

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0270.02 Pierce Lively x2059

SENATE BILL 23-280

SENATE SPONSORSHIP

Mullica, Priola, Rodriguez

HOUSE SPONSORSHIP

Snyder,

Senate Committees

Finance
Appropriations

House Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **C O N C E R N I N G T H E M I T I G A T I O N O F C E R T A I N**
102 **T R A N S P O R T A T I O N - R E L A T E D E N V I R O N M E N T A L H A Z A R D S , A N D , I N**
103 **C O N N E C T I O N T H E R E W I T H , C R E A T I N G T H E F U E L S I M P A C T**
104 **E N T E R P R I S E T O A D M I N I S T E R P R O G R A M S A N D I M P O S E F E E S T H A T**
105 **A R E R E L A T E D T O T H E T R A N S P O R T A T I O N O F F U E L W I T H I N T H E**
106 **S T A T E , M O D I F Y I N G T H E C L E A N F L E E T E N T E R P R I S E S O T H A T I T**
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108 **D E S I G N E D T O R E D U C E E M I S S I O N S F R O M D I E S E L T R U C K S ,**
109 **C R E A T I N G A T A X C R E D I T F O R T H E C O N V E R S I O N , L E A S E , O R**
110 **P U R C H A S E O F C L E A N C O M M E R C I A L V E H I C L E S , M O D I F Y I N G T H E**
111 **F E E C O L L E C T E D F O R T H E D I S T R I B U T I O N T O T H E**
112 **P E R F L U O R O A L K Y L A N D P O L Y F L U O R O A L K Y L S U B S T A N C E S C A S H**
113 **F U N D , M O D I F Y I N G T H E P E T R O L E U M S T O R A G E T A N K F U N D ,**

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

SENATE
3rd Reading Unamended
April 25, 2023

SENATE
Amended 2nd Reading
April 24, 2023

101 ALLOWING THE COLORADO STATE PATROL TO CONFORM
102 HAZARD MATERIALS ROUTING REGULATIONS TO
103 TRANSPORTATION COMMISSION RULES, AND PHASING OUT THE
104 USE OF CERTAIN DIESEL TRUCKS ON STATE PROJECTS.

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>.)

The bill creates the fuels impact enterprise. The enterprise imposes a new fuels impact reduction fee on fuel product manufacturers to fund the fuels impact reduction grant program that the fuels impact enterprise administers. The fuels impact reduction fee is equal to \$.06125 per gallon of fuel products delivered during the previous calendar month for sale or use in Colorado. The fee is collected and deposited in the fuels impact enterprise hazardous materials infrastructure cash fund until the fund has an available balance of \$15 million or more.

Under the fuels impact reduction grant program, the fuels impact enterprise provides grants to certain critically impacted communities, governments, and transportation corridors for the improvement of hazardous mitigation corridors and to support key commercial freight corridors, local and state government projects related to emergency responses, environmental mitigation, or projects related to the transportation of fuel within the state.

The bill also amends the clean fleet enterprise so that the clean fleet enterprise imposes, between January 1, 2024, and December 31, 2032, a heavy-duty diesel vehicle registration fee of \$10 for heavy-duty diesel vehicles that are model year 2014 through 2016, \$20 for heavy-duty diesel vehicles that are model year 2010 through 2013, and \$50 for heavy-duty diesel vehicles that are model year 2009 or older.

Under the diesel truck emissions reduction grant program, the clean fleet enterprise, along with the division of administration in the department of public health and environment (division), awards grant money to certain private and public entities to decommission diesel trucks and replace them with newer model trucks through. The clean fleet enterprise and the division are required to determine eligibility for the grant money and the eligible fuel types for qualifying as a replacement vehicle under the grant program.

The bill also replaces a tax credit for a qualified investment in a

commercial truck, truck tractor, or semitrailer that is used solely and exclusively in an enterprise zone with a tax credit for the conversion, lease, or purchase of a bi-fuel renewable fuel truck, electric, hybrid, low nitrogen oxides, plug-in hybrid electric, or renewable fuel truck that is predominantly housed and based at a taxpayer's business facility within an enterprise zone for the 12-month period following its purchase and is not used for personal use. The new credit:

- Is available between tax years 2023 and 2029;
- May be assigned to the financial entity that finances the lease or purchase of the truck;
- May not be carried forward, but may be refunded; and
- Is available in an amount that depends on the type of truck the taxpayer converts, leases, or purchases and when that conversion, lease, or purchase occurs.

Beginning October 1, 2023, the bill modifies the fee that is currently collected for distribution to the perfluoroalkyl and polyfluoroalkyl substances cash fund by extending the collection of the fee to 2036 and by changing the distribution of the fee revenue. Under the new distribution, the state treasurer shall credit:

- An amount equal to the cost of administering the fee to the department of revenue;
- \$2 million of the fee revenue to the department of public safety to support the regulation of hazardous materials on highways in the state as well as the enforcement of commercial and hazardous materials critical corridors determined by the chief of the Colorado state patrol;
- 70% of the amount remaining to the perfluoroalkyl and polyfluoroalkyl substances cash fund; and
- 30% of the amount remaining to the department of transportation to support functions related to the transportation of hazardous materials and the safe and efficient movement of freight as well as to support infrastructure projects that enhance the safety of movement of freight and hazardous materials.

The bill also increases the amount of fee revenue that can be held annually in the perfluoroalkyl and polyfluoroalkyl substances cash fund from \$8 million to \$9 million.

