCE WILL ENSURE  
25 A LEVEL COMPETITIVE PLAYING FIELD FOR COLORADO BUSINESSES;

26 (h) STATIONARY SOURCES IN COLORADO MAY SEEK AIR QUALITY  
27 ENTERPRISE MITIGATION AND MONITORING SERVICES TO IMPLEMENT THEIR

1 OBLIGATIONS UNDER RULES AND PERMITS AND ENVIRONMENTAL, SOCIAL,  
2 AND GOVERNANCE OBJECTIVES;

3 (i) EMISSION MITIGATION AND MONITORING PROGRAMS CAN BE  
4 MORE EFFECTIVE WITH ECONOMIES OF SCALE AND WHEN CONDUCTED ON  
5 A STATEWIDE OR REGIONAL BASIS THROUGH AN ENTERPRISE;

6 (j) THE AIR QUALITY ENTERPRISE PROVIDES BUSINESS SERVICES  
7 WHEN, IN EXCHANGE FOR PAYMENT OF FEES, IT PROVIDES:

8 (I) HIGH-QUALITY, INDEPENDENT, AND TRUSTED RESEARCH AND  
9 SCIENCE REGARDING EMISSIONS RATES AND INVENTORIES, MONITORING  
10 AND CONTROL TECHNOLOGIES, AND HEALTH EFFECTS AND EMISSIONS  
11 IMPACTS;

12 (II) HIGH-QUALITY, INDEPENDENT, AND TRUSTED DATA  
13 REGARDING POLLUTANT EMISSIONS FROM STATIONARY SOURCES AND  
14 CONCENTRATIONS TO REDUCE WASTE OF VALUABLE PRODUCTS AND  
15 RESOURCE STREAMS, ENHANCE COST-EFFECTIVE REGULATORY  
16 COMPLIANCE, AND SUPPORT CORPORATE ENVIRONMENTAL, SOCIAL, AND  
17 GOVERNANCE OBJECTIVES;

18 (III) TOOLS, DATA, AND RESEARCH FOR MORE EFFECTIVE  
19 COMMUNITY ENGAGEMENT ON AIR POLLUTION ISSUES;

20 (IV) OPPORTUNITIES FOR TRUSTED AND COST-EFFECTIVE  
21 MITIGATION PROJECT DEVELOPMENT; AND

22 (V) ADDITIONAL BUSINESS SERVICES TO FEE PAYERS AS MAY BE  
23 PROVIDED BY LAW;

24 (k) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF  
25 THE STATE TO ACKNOWLEDGE THAT, BY PROVIDING THE BUSINESS  
26 SERVICES SPECIFIED IN THIS SECTION, THE ENTERPRISE ENGAGES IN AN  
27 ACTIVITY CONDUCTED IN THE PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD

1 AND THEREFORE OPERATES AS A BUSINESS;

2 (l) CONSISTENT WITH THE DETERMINATION OF THE COLORADO  
3 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896  
4 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS  
5 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE  
6 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL  
7 ASSEMBLY THAT THE REVENUES COLLECTED BY THE ENTERPRISE ARE FEES,  
8 NOT TAXES, BECAUSE THE ENTERPRISE FEES ARE:

9 (I) IMPOSED FOR THE SPECIFIC PURPOSE OF ALLOWING THE  
10 ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE BUSINESS SERVICES  
11 SPECIFIED IN THIS SECTION TO FEE PAYERS; AND

12 (II) COLLECTED AT RATES THAT ARE REASONABLY CALCULATED  
13 BASED ON THE BENEFITS RECEIVED BY THOSE ENTITIES AND THE COSTS OF  
14 THE SERVICES THE ENTERPRISE PROVIDES; AND

15 (m) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR  
16 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE  
17 REVENUE FROM THE FEES COLLECTED BY THE ENTERPRISE IS NOT STATE  
18 FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE  
19 REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DOES NOT  
20 COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED  
21 BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS  
22 STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(D).

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

25 (a) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE  
26 ENTERPRISE.

27 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH

1 AND ENVIRONMENT.

2 (c) "ENTERPRISE" MEANS THE AIR QUALITY ENTERPRISE CREATED  
3 IN SUBSECTION (3) OF THIS SECTION.

4 (d) "ENTERPRISE FEE" OR "FEE" MEANS MONEY COLLECTED  
5 THROUGH FEES AUTHORIZED BY SUBSECTION (4) OF THIS SECTION.

6 (e) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF  
7 THE DEPARTMENT.

8 (f) "FUND" MEANS THE AIR QUALITY ENTERPRISE CASH FUND  
9 CREATED IN SUBSECTION (4) OF THIS SECTION.

10 (g) "GREENHOUSE GAS" HAS THE MEANING ESTABLISHED IN  
11 SECTION 25-7-140 (6).

