

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 25-0751.01 Jennifer Berman x3286

SENATE BILL 25-139

SENATE SPONSORSHIP

Baisley, Bright, Carson, Catlin, Frizell, Kirkmeyer, Liston, Lundeen, Pelton B., Pelton R., Rich, Simpson

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO REDUCE HOUSEHOLD COSTS IN THE STATE,**
102 **AND, IN CONNECTION THEREWITH, AUTHORIZING THE USE OF**
103 **NUCLEAR ENERGY AS A CLEAN ENERGY RESOURCE AND**
104 **REPEALING CERTAIN CHARGES ASSOCIATED WITH GROCERIES**
105 **OR UTILITIES.**

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>.)

Sections 1 through 3 of the bill include nuclear energy in the definitions of "clean energy" and "clean energy resource".

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.

Sections 4 and 5 repeal the Colorado circular communities enterprise and user fees created in House Bill 24-1449, enacted in 2024, to replace the front range waste diversion enterprise and user fees created in Senate Bill 19-192, enacted in 2019.

Section 6 repeals the 10-cent paper carryout bag fee created in House Bill 21-1162, enacted in 2021.

Section 7 repeals the confinement standards for egg-laying hens whose eggs are sold in Colorado, which standards were created in House Bill 20-1343, enacted in 2020.

Section 8 repeals the authorization for counties and municipalities to collect special sales taxes on nicotine products, which authorization was created in House Bill 19-1033, enacted in 2019.

Section 9 repeals the energy assistance system benefit charge created in House Bill 21-1105, enacted in 2021.

Section 10 repeals the retail delivery fee created in Senate Bill 21-260, enacted in 2021.

Sections 11 through 45 make conforming amendments.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Coloradans care about clean energy; to that end, nuclear
5 energy:

6 (I) Is currently the single largest source of carbon-free electricity
7 generation in the United States, generating about 50% of the country's
8 carbon-free electricity;

9 (II) Does not produce carbon dioxide, thus offsetting carbon
10 emissions; and

11 (III) Should, therefore, be included in the statutory definitions of
12 "clean energy" and "clean energy resource";

13 (b) By defining nuclear energy as clean energy and as a clean
14 energy resource, Colorado can continue to spearhead energy innovations
15 that align with the state's goals of keeping energy affordable;

16 (c) Nuclear power plants in the United States have an average

1 capacity factor that is greater than 90%. Capacity factor is the percentage
2 of time that an electricity-generating source is able to generate electricity
3 at full design capacity.

4 (d) Because nuclear energy has a capacity factor that is 2 to 3
5 times higher than wind energy and 4 to 5 times higher than solar energy,
6 it can provide clean, reliable baseload electricity to the electric grid.
7 Further, it can integrate well with weather-dependent and seasonally
8 variable wind and solar generation, mitigating the potential for brownouts
9 and blackouts in Colorado.

10 (e) Nuclear energy can be utilized in conjunction with existing
11 clean energy sources to lower energy costs for Coloradans and maintain
12 a reliable source of electricity and a stable electric grid;

13 (f) Colorado cannot rely on wind and solar renewable energy
14 alone to provide the clean, dispatchable, and reliable power required to
15 decarbonize the environment, fuel local economies, and provide
16 high-quality and high-paying jobs to Colorado communities;

17 (g) Adding nuclear energy to the definitions of "clean energy" and
18 "clean energy resource" will align Colorado's clean energy efforts with
19 federal efforts, help put nuclear energy on an equal footing with other
20 clean energy sources, and attract continued public and private funding for
21 innovations in clean energy technology in Colorado;

22 (h) The recognition of nuclear energy as a clean energy resource
23 at the federal level has led to increased federal funding through the
24 United States department of energy, as well as private funding throughout
25 the western world. This funding supports nuclear reactor design research
26 and innovation that help address energy and climate challenges.

27 (i) Increased nuclear research, innovation, and implementation can

1 provide high-quality and high-paying jobs in Colorado's local economies,
2 as well as a much needed tax base for Colorado communities;

3 (j) Switching to nuclear power can save consumers money
4 because nuclear power is significantly more cost-effective than using
5 conventional energy sources, such as coal;

6 (k) In the United States, generating electricity with coal costs
7 between \$75.10 and \$96.30 per megawatt-hour (MWh), while generating
8 electricity with nuclear power costs only \$43.90 per MWh. These lower
9 production costs translate to reduced energy prices, ensuring long-term
10 savings for consumers.

11 (l) Therefore, to bring clean, reliable, cost-effective, and flexible
12 generation resources to Colorado and help the state meet its clean energy
13 goals, it is in the best interest of Colorado and its residents to add nuclear
14 energy to the statutory definitions of "clean energy" and "clean energy
15 resource".

16 **SECTION 2.** In Colorado Revised Statutes, 30-20-1202, **amend**
17 (2) as follows:

18 **30-20-1202. Definitions.** As used in this part 12, unless the
19 context otherwise requires:

20 (2) "Clean energy" means energy derived from biomass, as
21 defined in section 40-2-124 (1)(a)(I); ~~C.R.S.~~, geothermal energy; solar
22 energy; small hydroelectricity; NUCLEAR ENERGY; and wind energy, as
23 well as any hydrogen derived from any of the ~~foregoing~~ ENERGY SOURCES
24 LISTED IN THIS SUBSECTION (2).

25 **SECTION 3.** In Colorado Revised Statutes, 40-2-125.5, **amend**
26 (2)(b) as follows:

27 **40-2-125.5. Carbon dioxide emission reductions - goal to**

1 **eliminate by 2050 - legislative declaration - interim targets -**
2 **submission and approval of plans - definitions - cost recovery -**
3 **reports - rules. (2) Definitions.** As used in this section, unless the
4 context otherwise requires:

5 (b) (I) "Clean energy resource" means any electricity-generating
6 technology that generates or stores electricity without emitting carbon
7 dioxide into the atmosphere.