Additionally, the bill:

- Extends authorization for the division of oil and public safety to use the petroleum storage tank fund for costs related to petroleum storage tank facility inspections and meter calibrations from September 1, 2023, to September 1, 2033;
- Delays the effective date of the \$8 million cap on the petroleum storage tank fund from September 1, 2023, to

- September 1, 2033;
- Allows the director of the division of oil and public safety, in consultation with the petroleum storage tank committee, to establish rules that allow an operator of petroleum storage tanks to apply to the petroleum storage tank fund for reimbursement even if the total remediation expenses do not exceed \$10,000;
- Allows the director of the division of oil and public safety to annually transfer up to \$500,000 from the petroleum storage tank fund to the petroleum cleanup and redevelopment fund;
- Allows the Colorado state patrol to conform hazardous materials routing regulations to transportation commission rules; and
- Phases out the use of certain diesel trucks on state projects.

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

2 **SECTION 1.** In Colorado Revised Statutes, 8-20.5-103, **amend**
 3 (3) introductory portion, (3)(f)(II), (9)(a)(III), and (9)(a)(IV); and **add**
 4 (3.7) and (9)(a)(V) as follows:

5 **8-20.5-103. Petroleum storage tank fund - petroleum cleanup**
 6 **and redevelopment fund - creation - rules - repeal.** (3) The ~~moneys~~
 7 MONEY in the petroleum storage tank fund ~~are~~ IS continuously
 8 appropriated to the division of oil and public safety; except that ~~moneys~~
 9 THE EXPENDITURE OF MONEY for the purposes specified in ~~paragraphs (b),~~
 10 ~~(f), and (g) of this subsection (3) are~~ SUBSECTIONS (3)(b), (3)(f), AND
 11 (3)(g) OF THIS SECTION IS subject to annual appropriation by the general
 12 assembly. The fund shall be used for:

13 (f) (II) This ~~paragraph (f)~~ SUBSECTION (3)(f) is repealed, effective
 14 ~~September 1, 2023~~ SEPTEMBER 1, 2033.

15 (3.7) THE DIRECTOR OF THE DIVISION OF OIL AND PUBLIC SAFETY
 16 MAY ANNUALLY TRANSFER UP TO FIVE HUNDRED THOUSAND DOLLARS ■
 17 FROM THE PETROLEUM STORAGE TANK FUND TO THE PETROLEUM CLEANUP

1 AND REDEVELOPMENT FUND.

2 (9) (a) There is hereby created in the state treasury the petroleum
3 cleanup and redevelopment fund, which is referred to in this subsection
4 (9) as the redevelopment fund. The redevelopment fund's sources of
5 revenue are:

6 (III) Any legislative appropriations made to the redevelopment
7 fund; and

8 (IV) Earned interest, which the state treasurer shall deposit in the
9 redevelopment fund; AND

10 (V) MONEY TRANSFERRED FROM THE PETROLEUM STORAGE TANK
11 FUND PURSUANT TO SUBSECTION (3.7) OF THIS SECTION.

12 **SECTION 2.** In Colorado Revised Statutes, 8-20.5-206, **add**
13 (1)(f) as follows:

14 **8-20.5-206. Financial responsibility for petroleum**
15 **underground storage tanks.** (1) (f) THE DIRECTOR OF THE DIVISION OF
16 OIL AND PUBLIC SAFETY, IN CONSULTATION WITH THE PETROLEUM
17 STORAGE TANK COMMITTEE ESTABLISHED PURSUANT TO SECTION
18 8-20.5-104, MAY ESTABLISH RULES THAT ALLOW THE PAYMENT REQUIRED
19 BY SUBSECTION (1)(b)(I) OF THIS SECTION TO BE BASED ON A PERCENTAGE
20 THAT IS LESS THAN ONE HUNDRED PERCENT OF THE REMEDIATION
21 AMOUNT.

22 **SECTION 3.** In Colorado Revised Statutes, 8-20-206.5, **amend**
23 (1)(c), (6)(a) introductory portion, (6)(b), (6)(d) introductory portion,
24 (6)(e), and (6)(f); and **add** (6)(d.5) and (8) as follows:

25 **8-20-206.5. Environmental response surcharge - liquefied**
26 **petroleum gas and natural gas inspection fund - perfluoroalkyl and**
27 **polyfluoroalkyl substances cash fund - hazardous materials**

1 **infrastructure cash fund - fuels impact reduction grant program -**
2 **definitions.** (1) (c) Notwithstanding ~~paragraph (b) of this subsection (1)~~
3 SUBSECTION (1)(b) OF THIS SECTION, on and after ~~September 1, 2023,~~
4 SEPTEMBER 1, 2033, if the available fund balance in the petroleum storage
5 tank fund is greater than eight million dollars, no surcharge shall be
6 imposed, but if the available fund balance in the fund is less than eight
7 million dollars, the fee imposed by ~~paragraph (a) of this subsection (1)~~
8 SUBSECTION (1)(a) OF THIS SECTION is twenty-five dollars per tank
9 truckload.

10 (6) (a) In addition to the ~~payment~~ PAYMENTS collected ~~under~~
11 ~~subsection~~ PURSUANT TO SUBSECTIONS (1)(a) AND (8)(a) of this section,
12 the executive director of the department of revenue shall also collect a fee
13 to:

14 (b) On and after September 1, 2020, but before ~~September 1, 2026~~
15 SEPTEMBER 1, 2031, every manufacturer of fuel products who
16 manufactures such products for sale within Colorado or who ships such
17 products from any point outside of Colorado to a distributor within
18 Colorado and every distributor who ships such products from any point
19 outside of Colorado to a point within Colorado shall pay to the executive
20 director of the department of revenue, each calendar month, twenty-five
21 dollars per tank truckload of fuel products delivered during the previous
22 calendar month for sale or use in Colorado. This section does not apply
23 to fuel that is used in aviation or to odorized liquefied petroleum gas and
24 natural gas.