12 (3) **Enterprise.** (a) THERE IS HEREBY CREATED IN THE  
13 DEPARTMENT THE AIR QUALITY ENTERPRISE. THE ENTERPRISE IS AND  
14 OPERATES AS A GOVERNMENT-OWNED BUSINESS WITHIN THE DEPARTMENT  
15 FOR THE PURPOSE OF CONDUCTING THE BUSINESS ACTIVITIES SPECIFIED IN  
16 THIS SECTION. THE ENTERPRISE EXERCISES ITS POWERS AND PERFORMS ITS  
17 DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AS IF TRANSFERRED TO  
18 THE DEPARTMENT BY A **TYPE 1** TRANSFER, AS DEFINED IN SECTION  
19 24-1-105.

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

1 (c) IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN  
2 THIS SECTION, THE ENTERPRISE'S POWERS AND DUTIES ARE TO:

3 (I) CONDUCT SCIENCE-BASED, UNBIASED AIR QUALITY MODELING,  
4 MONITORING, ASSESSMENT, DATA ANALYSIS, AND RESEARCH, WHICH MAY  
5 INCLUDE OBTAINING, ANALYZING, AND REPORTING PERMITTING AND  
6 ENFORCEMENT DATA; DATA REGARDING POTENTIAL HEALTH RISKS FROM  
7 EMISSIONS; EMISSION DATA; AMBIENT AIR QUALITY, VISIBILITY, AND  
8 METEOROLOGICAL SAMPLING DATA; AND SIMILAR DATA. THE BOARD  
9 SHALL PRIORITIZE THESE ACTIVITIES BASED ON A RESEARCH PROJECT'S  
10 ABILITY TO PROVIDE INFORMATION THAT WILL: SUPPORT TANGIBLE  
11 PROGRESS TOWARD AIDING FEE PAYERS' OBLIGATIONS AND COMMITMENTS  
12 TO REDUCING AIR POLLUTANTS EMITTED BY THE FEE PAYERS; SUPPORT FEE  
13 PAYERS IN ATTAINING STANDARDS AND HEALTH-BASED OR  
14 ENVIRONMENTAL GUIDELINES; AND ASSESS PUBLIC HEALTH THAT MAY BE  
15 AFFECTED BY FEE PAYER EMISSIONS. THE BOARD SHALL ENSURE THAT ALL  
16 RESEARCH CONDUCTED BY THE ENTERPRISE AND ITS CONTRACTORS IS  
17 IMPARTIAL, TRANSPARENT, AND MEETS HIGH STANDARDS FOR SCIENTIFIC  
18 RIGOR. THE BOARD SHALL CONSULT WITH FEE PAYERS, ATMOSPHERIC  
19 SCIENCE AND PUBLIC HEALTH EXPERTS, ENGINEERS WITH AIR QUALITY  
20 EXPERTISE, AND COMMUNITY STAKEHOLDERS ON FORMULATING RESEARCH  
21 PRIORITIES AND SHALL SPECIFICALLY PRIORITIZE:

22 (A) ENHANCED MONITORING PROJECTS, INCLUDING THE  
23 PLACEMENT OF PERMANENT MONITORING STATIONS USING GAS  
24 CHROMATOGRAPHY OR PROVEN, STATE-OF-THE-ART TECHNOLOGY TO  
25 MEASURE, IN REAL TIME OR NEARLY SO, NITROGEN OXIDES, VOLATILE  
26 ORGANIC COMPOUNDS, OZONE, METHANE, AND PARTICULATES AT KEY  
27 LOCATIONS UPWIND, DOWNWIND, AND WITHIN HIGH EMISSION REGIONS;

1 (B) REGULAR AERIAL SURVEYS AND OBSERVATIONS TO ASSIST  
2 LEAK DETECTION AND REPAIR ACTIVITIES, IMPROVE THE ACCURACY OF  
3 EMISSION INVENTORIES, AND CREATE A BETTER UNDERSTANDING OF  
4 REGIONAL EMISSION PROFILES; AND

5 (C) ASSESSING LOCAL EXPOSURES TO AND THE PUBLIC HEALTH  
6 RISK IMPACTS OF NEARBY AIR TOXICS SOURCES;

7 (II) ESTABLISH THE ENTERPRISE FEES SPECIFIED IN SUBSECTION (4)  
8 OF THIS SECTION BY RULE AND COLLECT THE FEES;

9 (III) ALLOCATE ENTERPRISE REVENUES TO THE SERVICES  
10 DESCRIBED IN THIS SECTION AND CONTRACT FOR ANY NECESSARY  
11 SERVICES FROM STATE AGENCIES OR OTHER PARTIES, INCLUDING  
12 UNIVERSITIES, PRIVATE ENTITIES, AND FEDERAL LABORATORIES;