8 (II) ~~Clean energy resources include, without limitation,~~ "CLEAN
9 ENERGY RESOURCE" INCLUDES:

10 (A) Eligible energy resources as defined in section 40-2-124
11 (1)(a); AND

12 (B) NUCLEAR ENERGY.

13 **SECTION 4.** In Colorado Revised Statutes, **repeal** 25-16-104.5
14 (3.9).

15 **SECTION 5.** In Colorado Revised Statutes, **repeal** 25-16.5-109.

16 **SECTION 6.** In Colorado Revised Statutes, **repeal** 25-17-505.

17 **SECTION 7.** In Colorado Revised Statutes, **repeal** part 2 of
18 article 21 of title 35.

19 **SECTION 8.** In Colorado Revised Statutes, **repeal** 39-28-112.

20 **SECTION 9.** In Colorado Revised Statutes, **repeal** 40-8.7-105.5.

21 **SECTION 10.** In Colorado Revised Statutes, **repeal** 43-4-218.

22 **SECTION 11.** In Colorado Revised Statutes, 24-38.5-301,
23 **amend** (1) introductory portion, (2)(a), (2)(c) introductory portion,
24 (2)(c)(I), and (2)(c)(V); and **repeal** (1)(a), (1)(b), (1)(c), (1)(d), (2)(d),
25 (2)(e), and (2)(f) as follows:

26 **24-38.5-301. Legislative declaration.** (1) The general assembly
27 **hereby** finds and declares that:

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

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

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

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

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

20 (a) To incentivize, support, and accelerate the construction of
21 electric motor vehicle charging and fueling infrastructure in communities
22 throughout the state; incentivize, support, and accelerate the adoption of
23 electric motor vehicles by businesses, including transportation network
24 companies, governmental entities, and individuals; and thereby increase
25 access to electric motor vehicles, minimize and mitigate the
26 environmental and health impacts caused by transportation-related
27 emissions of air pollutants and greenhouse gases, and allow the state and

1 its citizens to reap the environmental, health, business and governmental
2 operational efficiency, and personal motor vehicle total ownership cost
3 savings benefits of widespread adoption of electric motor vehicles, it is
4 necessary, appropriate, and in the best interest of the state to create a
5 community access enterprise that can provide specialized business
6 services, including impact remediation services, that help communities,
7 businesses, and governmental entities construct the electric motor vehicle
8 charging and fueling infrastructure needed to support widespread
9 adoption of electric motor vehicles, ~~including light-duty, medium-duty,~~
10 ~~and heavy-duty motor vehicles and motor vehicles used to make retail~~
11 ~~deliveries~~, and thereby assuage range anxiety concerns, supply chain
12 disruption concerns, and any other concerns that currently disincentivize
13 the widespread adoption of electric motor vehicles;

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

19 (I) Funding the construction of electric motor vehicle charging
20 infrastructure that supports the use of clean and quiet electric motor
21 vehicles; ~~including motor vehicles used to make retail deliveries~~;

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

24 (d) ~~By providing remediation services as authorized by this~~
25 ~~section, the enterprise provides a benefit to fee payers when it remediates~~
26 ~~the impacts they cause and therefore operates as a business in accordance~~
27 ~~with the determination of the Colorado supreme court in *Colorado Union*~~

1 *of Taxpayers Foundation v. City of Aspen*, 2018 CO 36;

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

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

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

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

27 **SECTION 12.** In Colorado Revised Statutes, 24-38.5-302, **repeal**

1 (11), (17), and (18) as follows:

2 **24-38.5-302. Definitions.** As used in this part 3, unless the
3 context otherwise requires:

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

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

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

15 **SECTION 13.** In Colorado Revised Statutes, 24-38.5-303,
16 **amend** (5)(a) and (6)(f); and **repeal** (3)(a), (6)(g), and (7) as follows:

17 **24-38.5-303. Community access enterprise - creation - board**
18 **- powers and duties - fund - transparency and reporting.** (3) The
19 business purpose of the enterprise is to support the widespread adoption
20 of electric motor vehicles, including motor vehicles that originally were
21 powered exclusively by internal combustion engines but have been
22 converted into electric motor vehicles, in an equitable manner by directly
23 investing in transportation infrastructure, making grants or providing
24 rebates or other financing options to fund the construction of electric
25 motor vehicle charging infrastructure throughout the state, and
26 incentivizing the acquisition and use of electric motor vehicles and
27 electric alternatives to motor vehicles in communities, including but not

1 limited to disproportionately impacted communities, and by owners of
2 older, less fuel efficient, and higher polluting vehicles. To allow the
3 enterprise to accomplish this business purpose and fully exercise its
4 powers and duties through the board, the enterprise may:

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

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

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

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

26 (g) ~~To promulgate rules for the sole purpose of setting the amount~~
27 ~~of the community access retail delivery fee at or below the maximum~~

1 amount authorized in this section; and

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

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

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

1 publish the amount no later than April 15 of the calendar year in which the
2 state fiscal year begins.