25 (d) On and after October 1, 2021, but before ~~October 1, 2026~~
26 OCTOBER 1, 2023, the executive director of the department of revenue
27 shall transmit any fee collected in accordance with this subsection (6) to

1 the state treasurer, who shall credit:

2 (d.5) ON AND AFTER OCTOBER 1, 2023, BUT BEFORE OCTOBER 1,
3 2031, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL
4 TRANSMIT ANY FEE COLLECTED IN ACCORDANCE WITH THIS SUBSECTION
5 (6) TO THE STATE TREASURER, WHO SHALL CREDIT:

6 (I) FIRST, THE COSTS TO THE DEPARTMENT OF REVENUE FOR
7 ADMINISTERING THE FEE AND THE COSTS TO THE DEPARTMENT OF
8 REVENUE FOR ADMINISTERING THE TAX CREDIT CREATED IN SECTION
9 39-30-104 (7);

10 (II) SECOND, TWO MILLION DOLLARS TO THE DEPARTMENT OF
11 PUBLIC SAFETY FOR USE BY THE COLORADO STATE PATROL TO SUPPORT
12 THE REGULATION OF AND RESPONSE TO HAZARDOUS MATERIALS ON
13 HIGHWAYS IN THE STATE, TO MAKE EMPLOYER CONTRIBUTIONS TO A
14 MULTIPLE EMPLOYER HEALTH TRUST IN ORDER TO PARTICIPATE IN THE
15 VOLUNTARY FIREFIGHTER CANCER BENEFITS PROGRAM PURSUANT TO PART
16 4 OF ARTICLE 5 OF TITLE 29, AND AS WELL AS ENFORCEMENT OF
17 COMMERCIAL AND HAZARDOUS MATERIALS CRITICAL CORRIDORS
18 DESIGNATED BY THE CHIEF OF THE COLORADO STATE PATROL; AND

19 (III) THIRD, OF THE AMOUNT REMAINING:

20 (A) SEVENTY PERCENT TO THE PERFLUOROALKYL AND
21 POLYFLUOROALKYL SUBSTANCES CASH FUND; AND

22 (B) THIRTY PERCENT TO THE DEPARTMENT OF TRANSPORTATION
23 TO SUPPORT FUNCTIONS RELATED TO THE TRANSPORTATION OF
24 HAZARDOUS MATERIALS AND THE SAFE AND EFFICIENT MOVEMENT OF
25 FREIGHT, AS WELL AS TO SUPPORT INFRASTRUCTURE PROJECTS THAT
26 ENHANCE THE SAFETY OF THE MOVEMENT OF FREIGHT AND HAZARDOUS
27 MATERIALS SUCH AS THE INSTALLATION OF FOAM SUPPRESSION SYSTEMS

1 IN THE EISENHOWER-JOHNSON TUNNELS, THE MITIGATION OF HAZARDS IN
2 GLENWOOD CANYON, AND OTHER USES NECESSARY TO SECURE THE SAFE
3 TRANSPORT OF FUELS THROUGH THE I-70 MOUNTAIN CORRIDOR.

4 (e) (I) BEFORE OCTOBER 1, 2023, notwithstanding subsection
5 (6)(b) of this section, if the available fund balance in the perfluoroalkyl
6 and polyfluoroalkyl substances cash fund is greater than eight million
7 dollars, the executive director of the department of revenue shall not
8 collect the fee described in subsection (6)(b) of this section, but if the
9 available balance in the fund is less than eight million dollars within a
10 fiscal year, the executive director of the department of revenue shall
11 impose a fee in accordance with subsection (6)(b) of this section.

12 (II) ON OR AFTER OCTOBER 1, 2023, NOTWITHSTANDING
13 SUBSECTION (6)(b) OF THIS SECTION, IF THE AVAILABLE FUND BALANCE IN
14 THE PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES CASH FUND
15 IS GREATER THAN NINE MILLION DOLLARS, THE EXECUTIVE DIRECTOR OF
16 THE DEPARTMENT OF REVENUE SHALL NOT COLLECT THE FEE DESCRIBED
17 IN SUBSECTION (6)(b) OF THIS SECTION, BUT IF THE AVAILABLE BALANCE
18 IN THE FUND IS LESS THAN NINE MILLION DOLLARS WITHIN A FISCAL YEAR,
19 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL
20 IMPOSE A FEE IN ACCORDANCE WITH SUBSECTION (6)(b) OF THIS SECTION.

21 (f) As used in this subsection (6) AND SUBSECTION (8) OF THIS
22 SECTION, "fuel products" means all gasoline; diesel; biodiesel; biodiesel
23 blends; kerosene; and all alcohol blended fuels that are produced,
24 compounded, and offered for sale or used for the purpose of generating
25 heat, light, or power in internal combustion engines or fuel cells, for
26 cleaning, or for any other similar usage. "Fuel products" does not mean
27 INCLUDE fuel that is used in aviation or odorized liquefied petroleum gas

1 and natural gas.