13 (IV) ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF THE  
14 ENTERPRISE TO IMPLEMENT ITS POWERS AND DUTIES;

15 (V) RECEIVE FEES OR OTHER PAYMENTS, INCLUDING THOSE  
16 NEGOTIATED TO CONDUCT EMISSION MITIGATION PROJECTS AND CUSTOM  
17 MONITORING OR TECHNOLOGY DEVELOPMENT OR EVALUATION PROJECTS;

18 ==

19 (VI) ENGAGE THE SERVICES OF CONTRACTORS, CONSULTANTS,  
20 AND LEGAL COUNSEL, INCLUDING INSTITUTIONS OF HIGHER EDUCATION,  
21 PUBLIC RESEARCH LABORATORIES, PRIVATE RESEARCH INSTITUTIONS AND  
22 CONSULTANTS WITH EXPERTISE IN AIR QUALITY, THE DEPARTMENT, AND  
23 THE ATTORNEY GENERAL'S OFFICE, FOR PROFESSIONAL AND TECHNICAL  
24 ASSISTANCE, ADVICE, AND OTHER GOODS AND SERVICES, INCLUDING  
25 INFORMATION TECHNOLOGY, RELATED TO THE CONDUCT OF THE AFFAIRS  
26 OF THE ENTERPRISE WITHOUT REGARD TO THE "PROCUREMENT CODE",  
27 ARTICLES 101 TO 112 OF TITLE 24. THE BOARD SHALL ENCOURAGE



1 DIVERSITY IN APPLICANTS FOR CONTRACTS AND SHALL GENERALLY AVOID  
2 USING SINGLE-SOURCE BIDS. THE DEPARTMENT MAY PROVIDE OFFICE  
3 SPACE, ADMINISTRATIVE SERVICES, AND STAFF PURSUANT TO A CONTRACT  
4 ENTERED INTO PURSUANT TO THIS SUBSECTION (3)(c)(VI). THE BOARD  
5 MAY, IN CONSULTATION WITH THE EXECUTIVE DIRECTOR OR THE  
6 EXECUTIVE DIRECTOR'S DESIGNEE, HIRE SUCH OTHER STAFF AS IT DEEMS  
7 NECESSARY TO PROVIDE ITS BUSINESS SERVICES; AND

8 (VII) PROMOTE THE DEVELOPMENT OF UNBIASED, HIGH QUALITY  
9 SCIENCE AND NOT ADVOCATE FOR OR DEVELOP AIR QUALITY POLICY.  
10 CONSISTENT WITH THIS, THE BOARD SHALL NOT PARTICIPATE AS A PARTY  
11 IN ANY AIR QUALITY-RELATED RULEMAKING PROCEEDINGS OR HAVE ANY  
12 ROLE IN THE IMPLEMENTATION OF COLORADO'S AIR QUALITY LAWS.

13 (d) THE ENTERPRISE IS GOVERNED BY A BOARD OF DIRECTORS. THE  
14 BOARD CONSISTS OF THE EXECUTIVE DIRECTOR OR THE EXECUTIVE  
15 DIRECTOR'S DESIGNEE, TWO MEMBERS OF THE COMMISSION APPOINTED BY  
16 THE GOVERNOR, TWO GOVERNOR APPOINTEES TO SERVE AS  
17 REPRESENTATIVES OF FEE PAYERS WITH EXPERTISE IN FIELD ENGINEERING  
18 OR ENVIRONMENTAL MANAGEMENT, ONE GOVERNOR APPOINTEE WITH  
19 SIGNIFICANT PRIVATE SECTOR EXPERIENCE IN THE FIELD OF BUSINESS  
20 MANAGEMENT, AND FOUR GOVERNOR APPOINTEES WHO ARE HIGHLY  
21 QUALIFIED AND PROFESSIONALLY ACTIVE OR ENGAGED IN THE CONDUCT  
22 OF SCIENTIFIC RESEARCH, INCLUDING AT LEAST TWO WHO ARE EXPERTS IN  
23 ATMOSPHERIC OR AIR QUALITY MODELING, MONITORING, ASSESSMENT,  
24 AND RESEARCH AND ONE MEMBER WHO IS A TOXICOLOGIST,  
25 EPIDEMIOLOGIST, PATHOLOGIST, PULMONOLOGIST, CARDIOLOGIST, OR  
26 EXPERT IN A SIMILAR FIELD RELATED TO THE PUBLIC HEALTH OR  
27 ENVIRONMENTAL EFFECTS OF AIR POLLUTANTS. TO THE EXTENT

1 PRACTICABLE, AT LEAST TWO OF THE GOVERNOR APPOINTEES MUST BE  
2 INDIVIDUALS WHO HAVE A RECORD OF PEER-REVIEWED PUBLICATIONS AND  
3 WHO ARE AFFILIATED WITH, CURRENTLY HOLD, OR HAVE HELD ACADEMIC  
4 OR EQUIVALENT APPOINTMENTS AT UNIVERSITIES, FEDERAL  
5 LABORATORIES, OR OTHER RESEARCH INSTITUTIONS.