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

9 **SECTION 14.** In Colorado Revised Statutes, 25-7.5-101, **amend**
10 (1) introductory portion, (1)(a), (1)(c), (1)(e) introductory portion, and
11 (2)(e) introductory portion; and **repeal** (1)(d) as follows:

12 **25-7.5-101. Legislative declaration.** (1) The general assembly
13 **hereby** finds and declares that:

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

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

22 ~~(d) Instead of reducing the impacts of retail deliveries and rides~~
23 ~~arranged through transportation network companies by limiting retail~~
24 ~~delivery and transportation network company ride activity through~~
25 ~~regulation, it is more appropriate to continue to allow persons who~~
26 ~~receive retail deliveries and benefit from the convenience afforded by~~
27 ~~unfettered retail deliveries and to allow transportation network companies~~

1 that arrange prearranged rides to continue to provide that service without
2 undue restrictions and instead impose a small fee on each retail delivery
3 and ride and use fee revenue to fund necessary mitigation activities; and

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

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

18 (e) Consistent with the determination of the Colorado supreme
19 court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo.
20 1995), that the power to impose taxes is inconsistent with enterprise status
21 under section 20 of article X of the state constitution, it is the conclusion
22 of the general assembly that the revenue collected by the enterprise is
23 generated by fees, not taxes, because the fees imposed by the enterprise
24 as authorized by section 25-7.5-103 (7) ~~and (8)~~ are:

25 **SECTION 15.** In Colorado Revised Statutes, 25-7.5-102, **amend**
26 (13); and **repeal** (21) and (22) as follows:

27 **25-7.5-102. Definitions.** As used in this article 7.5, unless the

1 context otherwise requires:

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

10 (21) ~~"Retail delivery" has the same meaning as set forth in section~~
11 ~~43-4-218 (2)(c).~~

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

14 **SECTION 16.** In Colorado Revised Statutes, 25-7.5-103, **amend**
15 (3)(a), (5)(a), and (6)(h); and **repeal** (8) as follows:

16 **25-7.5-103. Clean fleet enterprise - creation - board - powers**
17 **and duties - fees - fund.** (3) The business purpose of the enterprise is to
18 incentivize and support the use of electric motor vehicles, including
19 motor vehicles that originally were powered exclusively by internal
20 combustion engines but have been converted into electric motor vehicles,
21 and, to the extent temporarily necessitated by the limitations of current
22 electric motor vehicle technology for certain fleet uses, compressed
23 natural gas motor vehicles that are fueled by recovered methane, by
24 businesses and governmental entities that own or operate fleets of motor
25 vehicles, including fleets composed of personal motor vehicles owned or
26 leased by individual contractors who provide prearranged rides for
27 transportation network companies or deliver goods for a third-party

1 delivery service. To allow the enterprise to accomplish this purpose and
2 fully exercise its powers and duties through the board, the enterprise may:

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

6 (5) (a) The clean fleet enterprise fund is ~~hereby~~ created in the state
7 treasury. The fund consists of clean fleet per ride fee revenue ~~and clean~~
8 ~~fleet retail delivery fee revenue~~ credited to the fund pursuant to
9 ~~subsections (7) and (8)~~ SUBSECTION (7) of this section, any monetary
10 gifts, grants, donations, or other payments received by the enterprise, any
11 federal money that may be credited to the fund, and any other money that
12 the general assembly may appropriate or transfer to the fund. The state
13 treasurer shall credit all interest and income derived from the deposit and
14 investment of money in the fund to the fund. Money in the fund is
15 continuously appropriated to the enterprise for the purposes set forth in
16 this article 7.5 and to pay the enterprise's reasonable and necessary
17 operating expenses, including the repayment of any loan received
18 pursuant to subsection (5)(b) of this section.

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

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

25 (8) (a) ~~In furtherance of its business purpose, beginning in state~~
26 ~~fiscal year 2022-23, the enterprise shall impose, and the department of~~
27 ~~revenue shall collect on behalf of the enterprise, a clean fleet retail~~

1 ~~delivery fee on each retail delivery. Each retailer who makes a retail~~
2 ~~delivery shall either collect and remit or elect to pay the clean fleet retail~~
3 ~~delivery fee in the manner prescribed by the department in accordance~~
4 ~~with section 43-4-218 (6). For the purpose of minimizing compliance~~
5 ~~costs for retailers and administrative costs for the state, the department of~~
6 ~~revenue shall collect and administer the clean fleet retail delivery fee on~~
7 ~~behalf of the enterprise in the same manner in which it collects and~~
8 ~~administers the retail delivery fee imposed by section 43-4-218 (3).~~

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

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

24 (II) ~~The enterprise is authorized to adjust the amount of the clean~~
25 ~~fleet retail delivery fee for retail deliveries of tangible personal property~~
26 ~~purchased during a state fiscal year only if the department of revenue~~
27 ~~adjusts the amount of the retail delivery fee imposed by section 43-4-218~~

1 (3) for retail deliveries of tangible personal property purchased during the
2 state fiscal year.

3 SECTION 17. In Colorado Revised Statutes, **repeal** 25-16.5-102
4 (2).

5 SECTION 18. In Colorado Revised Statutes, **repeal** 25-16.5-103
6 (2).

7 SECTION 19. In Colorado Revised Statutes, **repeal** 25-16.5-104
8 (4).

9 SECTION 20. In Colorado Revised Statutes, **repeal** 25-16.5-105.

10 SECTION 21. In Colorado Revised Statutes, **repeal** 25-16.5-110.

11 SECTION 22. In Colorado Revised Statutes, **repeal** 25-17-503
12 (8).

13 SECTION 23. In Colorado Revised Statutes, 25-17-504, **amend**
14 (1) introductory portion as follows:

15 **25-17-504. Restrictions on use of single-use plastic carryout**
16 **bag - inventory exception.** (1) ~~Subject to section 25-17-505 (1), on and~~
17 ~~after January 1, 2024,~~ A store or retail food establishment shall not
18 provide a single-use plastic carryout bag to a customer; except that a retail
19 food establishment need not comply with this section if the retail food
20 establishment:

21 SECTION 24. In Colorado Revised Statutes, 26-2-307, **amend**
22 (2)(a); and **repeal** (1)(b)(V)(A) and (1)(f)(I) as follows:

23 **26-2-307. Fuel assistance payments - eligibility for federal**
24 **standard utility allowance - supplemental utility assistance fund**
25 **established - definitions - repeal.** (1) (b) (V) On or before April 1,
26 2024, and on or before April 1 of each year thereafter, the state
27 department shall submit a budget to the organization and the commission

1 to include the state department's administrative costs to implement the
2 program, including the cost to issue payments to recipients' electronic
3 benefits transfer cards for payments made pursuant to subsection (1)(a)
4 of this section, and the projected number of eligible households that the
5 state department identifies as receiving SNAP benefits but that are not
6 receiving assistance under LEAP, including an estimated number of new
7 SNAP cases that the state department will approve during the upcoming
8 federal fiscal year. Based on the budget that the state department submits,
9 the organization shall:

10 (A) ~~Calculate the amount of money from the energy assistance~~
11 ~~system benefit charge collected pursuant to section 40-8.7-104 (2.5) that~~
12 ~~it allocates as part of its budget prepared pursuant to section 40-8.7-108~~
13 ~~(3) for use by the state department to make fuel assistance payments and~~
14 ~~to implement the program;~~

15 (f) On or before October 1, 2022, the state department shall
16 submit a budget to the organization and the commission to cover the state
17 department's administrative costs to set up the program. Based on the
18 budget that the state department submits, the organization shall:

19 (I) ~~Calculate the amount of money from the energy assistance~~
20 ~~system benefit charge collected pursuant to section 40-8.7-104 (2.5) that~~
21 ~~it allocates as part of its budget prepared pursuant to section 40-8.7-108~~
22 ~~(3) for use by the state department to set up the program; and~~

23 (2) (a) The supplemental utility assistance fund, referred to in this
24 subsection (2) as the "fund", is hereby created in the state treasury. The
25 fund consists of money credited to the fund pursuant to section
26 40-8.7-108 (2)(b) and any other money that the general assembly may
27 appropriate or transfer to the fund.

1 **SECTION 25.** In Colorado Revised Statutes, 39-21-119.5,
2 **amend** (2)(s) and (2)(t); and **repeal** (2)(u) as follows:

3 **39-21-119.5. Mandatory electronic filing of returns -**
4 **mandatory electronic payment - penalty - waiver - definitions.**

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

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

11 (t) Any prepaid wireless telecommunications relay service charge
12 report required to be filed and payment required to be made pursuant to
13 section 29-11-102.7 (3). ~~and~~

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

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

18 **39-26-102. Definitions.** As used in this article 26, unless the
19 context otherwise requires:

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

27 **SECTION 27.** In Colorado Revised Statutes, **repeal** 39-28.5-109.

1 **SECTION 28.** In Colorado Revised Statutes, **amend** 39-28.6-110
2 as follows:

3 **39-28.6-110. Taxation by cities and towns.** This article 28.6
4 does not prevent a statutory or home rule municipality, county, or city and
5 county from imposing, levying, and collecting any special sales tax upon
6 sales of cigarettes, tobacco products, or nicotine products, as that term is
7 defined in section 18-13-121 (5), or upon the occupation or privilege of
8 selling cigarettes, tobacco products, or nicotine products. ~~This article 28.6~~
9 ~~does not affect any existing authority of local governments to impose a~~
10 ~~special sales tax on cigarettes, tobacco products, or nicotine products, in~~
11 ~~accordance with section 39-28-112, to be used for local and governmental~~
12 ~~purposes.~~

13 **SECTION 29.** In Colorado Revised Statutes, 39-37-103, **repeal**
14 (15)(a)(IV) as follows:

15 **39-37-103. Definitions.** As used in this article 37, unless the
16 context otherwise requires:

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

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

22 **SECTION 30.** In Colorado Revised Statutes, **repeal** 40-8.5-103.5
23 (6)(c).

24 **SECTION 31.** In Colorado Revised Statutes, **repeal** 40-8.7-103
25 (3.3).

26 **SECTION 32.** In Colorado Revised Statutes, 40-8.7-104, **amend**
27 (1) and (3); and **repeal** (2.5) as follows:

1 **40-8.7-104. Energy assistance program - creation - energy**
2 **assistance contribution.** (1) There is hereby created the low-income
3 energy assistance program to collect and disburse an optional energy
4 assistance contribution ~~and an energy assistance system benefit charge~~
5 MADE in Colorado in accordance with this article 8.7.

6 ~~(2.5) (a) Except as provided in subsections (2.5)(b) and (2.5)(c)~~
7 ~~of this section, commencing with a customer's billing statement covering~~
8 ~~electric or gas usage in the month of October 2021, every investor-owned~~
9 ~~utility doing business in Colorado shall collect a monthly energy~~
10 ~~assistance system benefit charge from each of its utility customers~~
11 ~~pursuant to section 40-8.7-105.5 (1).~~

12 ~~(b) (I) For each month that an investor-owned utility collects the~~
13 ~~monthly energy assistance system benefit charge, the utility shall include~~
14 ~~on its customers' billing statements a conspicuous notification in both~~
15 ~~English and Spanish that substantially complies with the following~~
16 ~~language:~~

17 ~~**If you're struggling to pay your utility bills, you might**~~
18 ~~**qualify for exemption from a monthly charge related to**~~
19 ~~**energy assistance and be eligible for utility bill payment**~~
20 ~~**assistance. Please call 1-866-HEAT-HELP to see if you**~~
21 ~~**qualify.**~~

22 ~~(II) The organization shall notify each investor-owned utility of~~
23 ~~any customer of the investor-owned utility who is exempted from~~
24 ~~payment of the charge by virtue of having received direct utility bill~~
25 ~~payment assistance from the organization in the previous twelve months.~~

26 ~~(III) Each investor-owned utility shall review readily available~~
27 ~~information it has received from the state department of human services~~

1 and the organization to determine which customers have received any
2 direct utility bill payment assistance from the state department or the
3 organization in the previous twelve months and, as a result, are eligible
4 for exemption from payment of the charge.