2 (8) (a) IN ADDITION TO THE PAYMENTS COLLECTED UNDER
3 SUBSECTIONS (1)(a) AND (6) OF THIS SECTION, BEGINNING SEPTEMBER 1,
4 2023, THE FUELS IMPACT ENTERPRISE CREATED IN SECTION 43-4-1503
5 SHALL IMPOSE A FUELS IMPACT REDUCTION FEE, THE EXECUTIVE DIRECTOR
6 OF THE DEPARTMENT OF REVENUE SHALL COLLECT THE FEE ON BEHALF OF
7 THE FUELS IMPACT ENTERPRISE, AND THE STATE TREASURER SHALL CREDIT
8 AN AMOUNT OF THE FEE REVENUE TO THE DEPARTMENT OF REVENUE TO
9 COVER THE COSTS OF COLLECTING THE FEE.

10 (b) (I) ON AND AFTER SEPTEMBER 1, 2023, EVERY
11 MANUFACTURER OF FUEL PRODUCTS WHO MANUFACTURES SUCH
12 PRODUCTS FOR SALE WITHIN COLORADO OR WHO SHIPS SUCH PRODUCTS
13 FROM ANY POINT OUTSIDE OF COLORADO TO A DISTRIBUTOR WITHIN
14 COLORADO AND EVERY DISTRIBUTOR WHO SHIPS SUCH PRODUCTS FROM
15 ANY POINT OUTSIDE OF COLORADO TO A POINT WITHIN COLORADO SHALL
16 PAY TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SIX
17 THOUSAND ONE HUNDRED TWENTY-FIVE MILLIONTHS OF A DOLLAR PER
18 GALLON OF FUEL PRODUCTS DELIVERED DURING THE PREVIOUS CALENDAR
19 MONTH FOR SALE OR USE IN COLORADO OR A LESSER AMOUNT
20 DETERMINED BY THE FUELS IMPACT ENTERPRISE. THE DISTRIBUTOR SHALL
21 PAY THIS FEE ON A PER GALLON BASIS AND AT THE SAME TIME AND ON THE
22 SAME FORM AS THE FEES COLLECTED PURSUANT TO SUBSECTIONS (1) AND
23 (6) OF THIS SECTION.

24 (II) FOR PURPOSES OF THIS SUBSECTION (8)(b), "DISTRIBUTOR"
25 MEANS THE PERSON WHO REMITS THE APPLICABLE STATE FEE IMPOSED
26 PURSUANT TO SUBSECTION (1) OR (6) OF THIS SECTION.

27 (c) ON AND AFTER SEPTEMBER 1, 2023, THE EXECUTIVE DIRECTOR

1 OF THE DEPARTMENT OF REVENUE SHALL TRANSMIT ANY FUELS IMPACT
2 REDUCTION FEE REVENUE THAT IT COLLECTS ON BEHALF OF THE FUELS
3 IMPACT ENTERPRISE PURSUANT TO THIS SUBSECTION (8) TO THE STATE
4 TREASURER, WHO SHALL CREDIT:

5 (I) THE TOTAL AMOUNT OF FUELS IMPACT REDUCTION FEE
6 REVENUE COLLECTED BY THE DEPARTMENT OF REVENUE, MINUS THE
7 COSTS TO THE DEPARTMENT OF REVENUE FOR ADMINISTERING THE FEE, TO
8 THE FUELS IMPACT ENTERPRISE FUND CREATED IN SECTION 43-4-1504;
9 AND

10 (II) THE COSTS TO THE DEPARTMENT OF REVENUE FOR
11 ADMINISTERING THE FEE TO THE DEPARTMENT OF REVENUE.

12 **SECTION 4.** In Colorado Revised Statutes, 8-20.5-303, **add**
13 (1)(f) as follows:

14 **8-20.5-303. Financial responsibility for aboveground storage**
15 **tanks.** (1) (f) THE DIRECTOR OF THE DIVISION OF OIL AND PUBLIC SAFETY,
16 IN CONSULTATION WITH THE PETROLEUM STORAGE TANK COMMITTEE
17 ESTABLISHED PURSUANT TO SECTION 8-20.5-104, MAY ESTABLISH RULES
18 THAT ALLOW THE PAYMENT OF REMEDIATION EXPENSES FOR CERTAIN
19 OWNERS AND OPERATORS OF ABOVEGROUND STORAGE TANKS FROM THE
20 PETROLEUM STORAGE TANK FUND TO BE BASED ON A PERCENTAGE THAT
21 IS LESS THAN ONE HUNDRED PERCENT OF THE REMEDIATION AMOUNT.

22 **SECTION 5.** In Colorado Revised Statutes, 25-5-1312, **amend**
23 (1) introductory portion as follows:

24 **25-5-1312. Reporting requirement.** (1) Notwithstanding section
25 24-1-136 (11)(a)(I), the department shall annually report by February 1,
26 2021, and February 1 of each year until ~~February 1, 2027~~ FEBRUARY 1,
27 2036, to the general assembly's committees of reference with jurisdiction

1 over public health regarding:

2

3 **SECTION 6.** In Colorado Revised Statutes, 29-5-402, amend (2)
4 and (3); and add (4.5) as follows:

5 **29-5-402. Definitions.** As used in this part 4, unless the context
6 otherwise requires:

7 (2) "Covered individual" means a firefighter, HAZARDOUS
8 MATERIALS TROOPER, part-time firefighter, or volunteer firefighter who
9 meets the coverage requirements in section 29-5-403 (12).

10 (3) "Employer" means a municipality, special district, fire
11 authority, or county improvement district that employs one or more
12 firefighters, part-time firefighters, or volunteer firefighters. Beginning
13 July 1, 2020, "employer" also means the division of fire prevention and
14 control created in section 24-33.5-1201 AND THE DEPARTMENT OF PUBLIC
15 SAFETY CREATED IN SECTION 24-33.5-1603. "Employer" does not include
16 a power authority created pursuant to section 29-1-204 or a municipally
17 owned utility.

