A BILL FOR AN ACT

CONCERNING THE PROVISION OF ADDITIONAL RESOURCES TO PROTECT AIR QUALITY, AND, IN CONNECTION THERewith, INCREASING FEES, CREATING THE AIR QUALITY ENTERPRISE, AND MAKING AN APPROPRIATION.

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

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

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

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

(1) Legislative declaration. The general assembly hereby finds and declares that:

(a) Colorado faces numerous serious air quality challenges, which are having substantial adverse health and environmental impacts and impose additional burdens on Colorado's economy;
(b) THE STATE OF COLORADO AND STATIONARY SOURCES SHARE
the need for science-based air quality objectives that will
require reductions in emissions of ozone precursors, greenhouse
gases, and other pollutants;

(c) COLORADO RESIDENTS AND STATIONARY SOURCES WILL
benefit from effective ozone control strategies that are
informed by the best available science to avoid reclassification
of areas in attainment to nonattainment status or
reclassification from serious to a more stringent category of
nonattainment that will impose additional regulatory
requirements;

(d) ENHANCED MONITORING TECHNIQUES, CAPACITY, AND
technology will provide better environmental results at a
lower long-term cost;

(e) AIR QUALITY MONITORING CONDUCTED BY AN ENTERPRISE IN
areas with a high concentration of air pollution sources will
provide trusted data on the overall impact of these air
pollution sources on nearby residents, while providing a
cost-effective method to monitor the emissions they produce;

(f) EFFECTIVE ENGAGEMENT WITH LOCAL COMMUNITIES OFTEN
requires trusted third-party data and verification regarding
emissions and environmental performance;

(g) IMPROVED MONITORING OF EMISSIONS, BETTER ACCURACY OF
emission inventories, and access to trusted science will ensure
a level competitive playing field for COLORADO BUSINESSES;

(h) STATIONARY SOURCES IN COLORADO MAY SEEK AIR QUALITY
enterprise mitigation and monitoring services to implement their
OBLIGATIONS UNDER RULES AND PERMITS AND ENVIRONMENTAL, SOCIAL,
AND GOVERNANCE OBJECTIVES;

(i) Emission mitigation and monitoring programs can be
more effective with economies of scale and when conducted on
a statewide or regional basis through an enterprise;
(j) The air quality enterprise provides business services
when, in exchange for payment of fees, it provides:

(I) High-quality, independent, and trusted research and
science regarding emissions rates and inventories, monitoring
and control technologies, and health effects and emissions
impacts;

(II) High-quality, independent, and trusted data
regarding pollutant emissions from stationary sources and
concentrations to reduce waste of valuable products and
resource streams, enhance cost-effective regulatory
compliance, and support corporate environmental, social, and
Governance objectives;

(III) Tools, data, and research for more effective
community engagement on air pollution issues;

(IV) Opportunities for trusted and cost-effective
mitigation project development; and

(V) Additional business services to fee payers as may be
provided by law;

(k) It is necessary, appropriate, and in the best interest of
the state to acknowledge that, by providing the business
services specified in this section, the enterprise engages in an
activity conducted in the pursuit of a benefit, gain, or livelihood
AND THEREFORE OPERATES AS A BUSINESS;

   (I) CONSISTENT WITH THE DETERMINATION OF THE COLORADO

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

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

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

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

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

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

   (b) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
AND ENVIRONMENT.

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

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

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

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

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


(b) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (3)(b), THE ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.
(c) In addition to any other powers and duties specified in this section, the enterprise's powers and duties are to:

(1) Conduct science-based, unbiased air quality modeling, monitoring, assessment, data analysis, and research, which may include obtaining, analyzing, and reporting permitting and enforcement data; health effects data; emission data; ambient air quality, visibility, and meteorological sampling data; and similar data. The board shall prioritize these activities based on a research project's ability to provide information that will:

- Support tangible progress toward aiding fee payers' obligations and commitments to reducing air pollutants emitted by the fee payers;
- Support fee payers in attaining standards and health-based or environmental guidelines; and assess public health that may be affected by fee payer emissions. The board shall ensure that all research conducted by the enterprise and its contractors is impartial and meets high standards for scientific rigor. The board shall consult with fee payers, atmospheric science and public health experts, engineers with air quality expertise, and community stakeholders on formulating research priorities and shall specifically prioritize:

(A) Enhanced monitoring projects, including the placement of permanent monitoring stations using gas chromatography or proven, state-of-the-art technology to measure, in real time or nearly so, nitrogen oxides, volatile organic compounds, ozone, methane, and particulates at key locations upwind, downwind, and within high emission regions;
(B) Regular aerial surveys and observations to assist leak detection and repair activities, improve the accuracy of emission inventories, and create a better understanding of regional emission profiles; and

(C) Assessing local exposures to and the health impacts of nearby air toxics sources;

(II) Establish the enterprise fees specified in subsection (4) of this section by rule and collect the fees;

(III) Allocate enterprise revenues to the services described in this section and contract for any necessary services from state agencies or other parties, including universities, private entities, and federal laboratories;

(IV) Issue revenue bonds payable from the revenues of the enterprise to implement its powers and duties;