5 ~~(IV) Upon receiving notification from the organization pursuant~~
6 ~~to subsection (2.5)(b)(II) of this section or upon its own determination~~
7 ~~that a customer is eligible for exemption from the charge, an~~
8 ~~investor-owned utility shall remove the charge from the customer's~~
9 ~~monthly billing statements for the succeeding twelve months.~~

10 ~~(c) For each month that an investor-owned utility collects the~~
11 ~~monthly energy assistance system benefit charge, the utility shall include~~
12 ~~on its customers' billing statements within its explanation of charges a~~
13 ~~phone number or e-mail address through which a customer may opt out~~
14 ~~of paying the monthly energy assistance system benefit charge.~~

15 (3) Any reasonable costs that a utility incurs in connection with
16 the program, including the initial costs of setting up the collection
17 mechanism and reformatting its billing systems to solicit the optional
18 contribution, ~~and to impose and collect the charge,~~ shall be reimbursed
19 from the money collected for the program. The utility must submit a
20 calculation of the amount of money to be reimbursed to the public utilities
21 commission for its approval of prudently incurred costs. The reimbursed
22 amounts must be transmitted to the utilities before the remaining money
23 is distributed to the organization.

24 **SECTION 33.** In Colorado Revised Statutes, **repeal** 40-8.7-107
25 (1.5)(a) and (1.5)(b).

26 **SECTION 34.** In Colorado Revised Statutes, 40-8.7-108, **amend**
27 (1), (2), (3)(a)(I), and (3)(b); and **repeal** (3)(a)(II) and (3)(a)(III) as

1 follows:

2 **40-8.7-108. Energy outreach Colorado - administration of**
3 **energy assistance contributions.** (1) The organization shall hold and
4 administer all money collected for energy assistance pursuant to this
5 article 8.7 delivered to it by the utilities pursuant to section 40-8.7-107 in
6 a separately identifiable account, which shall be restricted to the purposes
7 set forth in this article 8.7. The organization shall maintain its books and
8 records pertaining to the energy assistance contributions ~~and the energy~~
9 ~~assistance system benefit charge~~ in accordance with generally accepted
10 accounting principles and, in addition, shall maintain records adequate to
11 identify the money collected by each utility. If the organization
12 commingles the money collected and delivered with other assets of the
13 organization for investment purposes, the organization shall maintain
14 accurate accounts of the investment money and shall credit or charge a
15 pro rata portion of all investment earnings, gains, or losses to the account
16 that holds the optional energy assistance collections. ~~and energy~~
17 ~~assistance system benefit charges.~~

18 (2) (a) ~~Except as provided in subsection (2)(b) of this section,~~ The
19 organization shall use the money collected from the optional energy
20 assistance contributions ~~and the energy assistance system benefit charge~~
21 to provide low-income energy assistance and to improve energy
22 efficiency. The organization shall pay the financial assistance money to
23 each utility as vendor payments. The organization shall not use the money
24 for propane, gas, or electric assistance for customers whose propane, gas,
25 electric, or gas and electric companies or cooperative electric associations
26 do not participate in the program. The organization may use up to five
27 percent of the money collected for administration of the energy assistance

1 program in accordance with generally accepted accounting principles.
2 however, the organization shall not use any money collected from the
3 energy assistance system benefit charge to pay employee salaries or
4 bonuses.

5 (b) In accordance with the payment amounts reflected in the
6 organization's budget prepared pursuant to subsection (3)(b) of this
7 section and approved by the legislative commission on low-income
8 energy and water assistance pursuant to section 40-8.5-103.5 (6)(c), the
9 organization shall transmit a portion of the money collected from the
10 energy assistance system benefit charge to the state treasurer, and the state
11 treasurer shall credit that amount to the supplemental utility assistance
12 fund created in section 26-2-307 (2)(a) for use by the department of
13 human services in accordance with section 26-2-307 (1).

14 (3) (a) (I) Subject to the allocation requirements set forth in
15 subsections (3)(a)(II) and (3)(a)(III) of this section, The organization
16 shall, on an annual basis, develop a budget for the energy assistance
17 program to determine the allocation of the money collected from the
18 optional energy assistance contributions, and the energy assistance system
19 benefit charge, with not more than fifty percent of the total amount
20 allocated to direct utility bill payment assistance. To improve and increase
21 enrollment in the utility assistance programs, the budget must include an
22 allocation of at least two percent of the money collected from the charge
23 to be used to engage the assistance of community-based organizations
24 that are active in outreach to, engagement of, and education for
25 income-qualified communities, communities of color, and immigrant
26 communities to help provide outreach and education about the utility
27 assistance programs. The organization shall submit a copy of the budget

1 to the Colorado energy office for its review.