18 (4.5) "HAZARDOUS MATERIALS TROOPER" MEANS A PERSON
19 EMPLOYED BY THE COLORADO STATE PATROL TO SUPPORT THE
20 REGULATION OF HAZARDOUS MATERIALS ON HIGHWAYS IN THE STATE.

21 **SECTION 7.** In Colorado Revised Statutes, 29-5-403, amend
22 (12)(a); and add (12)(b)(I.5) as follows:

23 **29-5-403. Required benefits - conditions of receiving benefits.**

24 (12) (a) In order for a covered individual to be eligible for the benefits in
25 this section, prior to the diagnosis of cancer and no more than five years
26 for a firefighter or HAZARDOUS MATERIALS TROOPER AND no more than
27 ten years for a volunteer firefighter or part-time firefighter after the

1 firefighter, volunteer firefighter, or part-time firefighter became employed
2 by an employer, the firefighter, HAZARDOUS MATERIALS TROOPER,
3 volunteer firefighter, or part-time firefighter must have had a medical
4 examination that would reasonably have found an illness or injury that
5 could have caused the cancer and no illness or injury was found.

6 (b) In addition to subsection (12)(a) of this section, in order for a
7 covered individual to be eligible for the benefits in this section, the
8 following conditions must be met:

9 (I.5) THE HAZARDOUS MATERIALS TROOPER:

10 (A) HAS AT LEAST FIVE YEARS OF CONTINUOUS, FULL-TIME
11 EMPLOYMENT AS A HAZARDOUS MATERIALS TROOPER; AND

12 (B) IS DIAGNOSED WITH CANCER WITHIN TEN YEARS AFTER
13 CEASING EMPLOYMENT AS A HAZARDOUS MATERIALS TROOPER; OR

14 ■ ■ ■

15 **SECTION 8.** In Colorado Revised Statutes, 42-20-301, **amend**
16 (3) as follows:

17 **42-20-301. Route designation.** (3) (a) Notwithstanding any other
18 provision of this part 3 or part 1 or 2 of this ~~article~~ ARTICLE 20 to the
19 contrary, the transportation commission may regulate hours of operation
20 of the Eisenhower-Johnson tunnels, structure numbers F13Y and F13X,
21 respectively, on interstate 70.

22 (b) THE PATROL MAY CONFORM HAZARDOUS MATERIALS ROUTING
23 REGULATIONS MADE PURSUANT TO THIS SECTION TO TRANSPORTATION
24 COMMISSION REGULATIONS MADE PURSUANT TO SUBSECTION (3)(a) OF
25 THIS SECTION.

26 **SECTION 9.** In Colorado Revised Statutes, **add** part 15 to article
27 4 of title 43 as follows:

1 PART 15

2 FUELS IMPACT ENTERPRISE

3 **43-4-1501. Legislative declaration.** (1) (a) (I) THE GENERAL
4 ASSEMBLY FINDS AND DECLARES THAT:

5 (A) CERTAIN COMMUNITIES IN THE STATE SERVE AS THE
6 DISTRIBUTION POINTS FOR ALMOST ALL OF THE FUEL TRANSPORTED IN THE
7 STATE;

8 (B) LICENSED FUEL DISTRIBUTORS RELY ON THE HAZARDOUS
9 MITIGATION CORRIDOR INFRASTRUCTURE IN THESE COMMUNITIES TO
10 SUPPORT THE ECONOMIC FUNCTIONS OF THE STATE; AND

11 (C) INCREASING REQUIREMENTS ON FUEL COMPOSITION AND
12 BLENDS WILL CAUSE THE INFRASTRUCTURE IN THESE COMMUNITIES TO BE
13 RELIED UPON EVEN MORE.

14 (II) THEREFORE, THE GENERAL ASSEMBLY FINDS THAT IT IS
15 APPROPRIATE TO ESTABLISH THE FUELS IMPACT REDUCTION GRANT
16 PROGRAM TO PROVIDE GRANTS TO THOSE COMMUNITIES FOR THE
17 IMPROVEMENT OF THEIR HAZARDOUS MITIGATION CORRIDOR
18 INFRASTRUCTURE AND FOR PROJECTS RELATED TO THE TRANSPORTATION
19 OF FUEL WITHIN THE STATE.

20 (b) THEREFORE, THE GENERAL ASSEMBLY FINDS THAT IT IS
21 REASONABLE TO ESTABLISH THE FUELS IMPACT ENTERPRISE TO ASSIST IN
22 THE ADMINISTRATION OF THE PROGRAMS DESCRIBED IN THIS SUBSECTION
23 (1) AND TO COLLECT THE FEES NECESSARY TO IMPLEMENT THESE
24 PROGRAMS.

25 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

26 (a) THE FUELS IMPACT ENTERPRISE PROVIDES IMPACT REDUCTION
27 SERVICES WHEN, IN EXCHANGE FOR THE PAYMENT OF THE FUELS IMPACT

1 REDUCTION FEE BY LICENSED FUEL EXCISE TAX DISTRIBUTORS AND
2 LICENSED FUEL DISTRIBUTORS, IT ACTS AS AUTHORIZED BY THIS SECTION
3 TO PROVIDE ASSISTANCE IN IMPROVING HAZARDOUS MITIGATION
4 CORRIDORS AND PROJECTS RELATED TO THE TRANSPORTATION OF FUEL
5 WITHIN THE STATE;