(V) Receive fees or other payments, including those negotiated to conduct emission mitigation projects and custom monitoring or technology development or evaluation projects;

(VI) Engage the services of contractors, consultants, and legal counsel, including institutions of higher education, public research laboratories, private research institutions and consultants with expertise in air quality, the department, and the attorney general's office, for professional and technical assistance, advice, and other goods and services, including information technology, related to the conduct of the affairs of the enterprise without regard to the "Procurement Code", articles 101 to 112 of title 24. The board shall encourage
DIVERSITY IN APPLICANTS FOR CONTRACTS AND SHALL GENERALLY AVOID USING SINGLE-SOURCE BIDS. THE DEPARTMENT MAY PROVIDE OFFICE SPACE, ADMINISTRATIVE SERVICES, AND STAFF PURSUANT TO A CONTRACT ENTERED INTO PURSUANT TO THIS SUBSECTION (3)(c)(VI). THE BOARD MAY, IN CONSULTATION WITH THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR’S DESIGNEE, HIRE SUCH OTHER STAFF AS IT DEEMS NECESSARY TO PROVIDE ITS BUSINESS SERVICES; AND

(VII) PROMOTE THE DEVELOPMENT OF UNBIASED, HIGH QUALITY SCIENCE RATHER THAN ADVOCATE FOR OR DEVELOP AIR QUALITY POLICY.

CONSISTENT WITH THIS, THE ENTERPRISE SHALL NOT PARTICIPATE IN ANY AIR QUALITY-RELATED RULEMAKING PROCEEDINGS OR HAVE ANY ROLE IN THE IMPLEMENTATION OF COLORADO’S AIR QUALITY LAWS.

(d) THE ENTERPRISE IS GOVERNED BY A BOARD OF DIRECTORS. THE BOARD CONSISTS OF THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR’S DESIGNEE, TWO MEMBERS OF THE COMMISSION APPOINTED BY THE GOVERNOR, TWO GOVERNOR APPOINTEES TO SERVE AS REPRESENTATIVES OF FEE PAYERS WITH EXPERTISE IN FIELD ENGINEERING OR ENVIRONMENTAL MANAGEMENT, AND FOUR GOVERNOR APPOINTEES WHO ARE HIGHLY QUALIFIED AND PROFESSIONALLY ACTIVE OR ENGAGED IN THE CONDUCT OF SCIENTIFIC RESEARCH, INCLUDING AT LEAST TWO WHO ARE EXPERTS IN ATMOSPHERIC OR AIR QUALITY MODELING, MONITORING, ASSESSMENT, AND RESEARCH AND ONE MEMBER WHO IS A TOXICOLOGIST, EPIDEMIOLOGIST, PATHOLOGIST, PULMONOLOGIST, CARDIOLOGIST, OR EXPERT IN A SIMILAR FIELD RELATED TO THE PUBLIC HEALTH OR ENVIRONMENTAL EFFECTS OF AIR POLLUTANTS. TO THE EXTENT PRACTICABLE, AT LEAST TWO OF THE GOVERNOR APPOINTEES MUST BE INDIVIDUALS WHO HAVE A RECORD OF PEER-REVIEWED PUBLICATIONS AND
WHO ARE AFFILIATED WITH, CURRENTLY HOLD, OR HAVE HELD ACADEMIC
OR EQUIVALENT APPOINTMENTS AT UNIVERSITIES, FEDERAL
LABORATORIES, OR OTHER RESEARCH INSTITUTIONS.

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

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

(4) Fund - fees. (a) THERE IS HEREBY CREATED IN THE STATE
TREASURY THE AIR QUALITY ENTERPRISE CASH FUND. THE FUND CONSISTS
OF MONEY CREDITED TO THE FUND PURSUANT TO THIS SUBSECTION (4) AND
ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR
TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL
INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF
MONEY IN THE FUND TO THE FUND.

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

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

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

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

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

(I) CONDUCT AND BROADLY DISSEMINATE AIR QUALITY MODELING, MONITORING, ASSESSMENT, DATA ANALYSIS, AND RESEARCH;

(II) PROVIDE HIGH-QUALITY, INDEPENDENT, AND TRUSTED RESEARCH AND DEVELOPMENT SERVICES REGARDING EMISSIONS RATES AND INVENTORIES, MONITORING AND CONTROL TECHNOLOGIES, AND HEALTH EFFECTS AND EMISSIONS IMPACTS;

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

(IV) PROVIDE TRUSTED AND COST-EFFECTIVE MITIGATION PROJECT SERVICES TO MEET CORPORATE SUSTAINABILITY, SETTLEMENT, AND OTHER OBJECTIVES;
(V) PROVIDE ADDITIONAL BUSINESS SERVICES TO FEE PAYERS AS MAY BE PROVIDED BY LAW; AND


(d) THE ENTERPRISE SHALL DEDICATE A MEANINGFUL PORTION OF ITS ANNUAL REVENUES TOWARD COMPETITIVE GRANTS TO CONDUCT HIGHLY QUALIFIED, PEER-REVIEWED RESEARCH RELATED TO RESEARCH PRIORITIES IDENTIFIED BY THE BOARD. THE BOARD SHALL PUBLISH THE RESEARCH PRODUCTS AND MAKE THEM AND ALL DATA COLLECTED PURSUANT TO ENTERPRISE-FUNDED RESEARCH PUBLICLY AVAILABLE.