6 (e) THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S  
7 DESIGNEE, IN THE CAPACITY OF A MEMBER OF THE BOARD, SHALL CALL THE  
8 FIRST MEETING OF THE BOARD. THE BOARD SHALL ELECT A CHAIR FROM  
9 AMONG ITS MEMBERS TO SERVE FOR A TERM NOT TO EXCEED TWO YEARS,  
10 AS DETERMINED BY THE BOARD. THE BOARD SHALL MEET AT LEAST  
11 QUARTERLY, AND THE CHAIR MAY CALL ADDITIONAL MEETINGS AS  
12 NECESSARY FOR THE BOARD TO COMPLETE ITS DUTIES. THE APPOINTED  
13 MEMBERS OF THE BOARD ARE ENTITLED TO RECEIVE FROM MONEY IN THE  
14 FUND A PER DIEM ALLOWANCE OF FIFTY DOLLARS FOR EACH DAY SPENT  
15 ATTENDING OFFICIAL BOARD MEETINGS.

16 (f) THE TERM OF OFFICE OF APPOINTED BOARD MEMBERS IS THREE  
17 YEARS; EXCEPT THAT THE INITIAL TERMS OF TWO BOARD MEMBERS AS  
18 DETERMINED BY THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S  
19 DESIGNEE ARE TWO YEARS.

20 (g) THE BOARD SHALL CONDUCT THE ENTERPRISE'S BUSINESS AS  
21 REQUIRED BY STATE LAW, INCLUDING THE OPEN MEETING REQUIREMENTS  
22 OF PART 4 OF ARTICLE 6 OF TITLE 24 AND THE OPEN RECORD  
23 REQUIREMENTS OF ARTICLE 72 OF TITLE 24.

24 (4) **Fund - fees.** (a) THERE IS HEREBY CREATED IN THE STATE  
25 TREASURY THE AIR QUALITY ENTERPRISE CASH FUND. THE FUND CONSISTS  
26 OF MONEY CREDITED TO THE FUND PURSUANT TO THIS SUBSECTION (4) AND  
27 ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR

1 TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL  
2 INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF  
3 MONEY IN THE FUND TO THE FUND.

4 (b) THE BOARD SHALL ESTABLISH BY RULE ENTERPRISE FEES,  
5 WHICH MAY INCLUDE THE FOLLOWING ENTERPRISE FEES IN AN AMOUNT  
6 THAT, IN THE AGGREGATE, REFLECTS THE VALUE OF THE SERVICES  
7 PROVIDED:

8 (I) A FEE PER TON OF AIR POLLUTANT EMITTED BY A STATIONARY  
9 SOURCE ANNUALLY, WHICH FEE MAY VARY BASED ON THE AIR POLLUTANT  
10 RELATIVE TO THE EXTENT OF RESEARCH OR MITIGATION NEEDS  
11 ASSOCIATED WITH THE POLLUTANT;

12 (II) A FEE FOR CUSTOM OR ADDITIONAL AIR QUALITY MODELING,  
13 MONITORING, ASSESSMENT, OR RESEARCH SERVICES; AND

14 (III) A FEE FOR EMISSION MITIGATION PROJECT SERVICES SOUGHT  
15 BY FEE PAYERS.

16 (c) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE  
17 ENTERPRISE TO ACCOMPLISH THE PURPOSES SET FORTH IN SUBSECTION  
18 (3)(c) OF THIS SECTION, INCLUDING TO:

19 (I) CONDUCT AND BROADLY DISSEMINATE AIR QUALITY MODELING,  
20 MONITORING, ASSESSMENT, DATA ANALYSIS, HEALTH RISK ASSESSMENT,  
21 AND RESEARCH RELATED TO STATIONARY SOURCES THAT:

22 (A) FOLLOW OR ADVANCE BEST PRACTICES FOR RISK ASSESSMENT,  
23 RISK MANAGEMENT, MONITORING, MODELING, AND ASSESSMENT;

24 (B) USE CONSISTENT, DATA-DRIVEN, AND TRANSPARENT  
25 PROCESSES FOR SCOPING AND PRIORITIZING ACTIVITIES; AND

26 (C) USE THE BEST AVAILABLE SCIENTIFIC INFORMATION;

27 (II) PROVIDE HIGH-QUALITY, INDEPENDENT, AND TRUSTED

1 RESEARCH AND DEVELOPMENT SERVICES REGARDING STATIONARY SOURCE  
2 EMISSIONS RATES AND INVENTORIES, MONITORING AND CONTROL  
3 TECHNOLOGIES, AND PUBLIC HEALTH RISK IMPACTS FROM THOSE  
4 EMISSIONS;