6 (b) BY PROVIDING IMPACT REDUCTION SERVICES AS AUTHORIZED
7 BY THIS SECTION, THE FUELS IMPACT ENTERPRISE PROVIDES A BENEFIT TO
8 FEE PAYERS BY IMPROVING THE TRANSPORTATION OF FUEL IN THE STATE,
9 AND MONITORING VEHICLE EMISSIONS, AND, THEREFORE OPERATES AS A
10 BUSINESS IN ACCORDANCE WITH THE DETERMINATION OF THE COLORADO
11 SUPREME COURT IN *COLORADO UNION OF TAXPAYERS FOUNDATION V. CITY*
12 *OF ASPEN*, 2018 CO 36;

13 (c) CONSISTENT WITH THE DETERMINATION OF THE COLORADO
14 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896
15 P.2D 859 (COLO. 1995), THE POWER TO IMPOSE TAXES IS INCONSISTENT
16 WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE
17 CONSTITUTION, AND, THEREFORE, IT IS THE CONCLUSION OF THE GENERAL
18 ASSEMBLY THAT THE REVENUE COLLECTED BY THE FUELS IMPACT
19 ENTERPRISE IS GENERATED BY FEES, NOT TAXES, BECAUSE THE FUELS
20 IMPACT REDUCTION FEE IMPOSED BY THE ENTERPRISE IS:

21 (I) IMPOSED FOR THE SPECIFIC PURPOSE OF ALLOWING THE
22 ENTERPRISE TO DEFRAID THE COSTS OF PROVIDING THE SERVICES SPECIFIED
23 IN THIS SECTION; AND

24 (II) COLLECTED AT RATES THAT ARE REASONABLY CALCULATED
25 BASED ON THE COSTS OF THE SERVICES PROVIDED BY THE ENTERPRISE;
26 AND

27 (d) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR

1 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE
2 REVENUE FROM THE FUELS IMPACT REDUCTION FEE IS NOT STATE FISCAL
3 YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE
4 REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DOES NOT
5 COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED
6 BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS
7 STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(G).

8 **43-4-1502. Definitions.** AS USED IN THIS PART 15, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "ENTERPRISE" MEANS THE FUELS IMPACT ENTERPRISE CREATED
11 IN SECTION 43-4-1503.

12 (2) "FUEL PRODUCT" MEANS GASOLINE, BLENDED GASOLINE,
13 GASOLINE SOLD FOR GASOHOL PRODUCTION, GASOHOL, DIESEL, BIODIESEL
14 BLENDS, NATURAL GAS, AND SPECIAL FUELS, AND SPECIAL FUEL MIXES
15 WITH ALCOHOL.

16 (3) "FUELS IMPACT REDUCTION FEE" MEANS THE FEE IMPOSED BY
17 THE ENTERPRISE PURSUANT TO SECTION 43-4-1505 (1).

18 (4) "FUND" MEANS THE FUELS IMPACT ENTERPRISE FUND CREATED
19 IN SECTION 43-4-1504.

20 (5) "GRANT PROGRAM" MEANS THE FUELS IMPACT REDUCTION
21 GRANT PROGRAM CREATED IN SECTION 43-4-1506.

22 **43-4-1503. Fuels impact enterprise - creation - powers and**
23 **duties.** (1) (a) THE FUELS IMPACT ENTERPRISE IS CREATED IN THE
24 DEPARTMENT. THE ENTERPRISE IS AND OPERATES AS A
25 GOVERNMENT-OWNED BUSINESS WITHIN THE DEPARTMENT IN ORDER TO
26 EXECUTE ITS BUSINESS PURPOSES AS SPECIFIED IN SUBSECTION (2) OF THIS
27 SECTION BY EXERCISING THE POWERS AND PERFORMING THE DUTIES AND

1 FUNCTIONS SET FORTH IN THIS SECTION.

2 (b) THE ENTERPRISE IS A **TYPE 2** ENTITY, AS DEFINED IN SECTION
3 24-1-105, AND EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND
4 FUNCTIONS UNDER THE DEPARTMENT. THE GOVERNING BOARD OF THE
5 ENTERPRISE IS MADE UP OF THE TRANSPORTATION COMMISSION CREATED
6 IN SECTION 43-1-106 (1).

7 (2) THE BUSINESS PURPOSES OF THE ENTERPRISE ARE TO IMPROVE
8 THE TRANSPORTATION OF FUEL IN THE STATE AND MONITOR VEHICLE
9 EMISSIONS. TO ALLOW THE ENTERPRISE TO ACCOMPLISH THESE BUSINESS
10 PURPOSES AND FULLY EXERCISE ITS POWERS AND DUTIES, THE ENTERPRISE
11 MAY:

12 (a) IMPOSE A FUELS IMPACT REDUCTION FEE AS AUTHORIZED BY
13 SECTION 43-4-1505 (1);

14 (b) ISSUE GRANTS AS AUTHORIZED BY THE FUELS IMPACT
15 REDUCTION GRANT PROGRAM CREATED IN SECTION 43-4-1506; AND

16 (c) ISSUE REVENUE BONDS PAYABLE FROM FUELS IMPACT
17 REDUCTION FEE REVENUE AND OTHER AVAILABLE MONEY OF THE
18 ENTERPRISE.

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

27 (4) IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN

1 THIS SECTION, THE ENTERPRISE HAS THE FOLLOWING GENERAL POWERS
2 AND DUTIES:

3 (a) TO PROVIDE SERVICES AS SET FORTH IN SECTION 43-4-1506;

4 AND

5 (b) TO HAVE AND EXERCISE ALL RIGHTS AND POWERS NECESSARY
6 OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS AND DUTIES
7 GRANTED BY THIS SECTION.