2 (II) ~~Subject to subsection (3)(a)(IV) of this section, before the~~
3 ~~organization begins allocating an amount of the money collected from the~~
4 ~~energy assistance system benefit charge to be credited to the supplemental~~
5 ~~utility assistance fund created in section 26-2-307 (2)(a), the organization,~~
6 ~~after allocating at least two percent of the money collected to community~~
7 ~~outreach as described in subsection (3)(a)(I) of this section, shall:~~

8 (A) ~~If the projected amount collected in the federal fiscal year, as~~
9 ~~determined by the organization by April 30, will not exceed ten million~~
10 ~~dollars, allocate forty percent to the Colorado energy office created in~~
11 ~~section 24-38.5-101 for its weatherization assistance program and retain~~
12 ~~forty-five percent for the organization's energy assistance programs, with~~
13 ~~the legislative commission on low-income energy and water assistance,~~
14 ~~referred to in this subsection (3)(a) as the "legislative commission",~~
15 ~~determining the allocation of the remaining money between the two~~
16 ~~entities pursuant to its budget approval authority under section~~
17 ~~40-8.5-103.5 (6)(c); and~~

18 (B) ~~If the projected amount collected in the federal fiscal year, as~~
19 ~~determined by the organization by April 30, will exceed ten million~~
20 ~~dollars, allocate forty-five percent to the Colorado energy office for its~~
21 ~~weatherization assistance program and retain forty-five percent for the~~
22 ~~organization's energy assistance programs, with the legislative~~
23 ~~commission determining the allocation of the remaining money between~~
24 ~~the two entities pursuant to its budget approval authority.~~

25 (III) ~~Subject to subsection (3)(a)(IV) of this section, once the~~
26 ~~organization begins allocating an amount of the money collected from the~~
27 ~~energy assistance system benefit charge to be credited to the supplemental~~

1 utility assistance fund created in section 26-2-307(2)(a), the organization,
2 after allocating money for the supplemental utility assistance fund and for
3 community outreach as described in subsection (3)(a)(I) of this section,
4 shall:

5 (A) ~~If the projected amount collected in the federal fiscal year, as~~
6 ~~determined by the organization by April 30, will not exceed ten million~~
7 ~~dollars, allocate forty percent to the Colorado energy office for its~~
8 ~~weatherization assistance program and retain forty-five percent for the~~
9 ~~organization's energy assistance programs, with the legislative~~
10 ~~commission determining the allocation of the remaining money between~~
11 ~~the two entities pursuant to its budget approval authority under section~~
12 ~~40-8.5-103.5 (6)(c); and~~

13 (B) ~~If the projected amount collected in the federal fiscal year, as~~
14 ~~determined by the organization by April 30, will exceed ten million~~
15 ~~dollars, allocate forty-five percent to the Colorado energy office for its~~
16 ~~weatherization assistance program and retain forty-five percent for the~~
17 ~~organization's energy assistance programs, with the legislative~~
18 ~~commission determining the allocation of the remaining money between~~
19 ~~the two entities pursuant to its budget approval authority.~~

20 (b) As part of the budget developed pursuant to subsection (3)(a)
21 of this section, the organization shall calculate ~~the amount of money from~~
22 ~~the energy assistance system benefit charge to transmit to the state~~
23 ~~treasurer pursuant to subsection (2)(b) of this section and the amount of~~
24 ~~the fuel assistance payments that the department of human services makes~~
25 ~~in accordance with section 26-2-307 (1).~~

26 **SECTION 35.** In Colorado Revised Statutes, **repeal** 40-8.7-110
27 (1)(a)(II) and (4).

1 **SECTION 36.** In Colorado Revised Statutes, **repeal** 43-4-205
2 (6.8)(b).

3 **SECTION 37.** In Colorado Revised Statutes, 43-4-805, **amend**
4 (1) introductory portion, (1)(b)(II), (2)(b)(I), (2)(c), (3)(a), (5)(r)(I), and
5 (5)(r)(III)(A); and **repeal** (5)(g.7) as follows:

6 **43-4-805. Statewide bridge enterprise - creation - board -**
7 **funds - powers and duties - legislative declaration - definitions.**

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

9 (b) Due to the limited availability of state and federal funding and
10 the need to accomplish the financing, repair, reconstruction, and
11 replacement of designated bridges; the completion of preventative
12 maintenance bridge projects; and the completion of tunnel projects as
13 promptly and efficiently as possible, it is necessary to create a statewide
14 bridge and tunnel enterprise and to authorize the enterprise to:

15 (II) Impose a bridge safety surcharge AND a bridge and tunnel
16 impact fee ~~and a bridge and tunnel retail delivery fee~~, at rates reasonably
17 calculated to defray the costs of completing designated bridge projects,
18 preventative maintenance bridge projects, and tunnel projects and
19 distribute the burden of defraying the costs in a manner based on the
20 benefits received by persons paying the fees and using designated bridges
21 and tunnels, ~~and receiving retail deliveries~~ receive and expend revenue
22 generated by the surcharge and fees and other money, issue revenue
23 bonds and other obligations, contract with the state, if required approvals
24 are obtained, to receive one or more loans of money received by the state
25 under the terms of one or more financed purchase of an asset or certificate
26 of participation agreements authorized by this part 8, expend revenue
27 generated by the surcharge to repay any such loan or loans received, and

1 exercise other powers necessary and appropriate to carry out its purposes;
2 and

3 (2) (b) The business purpose of the bridge enterprise is to finance,
4 repair, reconstruct, and replace any designated bridge in the state,
5 complete preventative maintenance bridge projects, and complete tunnel
6 projects and, as agreed upon by the enterprise and the commission, or the
7 department to the extent authorized by the commission, to maintain the
8 bridges it finances, repairs, reconstructs, and replaces. To allow the
9 bridge enterprise to accomplish this purpose and fully exercise its powers
10 and duties through the bridge enterprise board, the bridge enterprise may:

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

14 (c) The bridge enterprise constitutes an enterprise for purposes of
15 section 20 of article X of the state constitution so long as it retains the
16 authority to issue revenue bonds and receives less than ten percent of its
17 total revenues in grants from all Colorado state and local governments
18 combined. So long as it constitutes an enterprise pursuant to this
19 subsection (2)(c), the bridge enterprise shall not be subject to any
20 provisions of section 20 of article X of the state constitution. Consistent
21 with the determination of the Colorado supreme court in *Nicholl v. E-470*
22 *Public Highway Authority*, 896 P.2d 859 (Colo. 1995), that the power to
23 impose taxes is inconsistent with "enterprise" status under section 20 of
24 article X of the state constitution, the general assembly finds and declares
25 that a bridge safety surcharge OR a bridge and tunnel impact fee ~~or a~~
26 ~~bridge and tunnel retail delivery fee~~ imposed by the bridge enterprise as
27 authorized by subsection (5)(g) OR (5)(g.5) ~~or (5)(g.7)~~ of this section is

1 not a tax but is instead a fee imposed by the bridge enterprise to defray
2 the cost of completing designated bridge projects, preventative
3 maintenance bridge projects, and tunnel projects that the enterprise
4 provides as a specific service to the persons upon whom the fee is
5 imposed and at rates reasonably calculated based on the benefits received
6 by such persons.

7 (3) (a) The statewide bridge and tunnel enterprise special revenue
8 fund, referred to in this part 8 as the "bridge special fund", is hereby
9 created in the state treasury. All revenue received by the bridge enterprise,
10 including, but not limited to, revenue from a bridge safety surcharge
11 imposed as authorized by subsection (5)(g) of this section, revenue from
12 a bridge and tunnel impact fee imposed as authorized by subsection
13 (5)(g.5) of this section, ~~revenue from a bridge and tunnel retail delivery~~
14 ~~fee imposed as authorized by subsection (5)(g.7) of this section,~~ and any
15 money loaned to the enterprise by the state pursuant to subsection (5)(r)
16 of this section, shall be deposited into the bridge special fund. The bridge
17 enterprise board may establish separate accounts within the bridge special
18 fund as needed in connection with any specific designated bridge project,
19 preventative maintenance bridge project, or tunnel project. The bridge
20 enterprise also may deposit or permit others to deposit other money into
21 the bridge special fund, but in no event may revenue from any tax
22 otherwise available for general purposes be deposited into the bridge
23 special fund. The state treasurer, after consulting with the bridge
24 enterprise board, shall invest any money in the bridge special fund,
25 including any surplus or reserves, but excluding any proceeds from the
26 sale of bonds or earnings on such proceeds invested pursuant to section
27 43-4-807 (2), that are not needed for immediate use. Such money may be

1 invested in the types of investments authorized in sections 24-36-109,
2 24-36-112, and 24-36-113.

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

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

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

21 ~~(HH) (A) Except as otherwise provided in subsection~~
22 ~~(5)(g.7)(HH)(B) of this section, for retail deliveries of tangible personal~~
23 ~~property purchased during state fiscal year 2023-24 or during any~~
24 ~~subsequent state fiscal year, the bridge enterprise shall impose the bridge~~
25 ~~and tunnel retail delivery fee in a maximum amount that is the maximum~~
26 ~~amount for the prior state fiscal year adjusted for inflation. The bridge~~
27 ~~enterprise shall notify the department of revenue of the amount of the~~

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

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

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

13 (A) ~~"Inflation" means the average annual percentage change in the~~
14 ~~United States department of labor, bureau of labor statistics, consumer~~
15 ~~price index for Denver-Aurora-Lakewood for all items and all urban~~
16 ~~consumers, or its applicable predecessor or successor index, for the five~~
17 ~~years ending on the last December 31 before a state fiscal year for which~~
18 ~~an inflation adjustment to be made to the bridge and tunnel retail delivery~~
19 ~~fee imposed pursuant to this subsection (5)(g.7) begins.~~

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

22 (C) ~~"Retailer" has the same meaning as set forth in section~~
23 ~~39-26-102 (8).~~

24 (r) (I) To contract with the state to borrow money under the terms
25 of one or more loan contracts entered into by the state and the bridge
26 enterprise pursuant to subsection (5)(r)(III) of this section, to expend any
27 money borrowed from the state for the purpose of completing designated

1 bridge projects, preventative maintenance bridge projects, and tunnel
2 projects and for any other authorized purpose that constitutes the
3 construction, supervision, and maintenance of the public highways of this
4 state for purposes of section 18 of article X of the state constitution, and
5 to use revenue generated by any bridge safety surcharge OR bridge and
6 tunnel impact fee ~~or bridge and tunnel retail delivery fee~~ imposed
7 pursuant to subsection (5)(g) OR (5)(g.5) ~~or (5)(g.7)~~ of this section and
8 any other legally available money of the bridge enterprise to repay the
9 money borrowed and any other amounts payable under the terms of the
10 loan contract.

11 (III) (A) If the state treasurer receives a list from the governor
12 pursuant to subsection (5)(r)(II) of this section, the state, acting by and
13 through the state treasurer, may enter into a loan contract with the bridge
14 enterprise and may raise the money needed to make a loan pursuant to the
15 terms of the loan contract by selling or leasing one or more of the state
16 buildings or other state capital facilities on the list. The state treasurer
17 shall have sole discretion to enter into a loan contract on behalf of the
18 state and to determine the amount of a loan; except that the principal
19 amount of a loan shall not exceed the maximum amount specified by the
20 governor pursuant to subsection (5)(r)(II) of this section. The state
21 treasurer shall also have sole discretion to determine the timing of the
22 entry of the state into any loan contract or the sale or lease of one or more
23 state buildings or other state capital facilities. The loan contract shall
24 require the bridge enterprise to pledge to the state all or a portion of the
25 revenues of any bridge safety surcharge OR bridge and tunnel impact fee
26 ~~or bridge and tunnel retail delivery fee~~ imposed pursuant to subsection
27 (5)(g) OR (5)(g.5) ~~or (5)(g.7)~~ of this section for the repayment of the loan