5 (III) PROVIDE HIGH-QUALITY, INDEPENDENT, AND TRUSTED DATA  
6 REGARDING POLLUTANT EMISSIONS FROM STATIONARY SOURCES AND  
7 CONCENTRATIONS TO REDUCE WASTE OF VALUABLE PRODUCTS AND  
8 RESOURCE STREAMS, ENHANCE COST-EFFECTIVE REGULATORY  
9 COMPLIANCE, AND SUPPORT CORPORATE ENVIRONMENTAL, SOCIAL, AND  
10 GOVERNANCE OBJECTIVES;

11 (IV) PROVIDE TRUSTED AND COST-EFFECTIVE MITIGATION PROJECT  
12 SERVICES TO MEET CORPORATE SUSTAINABILITY, SETTLEMENT, AND OTHER  
13 OBJECTIVES;

14 (V) PROVIDE ADDITIONAL BUSINESS SERVICES TO FEE PAYERS AS  
15 MAY BE PROVIDED BY LAW; AND

16 (VI) PROVIDE ITS DATA TO FEE PAYERS, THE DIVISION, AND THE  
17 COMMISSION TO FACILITATE THE FEE PAYERS' EMISSIONS MITIGATION AND  
18 COMPLIANCE EFFORTS AND THE DIVISION'S AND COMMISSION'S  
19 ENFORCEMENT AND ADMINISTRATION OF THIS ARTICLE 7.

20 (d) THE ENTERPRISE SHALL DEDICATE A MEANINGFUL PORTION OF  
21 ITS ANNUAL REVENUES TOWARD COMPETITIVE GRANTS TO CONDUCT  
22 HIGHLY QUALIFIED, PEER-REVIEWED RESEARCH RELATED TO RESEARCH  
23 PRIORITIES IDENTIFIED BY THE BOARD. BEFORE FINALIZING A DRAFT  
24 RESEARCH PRODUCT, THE BOARD SHALL POST THE DRAFT ON THE BOARD'S  
25 WEBSITE AND ALLOW A PERIOD OF TIME FOR PUBLIC COMMENT ON THE  
26 DRAFT. THE BOARD SHALL PUBLISH THE RESEARCH PRODUCTS AND MAKE  
27 THEM AND ALL DATA COLLECTED PURSUANT TO ENTERPRISE-FUNDED

1 RESEARCH PUBLICLY AVAILABLE.

2 (e) BEFORE ESTABLISHING FEES, THE BOARD SHALL CONDUCT A  
3 STAKEHOLDER PROCESS TO SOLICIT INPUT FROM POTENTIAL FEE PAYERS  
4 AND OTHER STAKEHOLDERS ON THE APPROPRIATE FEE STRUCTURE. THE  
5 ENTERPRISE SHALL NOT COLLECT ANY FEES BEFORE JULY 1, 2021. THE  
6 AMOUNT OF ENTERPRISE FEES COLLECTED IS LIMITED AS FOLLOWS:

7 (I) FOR STATE FISCAL YEAR 2021-22, FEES MUST NOT EXCEED ONE  
8 MILLION DOLLARS;

9 (II) FOR STATE FISCAL YEAR 2022-23, FEES MUST NOT EXCEED  
10 THREE MILLION DOLLARS;

11 (III) FOR STATE FISCAL YEAR 2023-24, FEES MUST NOT EXCEED  
12 FOUR MILLION DOLLARS; AND

13 (IV) (A) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER  
14 JULY 1, 2024, FEES MUST NOT EXCEED FIVE MILLION DOLLARS.

15 (B) SUBSECTION (4)(e)(I) TO (4)(e)(III) OF THIS SECTION AND THIS  
16 SUBSECTION (4)(e)(IV)(B) ARE REPEALED, EFFECTIVE SEPTEMBER 1, 2026.

17 (f) THE BOARD MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS,  
18 OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF  
19 THIS SECTION.

20 (5) **Report.** NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE  
21 BOARD SHALL PROVIDE A REPORT TO THE COMMITTEES OF REFERENCE OF  
22 THE GENERAL ASSEMBLY WITH JURISDICTION OVER PUBLIC HEALTH AND  
23 THE ENVIRONMENT BY DECEMBER 1 OF EACH YEAR. THE REPORT MUST  
24 INCLUDE SUMMARIES OF THE BOARD'S PRIORITIZATION OF RESEARCH  
25 NEEDS; MODELING, MONITORING, ASSESSMENT, AND RESEARCH  
26 ACCOMPLISHED BY THE ENTERPRISE; THE ENTERPRISE'S COMPLETED,  
27 ONGOING, AND PLANNED EMISSION MITIGATION SERVICES; USE OF THE

1 FUND; ENTERPRISE FEES; AND THE VALUE OF BUSINESS SERVICES PROVIDED  
2 TO FEE PAYERS THROUGH THE OPERATION OF THE ENTERPRISE.