8 **43-4-1504. Fuels impact enterprise cash fund - definition.**

9 (1) (a) (I) THE FUELS IMPACT ENTERPRISE CASH FUND IS CREATED IN THE
10 STATE TREASURY. THE FUND CONSISTS OF FUELS IMPACT REDUCTION FEE
11 REVENUE CREDITED TO THE FUND PURSUANT TO SECTION 43-4-1505 (1),
12 ANY MONEY THAT THE GENERAL ASSEMBLY MAY TRANSFER OR
13 APPROPRIATE TO THE FUND FOR THE IMPLEMENTATION OF THE GRANT
14 PROGRAM, AND ANY FEDERAL MONEY OR GIFTS, GRANTS, OR DONATIONS
15 RECEIVED. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
16 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
17 FUND TO THE FUND.

18 (II) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
19 ENTERPRISE FOR THE DIRECT AND INDIRECT COSTS OF IMPLEMENTING THE
20 GRANT PROGRAM.

21 (III) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
22 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
23 FUND TO THE FUND.

24 (b) (I) NOTWITHSTANDING SECTION 8-20-206.5 (8)(b), IF THE
25 AVAILABLE FUND BALANCE IN THE FUND IS GREATER THAN FIFTEEN
26 MILLION DOLLARS, THE ENTERPRISE SHALL NOT IMPOSE, AND THE
27 DEPARTMENT OF REVENUE SHALL NOT COLLECT, THE FUELS IMPACT

1 REDUCTION FEE DESCRIBED IN SECTION 8-20-206.5 (8), BUT IF THE
2 AVAILABLE BALANCE IN THE FUND IS LESS THAN FIFTEEN MILLION
3 DOLLARS WITHIN A FISCAL YEAR, THE ENTERPRISE SHALL IMPOSE, AND THE
4 DEPARTMENT OF REVENUE SHALL COLLECT, THE FUELS IMPACT REDUCTION
5 FEE IN ACCORDANCE WITH SECTION 8-20-206.5 (8)(b).

6 (II) FOR THE PURPOSES OF THIS SUBSECTION (1)(b), "AVAILABLE
7 FUND BALANCE" MEANS THE SUM OF THE CURRENT YEAR REVENUES AND
8 THE PREVIOUS FUND BALANCE MINUS THE SUM OF THE OBLIGATIONS
9 APPROVED BY THE ENTERPRISE AND THE COSTS INCURRED BY THE
10 DEPARTMENT OF REVENUE IN COLLECTING THE FUELS IMPACT REDUCTION
11 FEE REVENUE.

12 (c) FOR PURPOSES OF THIS PART 15, THE ENTERPRISE MAY SEEK,
13 ACCEPT, AND EXPEND MONEY FROM FEDERAL SOURCES.

14 (2) THE DEPARTMENT MAY TRANSFER MONEY FROM ANY LEGALLY
15 AVAILABLE SOURCE TO THE ENTERPRISE FOR THE PURPOSE OF DEFRAYING
16 EXPENSES INCURRED BY THE ENTERPRISE BEFORE IT RECEIVES FEE
17 REVENUE OR REVENUE BOND PROCEEDS. THE ENTERPRISE MAY ACCEPT
18 AND EXPEND ANY MONEY SO TRANSFERRED, AND, NOTWITHSTANDING ANY
19 STATE FISCAL RULE OR GENERALLY ACCEPTED ACCOUNTING PRINCIPLE
20 THAT COULD OTHERWISE BE INTERPRETED TO REQUIRE A CONTRARY
21 CONCLUSION, SUCH A TRANSFER IS A LOAN FROM THE DEPARTMENT TO THE
22 ENTERPRISE THAT IS REQUIRED TO BE REPAID AND IS NOT A GRANT FOR
23 PURPOSES OF SECTION 20 (2)(d) OF ARTICLE X OF THE STATE
24 CONSTITUTION, OR AS DEFINED IN SECTION 24-77-102 (7). ALL MONEY
25 TRANSFERRED AS A LOAN TO THE ENTERPRISE SHALL BE CREDITED TO THE
26 FUND. LOAN LIABILITIES THAT ARE RECORDED IN THE FUELS IMPACT FUND
27 BUT THAT ARE NOT REQUIRED TO BE PAID IN THE CURRENT FISCAL YEAR

1 SHALL NOT BE CONSIDERED WHEN CALCULATING SUFFICIENT STATUTORY
2 FUND BALANCE FOR PURPOSES OF SECTION 24-75-109. AS THE ENTERPRISE
3 RECEIVES SUFFICIENT REVENUE IN EXCESS OF EXPENSES, THE ENTERPRISE
4 SHALL REIMBURSE THE DEPARTMENT FOR THE PRINCIPAL AMOUNT OF ANY
5 LOAN MADE BY THE DEPARTMENT PLUS INTEREST AT A RATE SET BY THE
6 DEPARTMENT.

7 **43-4-1505. Fuels impact reduction fee.** (1) (a) IN FURTHERANCE
8 OF ITS BUSINESS PURPOSE, BEGINNING SEPTEMBER 1, 2023, THE
9 ENTERPRISE SHALL IMPOSE A FUELS IMPACT REDUCTION FEE PER GALLON
10 TO BE PAID BY A LICENSED FUEL EXCISE TAX DISTRIBUTOR WITHIN
11 COLORADO AND A LICENSED FUEL DISTRIBUTOR WHO SHIPS PRODUCTS
12 FROM OUTSIDE OF COLORADO TO A POINT WITHIN COLORADO. FOR THE
13 PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR DISTRIBUTORS AND
14 ADMINISTRATIVE COSTS FOR THE STATE, THE DEPARTMENT OF REVENUE
15 SHALL COLLECT THE FUELS IMPACT REDUCTION FEE ON BEHALF OF THE
16 ENTERPRISE, AND A FUEL DISTRIBUTOR SHALL PAY THE FEE TO THE
17 DEPARTMENT OF REVENUE AS REQUIRED BY SECTION 8-20-206.5 (8)(a).