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

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

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

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

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

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

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


SECTION 3. In Colorado Revised Statutes, 25-7-114.1, amend (6)(a) as follows:

25-7-114.1. Air pollutant emission notices - rules. (6)(a) FOR STATE FISCAL YEAR 2020-21, the maximum fee for filing an air pollutant emission notice or an amendment thereto TO THE NOTICE UNDER THIS SECTION is one hundred ninety-one dollars and thirteen cents; except that, on each January 1 from 2019 to 2028, the maximum fee is automatically adjusted based on the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index two hundred eighteen dollars. THEREAFTER, the commission MAY ADJUST the actual fee by rule BEGINNING ON JUly 1, 2018, the commission, by rule, may periodically adjust the fee up
to the maximum fee TO COVER THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7. The money collected pursuant to this section SUBSECTION (6)(a) shall be transmitted to the state treasurer, who shall credit it to the stationary sources control fund created in section 25-7-114.7 (2)(b)(I).

SECTION 4. In Colorado Revised Statutes, 25-7-114.7, amend (2)(a)(I)(A), (2)(a)(I)(B), and (2)(a)(III); and add (2)(b)(III) as follows:

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

(2) (a) (I) The commission shall designate by rule those classes of sources of air pollution that are exempt from the requirement to pay an annual emission fee. Every owner or operator of an air pollution source not otherwise exempt in accordance with such commission rules shall pay an annual fee as follows:

(A) For state fiscal years 2018-19 and thereafter, the maximum YEAR 2020-21, THE fee is twenty-eight dollars and sixty-three cents THIRTY-THREE DOLLARS per ton of regulated pollutant reported in the most recent air pollution emission notice on file with the division. except that, on each January 1 from 2019 to 2028, the maximum fee is automatically adjusted based on the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index: THEREAFTER, the commission shall set MAY ADJUST the actual fee by rule Beginning on July 1, 2018, the commission, by rule, may periodically adjust the fee up to the maximum fee TO COVER THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS
(B) For state fiscal years 2018-19 and thereafter, in addition to the annual fee set forth in subsection (2)(a)(I)(A) of this section, for hazardous air pollutants, including ozone-depleting compounds, an annual fee of one hundred ninety-one dollars and thirteen cents, respectively, for ozone-depleting compounds, except that, on each January 1 from 2019 to 2028, the maximum fee is automatically adjusted based on the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index. Thereafter, the commission shall set the actual fee by rule. Beginning on July 1, 2018, the commission, by rule, may periodically adjust the fee up to the maximum fee to cover the indirect and direct costs required to develop and administer the programs established pursuant to this article 7.

(III) Every owner or operator subject to the requirements to pay fees set forth in subsection (2)(a)(I) of this section shall also pay a processing fee for the costs of processing any application other than an air pollution emission notice under this article 7. Every significant user of prescribed fire, including federal facilities, submitting a planning document to the commission pursuant to section 25-7-106 (8)(b) shall pay a fee for costs of evaluating the documents. For state fiscal year 2018-19, 2020-21, the division shall assess a fee for work it performs, up to a maximum of thirty hours at a maximum rate of ninety-five dollars and fifty-six cents, respectively, for ozone-depleting compounds, except that, on each January 1 from 2019 to 2028, the maximum fee is automatically adjusted based on the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index.
department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index. THEREAFTER, the commission shall set MAY ADJUST the actual fee by rule Beginning on July 1, 2018, the commission, by rule, may periodically adjust the fee up to the maximum fee TO COVER THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7. If the division requires more than thirty hours to process the application or evaluate the prescribed fire-related planning documents, the fee paid by the applicant must not exceed three thousand seven hundred fifty dollars unless the division has informed the source that the respective billings may exceed three thousand seven hundred fifty dollars and has provided DIVISION SHALL PROVIDE the STATIONARY source with an estimate of what the actual charges may be prior to commencing the work BEFORE WORKING MORE THAN THIRTY HOURS.

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

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

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

(C) INCREASING COMPLIANCE BY OIL AND GAS SOURCES WITH ALL
APPLICABLE AIR QUALITY REQUIREMENTS;

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

(E) EXPANDING THE DIVISION'S CAPACITY TO CONDUCT MONITORING OF OIL AND GAS INDUSTRY EMISSIONS;

(F) DEVELOPING NEW EMISSION CONTROL STRATEGIES;

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

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

SECTION 5. Appropriation. (1) For the 2020-21 state fiscal year, $10,660 is appropriated to the department of public health and environment. This appropriation is from the general fund. To implement this act, the department may use this appropriation for the purchase of legal services.

(2) For the 2020-21 state fiscal year, $10,660 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of public health and environment under subsection (1) of this section. To implement this act, the department of law may use this appropriation to provide legal services for the department of public health and environment.

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

SECTION 7. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, or safety.