3 (6) Repeal. (a) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER  
4 1, 2034. BEFORE THE REPEAL, THE ENTERPRISE IS SCHEDULED FOR REVIEW  
5 IN ACCORDANCE WITH SECTION 24-34-104.

6 (b) ON SEPTEMBER 1, 2034, THE STATE TREASURER SHALL  
7 TRANSFER ALL UNALLOCATED MONEY IN THE FUND TO THE STATIONARY  
8 SOURCES CONTROL FUND CREATED IN SECTION 25-7-114.7 (2)(b)(I).

9 SECTION 3. In Colorado Revised Statutes, 24-34-104, add  
10 (35)(a)(IV) as follows:

11 24-34-104. General assembly review of regulatory agencies  
12 and functions for repeal, continuation, or reestablishment - legislative  
13 declaration - repeal. (35) (a) The following agencies, functions, or both,  
14 are scheduled for repeal on September 1, 2034:

15 (IV) THE AIR QUALITY ENTERPRISE CREATED BY SECTION  
16 25-7-103.5.

17 SECTION 4. In Colorado Revised Statutes, 25-7-114.1, amend  
18 (6)(a) as follows:

19 25-7-114.1. Air pollutant emission notices - rules. (6) (a) FOR  
20 STATE FISCAL YEAR 2020-21, the maximum fee for filing an air pollutant  
21 emission notice or AN amendment thereto TO THE NOTICE under this  
22 section is one hundred ninety-one dollars and thirteen cents; except that,  
23 on each January 1 from 2019 to 2028, the maximum fee is automatically  
24 adjusted based on the annual percentage change in the United States  
25 department of labor, bureau of labor statistics, consumer price index for  
26 Denver-Aurora-Lakewood for all items and all urban consumers, or its  
27 successor index TWO HUNDRED SIXTEEN DOLLARS. FOR STATE FISCAL

1 YEAR 2021-22, THE FEE FOR FILING AN AIR POLLUTANT EMISSION NOTICE  
2 OR AN AMENDMENT TO THE NOTICE UNDER THIS SECTION IS TWO HUNDRED  
3 FORTY-TWO DOLLARS. THEREAFTER, the commission ~~shall set~~ MAY  
4 ADJUST the actual fee by rule ~~Beginning on July 1, 2018, the commission,~~  
5 ~~by rule, may periodically adjust the fee up to the maximum fee~~ TO COVER  
6 THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND ADMINISTER  
7 THE PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7. The money  
8 collected pursuant to this ~~section~~ SUBSECTION (6)(a) shall be transmitted  
9 to the state treasurer, who shall credit it to the stationary sources control  
10 fund created in section 25-7-114.7 (2)(b)(I).

11 **SECTION 5.** In Colorado Revised Statutes, 25-7-114.7, **amend**  
12 (2)(a)(I)(A), (2)(a)(I)(B), and (2)(a)(III); and **add** (2)(b)(III) and  
13 (2)(b)(IV) as follows:

14 **25-7-114.7. Emission fees - fund - rules - definition - repeal.**  
15 (2) (a) (I) The commission shall designate by rule those classes of  
16 sources of air pollution that are exempt from the requirement to pay an  
17 annual emission fee. Every owner or operator of an air pollution source  
18 not otherwise exempt in accordance with such commission rules shall pay  
19 an annual fee as follows:

20 (A) For STATE fiscal ~~years 2018-19 and thereafter, the maximum~~  
21 YEAR 2020-21, THE fee is ~~twenty-eight dollars and sixty-three cents~~  
22 THIRTY-TWO DOLLARS PER TON OF REGULATED POLLUTANT REPORTED IN  
23 THE MOST RECENT AIR POLLUTION EMISSION NOTICE ON FILE WITH THE  
24 DIVISION. FOR STATE FISCAL YEAR 2021-22, THE FEE IS THIRTY-SIX  
25 DOLLARS per ton of regulated pollutant reported in the most recent air  
26 pollution emission notice on file with the division. ~~except that, on each~~  
27 January 1 from 2019 to 2028, the maximum fee is automatically adjusted

1 ~~based on the annual percentage change in the United States department~~  
2 ~~of labor, bureau of labor statistics, consumer price index for~~  
3 ~~Denver-Aurora-Lakewood for all items and all urban consumers, or its~~  
4 ~~successor index.~~ THEREAFTER, the commission shall set MAY ADJUST the  
5 actual fee by rule ~~Beginning on July 1, 2018, the commission, by rule,~~  
6 ~~may periodically adjust the fee up to the maximum fee~~ TO COVER THE  
7 INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND ADMINISTER THE  
8 PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7.