18 (b) FOR A LICENSED FUEL EXCISE TAX DISTRIBUTOR WITHIN
19 COLORADO AND A LICENSED FUEL DISTRIBUTOR WHO SHIPS PRODUCTS
20 FROM OUTSIDE OF COLORADO TO A POINT WITHIN COLORADO, BEGINNING
21 SEPTEMBER 1, 2023, THE ENTERPRISE SHALL IMPOSE THE FUELS IMPACT
22 REDUCTION FEE IN A REASONABLE AMOUNT THAT IS NO MORE THAN SIX
23 THOUSAND ONE HUNDRED TWENTY-FIVE MILLIONTHS OF A DOLLAR PER
24 GALLON OF FUEL PRODUCTS DELIVERED FOR SALE OR USE IN COLORADO.

25 (c) AS REQUIRED BY SECTION 8-20-206.5 (8)(c), THE EXECUTIVE
26 DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL TRANSMIT ANY FUELS
27 IMPACT REDUCTION FEE REVENUE IT COLLECTS TO THE STATE TREASURER

1 WHO SHALL CREDIT THE REVENUE, MINUS THE COSTS TO THE DEPARTMENT
2 OF REVENUE FOR COLLECTING THE FEE, TO THE FUND.

3 **43-4-1506. Fuels impact reduction grant program.** (1) THERE
4 IS HEREBY CREATED THE FUELS IMPACT REDUCTION GRANT PROGRAM TO
5 PROVIDE GRANTS TO CERTAIN CRITICALLY IMPACTED COMMUNITIES,
6 GOVERNMENTS, AND TRANSPORTATION CORRIDORS FOR THE
7 IMPROVEMENT OF HAZARDOUS MITIGATION CORRIDORS AND TO SUPPORT
8 LOCAL AND STATE GOVERNMENT PROJECTS RELATED TO EMERGENCY
9 RESPONSES, ENVIRONMENTAL MITIGATION, OR PROJECTS RELATED TO THE
10 TRANSPORTATION OF FUEL WITHIN THE STATE.

11 (2) (a) AS PART OF THE FUELS IMPACT REDUCTION GRANT
12 PROGRAM, THE ENTERPRISE SHALL ANNUALLY DISTRIBUTE TEN MILLION
13 DOLLARS FROM THE FUND TO THE FOLLOWING POLITICAL SUBDIVISIONS
14 FOR THE IMPROVEMENT OF HAZARDOUS MITIGATION CORRIDORS IN THE
15 STATE PRIORITIZING USES RELATED TO SAFETY AND ENVIRONMENTAL
16 IMPACTS:

17 (I) SIX MILLION FOUR HUNDRED THOUSAND DOLLARS TO ADAMS
18 COUNTY;

19 (II) TWO MILLION DOLLARS TO THE CITY OF AURORA;

20 (III) ONE MILLION THREE HUNDRED THOUSAND DOLLARS TO EL
21 PASO COUNTY;

22 (IV) TWO HUNDRED FORTY THOUSAND DOLLARS TO MESA
23 COUNTY; AND

24 (V) SIXTY THOUSAND DOLLARS TO OTERO COUNTY.

25 (b) IF THE ENTERPRISE IS UNABLE TO DISTRIBUTE TEN MILLION
26 DOLLARS PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, THE
27 ENTERPRISE SHALL DISTRIBUTE THE DOLLARS IT CAN DISTRIBUTE IN THE

1 SAME PROPORTION AS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION.

2 (c) IF A POLITICAL SUBDIVISION IS UNABLE TO ACCEPT THE ANNUAL
3 DISTRIBUTION MADE PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION,
4 THE ENTERPRISE SHALL DISTRIBUTE THE UNACCEPTED AMOUNTS TO THE
5 OTHER POLITICAL SUBDIVISIONS ON A PROPORTIONATE BASIS.

6 (3) THE ENTERPRISE SHALL ANNUALLY DISTRIBUTE UP TO FIVE
7 MILLION DOLLARS FROM THE FUND, AFTER MAKING THE TRANSFERS
8 REQUIRED BY SUBSECTION (2) OF THIS SECTION AND AFTER PROVIDING FOR
9 THE ADMINISTRATIVE EXPENSES OF THE ENTERPRISE, TO KEY COMMERCIAL
10 FREIGHT CORRIDORS, TO SUPPORT STATE GOVERNMENT PROJECTS RELATED
11 TO EMERGENCY RESPONSES, ENVIRONMENTAL MITIGATION, OR TO SUPPORT
12 PROJECTS RELATED TO THE TRANSPORTATION OF FUEL WITHIN THE STATE
13 ON ROUTES NECESSARY FOR THE TRANSPORTATION OF HAZARDOUS
14 MATERIALS.

15 **43-4-1507. Repeal of part.** THIS PART 15 IS REPEALED, EFFECTIVE
16 JANUARY 1, 2030.

17 

18 **SECTION 10. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly; except
21 that, if a referendum petition is filed pursuant to section 1 (3) of article V
22 of the state constitution against this act or an item, section, or part of this
23 act within such period, then the act, item, section, or part will not take
24 effect unless approved by the people at the general election to be held in
25 November 2024 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.