9 (B) For STATE fiscal years ~~2018-19 and thereafter~~ YEAR 2020-21,  
10 in addition to the annual fee set forth in subsection (2)(a)(I)(A) of this  
11 section, for hazardous air pollutants, including ozone-depleting  
12 compounds, ~~a maximum AN annual fee of one hundred ninety-one dollars~~  
13 ~~and thirteen cents~~ TWO HUNDRED SIXTEEN DOLLARS PER TON. FOR STATE  
14 FISCAL YEAR 2021-22, IN ADDITION TO THE ANNUAL FEE SET FORTH IN  
15 SUBSECTION (2)(a)(I)(A) OF THIS SECTION, FOR HAZARDOUS AIR  
16 POLLUTANTS, INCLUDING OZONE-DEPLETING COMPOUNDS, THERE IS AN  
17 ANNUAL FEE OF TWO HUNDRED THIRTY-NINE DOLLARS per ton. ~~except that,~~  
18 ~~on each January 1 from 2019 to 2028, the maximum fee is automatically~~  
19 ~~adjusted based on the annual percentage change in the United States~~  
20 ~~department of labor, bureau of labor statistics, consumer price index for~~  
21 ~~Denver-Aurora-Lakewood for all items and all urban consumers, or its~~  
22 ~~successor index.~~ THEREAFTER, the commission shall set MAY ADJUST the  
23 actual fee by rule ~~Beginning on July 1, 2018, the commission, by rule,~~  
24 ~~may periodically adjust the fee up to the maximum fee~~ TO COVER THE  
25 INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND ADMINISTER THE  
26 PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7.

27 (III) Every owner or operator subject to the requirements to pay



1 fees set forth in subsection (2)(a)(I) of this section shall also pay a  
2 processing fee for the costs of processing any application other than an air  
3 pollution emission notice under this article 7. Every significant user of  
4 prescribed fire, including federal facilities, submitting a planning  
5 document to the commission pursuant to section 25-7-106 (8)(b) shall pay  
6 a fee for costs of evaluating the documents. For STATE fiscal year  
7 ~~2018-19~~ 2020-21, the division shall assess a fee for work it performs, up  
8 to a maximum of thirty hours at a ~~maximum~~ rate of ~~ninety-five dollars~~  
9 ~~and fifty-six cents~~ ONE HUNDRED EIGHT DOLLARS AND TWELVE CENTS PER  
10 HOUR. FOR STATE FISCAL YEAR 2021-22, THE DIVISION SHALL ASSESS A  
11 FEE FOR WORK IT PERFORMS, UP TO A MAXIMUM OF THIRTY HOURS AT A  
12 RATE OF ONE HUNDRED NINETEEN DOLLARS per hour. ~~except that, on each~~  
13 ~~January 1 from 2019 to 2028, the maximum fee is automatically adjusted~~  
14 ~~based on the annual percentage change in the United States department~~  
15 ~~of labor, bureau of labor statistics, consumer price index for~~  
16 ~~Denver-Aurora-Lakewood for all items and all urban consumers, or its~~  
17 ~~successor index.~~ THEREAFTER, the commission ~~shall set~~ MAY ADJUST the  
18 actual fee by rule ~~Beginning on July 1, 2018, the commission, by rule,~~  
19 ~~may periodically adjust the fee up to the maximum fee~~ TO COVER THE  
20 INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND ADMINISTER THE  
21 PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7. If the division  
22 requires more than thirty hours to process the application or evaluate the  
23 prescribed fire-related planning documents, the ~~fee paid by the applicant~~  
24 ~~must not exceed three thousand seven hundred fifty dollars unless the~~  
25 ~~division has informed the source that the respective billings may exceed~~  
26 ~~three thousand seven hundred fifty dollars and has provided~~ DIVISION  
27 SHALL PROVIDE the STATIONARY source with an estimate of what the

1 actual charges may be ~~prior to commencing the work~~ BEFORE WORKING  
2 MORE THAN THIRTY HOURS.

3 (b) (III) THE DIVISION SHALL EXPEND THE PORTION OF THE FEE  
4 REVENUE COLLECTED PURSUANT TO SUBSECTIONS (2)(a)(I)(A),  
5 (2)(a)(I)(B), AND (2)(a)(III) OF THIS SECTION AND SECTION 25-7-114.1  
6 (6)(a) ATTRIBUTABLE TO THE INCREASES AUTHORIZED IN 2020 BY SENATE  
7 BILL 20-204 FOR THE FOLLOWING PURPOSES:

8 (A) ENSURING THAT REQUIREMENTS IMPOSED BY RULES TO  
9 MINIMIZE EMISSIONS ARE INCLUDED IN PERMITS AND COMPLIED WITH;

10 (B) DEPLOYING MORE RESOURCES TO FIND, AND CAUSE OIL AND  
11 GAS OPERATORS TO REPAIR, LEAKS AND RELEASES OF HYDROCARBONS  
12 SUCH AS BENZENE THAT CONTRIBUTE TO OZONE NONATTAINMENT AND  
13 HUMAN HEALTH RISKS;

14 (C) INCREASING COMPLIANCE BY STATIONARY SOURCES WITH ALL  
15 APPLICABLE AIR QUALITY REQUIREMENTS;

16 (D) INCREASING THE NUMBER OF INSPECTIONS AND ENFORCEMENT  
17 ACTIONS TAKEN BY THE DIVISION;

18 (E) EXPANDING THE DIVISION'S CAPACITY TO CONDUCT  
19 MONITORING OF STATIONARY SOURCE EMISSIONS;

20 (F) DEVELOPING NEW EMISSION CONTROL STRATEGIES;

21 (G) EXPANDING THE DIVISION'S CAPACITY TO QUICKLY RESPOND  
22 TO AND BETTER UNDERSTAND PUBLIC HEALTH ISSUES THAT ARE RELATED  
23 TO EXPOSURE TO AIR TOXICS, SUCH AS BENZENE AND OTHER VOLATILE  
24 ORGANIC COMPOUNDS; AND

25 (H) IMPROVING THE DIVISION'S COMPLAINT MANAGEMENT  
26 SYSTEMS AS THEY RELATE TO AIR QUALITY AND ASSOCIATED HEALTH  
27 IMPACTS.

1           (IV) THE DIVISION SHALL REPORT ANNUALLY REGARDING HOW THE  
2           FEES AUTHORIZED BY THIS SECTION HAVE BEEN UTILIZED, WHAT RELATED  
3           EFFICIENCY AND PROCESS IMPROVEMENTS HAVE BEEN MADE, AND A  
4           PROJECTION OF SHORT-TERM AND LONG-TERM CAPITAL OPERATING  
5           EXPENDITURES. BEFORE MAKING ANY FEE ADJUSTMENT AFTER FISCAL  
6           YEAR 2021-22 THAT IS AUTHORIZED BY SECTION 25-7-114.1 (6)(a) OR  
7           25-7-114.7 (2)(a)(I)(A), (2)(a)(I)(B), OR (2)(a)(III), THE DIVISION SHALL  
8           REPORT ANNUALLY ABOUT HOW EXISTING FEES HAVE BEEN UTILIZED AND  
9           ENGAGE IN A STAKEHOLDER PROCESS WITH IMPACTED STATIONARY  
10          SOURCES. THE DIVISION SHALL INITIATE THIS STAKEHOLDER PROCESS AT  
11          LEAST SIX MONTHS BEFORE ANY RULE THAT INCREASES FEES BECOMES  
12          EFFECTIVE UNLESS EMERGENCY RULEMAKING PURSUANT TO SECTION  
13          24-4-103 IS NECESSARY. THE STAKEHOLDER PROCESS MUST INVOLVE  
14          DISCUSSION OF:

15           (A) ONGOING EFFICIENCY IMPROVEMENT PROJECTS AND PROGRESS  
16           TOWARDS COMPLETION OF THOSE PROJECTS, INCLUDING DATABASE  
17           IMPROVEMENTS AND REPLACING THE EXISTING AIR POLLUTION EMISSION  
18           NOTICE PROCESS WITH AN IMPROVED EMISSION INVENTORY PROCESS; AND

19           (B) THE JUSTIFICATION AND NECESSITY OF ADDITIONAL FEE  
20           INCREASES, INCLUDING AN OUTLINE OF WHERE INCREASES IN FEES WILL BE  
21           UTILIZED MOVING FORWARD.

22           **SECTION 6. Appropriation.** (1) For the 2020-21 state fiscal  
23           year, \$10,660 is appropriated to the department of public health and  
24           environment. This appropriation is from the general fund. To implement  
25           this act, the department may use this appropriation for the purchase of  
26           legal services.

27           (2) For the 2020-21 state fiscal year, \$10,660 is appropriated to

1 the department of law. This appropriation is from reappropriated funds  
2 received from the department of public health and environment under  
3 subsection (1) of this section. To implement this act, the department of  
4 law may use this appropriation to provide legal services for the  
5 department of public health and environment.

6 **SECTION 7. Effective date - applicability.** This act takes effect  
7 July 1, 2020, and applies to fees paid on or after said date.

8 **SECTION 8. Safety clause.** The general assembly hereby finds,  
9 determines, and declares that this act is necessary for the immediate  
10 preservation of the public peace, health, or safety.