1 and may also require the bridge enterprise to pledge to the state any other
2 legally available revenue of the bridge enterprise. Any loan contract
3 entered into by the state, acting by and through the state treasurer, and the
4 bridge enterprise pursuant to this subsection (5)(r)(III)(A) and any pledge
5 of revenue by the bridge enterprise pursuant to such a loan contract shall
6 be only for the benefit of, and enforceable only by, the state and the
7 bridge enterprise. Specifically, but without limiting the generality of said
8 limitation, no such loan contract or pledge shall be for the benefit of, or
9 enforceable by, a seller under a financed purchase of an asset or
10 certificate of participation agreement entered into pursuant to this
11 subsection (5)(r)(III), an owner of any instrument evidencing rights to
12 receive rentals or other payments made and to be made under such a
13 financed purchase of an asset or certificate of participation agreement as
14 authorized by subsection (5)(r)(IV)(B) of this section, a party to any
15 ancillary agreement or instrument entered into pursuant to subsection
16 (5)(r)(V) of this section, or a party to any interest rate exchange
17 agreement entered into pursuant to subsection (5)(r)(VII)(A) of this
18 section.

19 **SECTION 38.** In Colorado Revised Statutes, 43-4-1101, **amend**
20 (1) introductory portion as follows:

21 **43-4-1101. Legislative declaration.** (1) The general assembly
22 ~~hereby~~ finds and declares that it is necessary, appropriate, and in the best
23 interest of the state to use a portion of the general fund money that is
24 dedicated for transportation purposes pursuant to section 24-75-219 to
25 fund multimodal transportation projects and operations throughout the
26 state and ~~to use a portion of the money that is generated by the retail~~
27 ~~delivery fee imposed on the delivery of retail goods transported to the~~

1 ~~delivery site by motor vehicle pursuant to section 43-4-218 (3) to fund~~
2 ~~transportation-related greenhouse gas mitigation expenses throughout the~~
3 ~~state~~ as authorized by this part 11 because, in addition to the general
4 benefits that it provides to all Coloradans, a complete and integrated
5 multimodal transportation system that includes greenhouse gas mitigation
6 projects and services:

7 **SECTION 39.** In Colorado Revised Statutes, 43-4-1103, **amend**
8 (1)(a), (2)(d)(I), and (2)(d)(II) as follows:

9 **43-4-1103. Multimodal transportation options fund - creation**
10 **- revenue sources for fund - use of fund.** (1) (a) The multimodal
11 transportation and mitigation options fund is ~~hereby~~ created in the state
12 treasury. The fund consists of money transferred from the general fund to
13 the fund pursuant to section 24-75-219 ~~retail delivery fee revenue credited~~
14 ~~to the fund pursuant to section 43-4-218 (5)(a)(II)~~, and any other money
15 that the general assembly may appropriate or transfer to the fund. The
16 state treasurer shall credit all interest and income derived from the deposit
17 and investment of money in the fund to the fund.

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

1 (II) On and after October 1, 2022, unless the department has
2 adopted implementing guidelines and procedures that satisfy the
3 requirements of section 43-1-128 (3) and a metropolitan planning
4 organization that is in an area or includes an area that has been out of
5 attainment for national ambient air quality standards for ozone for two
6 years or more has updated its regional transportation plan to comply with
7 the implementing guidelines and procedures, expenditures from the funds
8 made available for multimodal projects pursuant to ~~sections~~ SECTION
9 24-75-219 (7)(c)(I) and (7)(f)(II) ~~and 43-4-218 (5)(a)(H)~~ for local
10 multimodal projects within the territory of the metropolitan planning
11 organization shall only be made for multimodal projects that the
12 department, in consultation with the department of public health and
13 environment, determines will help bring the regional transportation plan
14 into compliance with the requirements of section 43-1-128 (3).

15 **SECTION 40.** In Colorado Revised Statutes, 43-4-1201, **amend**
16 (1) introductory portion, (1)(e)(II), (2)(c) introductory portion, (2)(e)
17 introductory portion, and (2)(g); and **repeal** (1)(a), (1)(b), (1)(c), (1)(d),
18 (1)(f), and (2)(f) as follows:

19 **43-4-1201. Legislative declaration.** (1) The general assembly
20 **hereby** finds and declares that:

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

23 (b) ~~The motor vehicles used to make retail deliveries are some of~~
24 ~~the most polluting vehicles on the road, which has resulted in additional~~
25 ~~and increasing air and greenhouse gas pollution;~~

26 (c) ~~The adverse environmental and health impacts of increased~~
27 ~~emissions from motor vehicles used to make retail deliveries can be~~

1 ~~mitigated and offset by supporting the widespread adoption of electric~~
2 ~~buses for transit fleets and reducing vehicle miles traveled by encouraging~~
3 ~~people to choose clean, efficient, public transit options instead of personal~~
4 ~~motor vehicle travel;~~

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

11 (e) It is necessary, appropriate, and in the best interest of the state
12 and all Coloradans to incentivize, support, and accelerate the
13 electrification of public transit in rural and urban areas throughout the
14 state because electrification:

15 (II) By reducing fuel and maintenance costs associated with the
16 use of motor vehicles, helps public transit providers operate more
17 efficiently, use cost savings to provide more reliable and convenient
18 transit service to more riders, and further reduce emissions by reducing
19 personal motor vehicle use. and

20 (f) ~~By reducing motor vehicle emissions, transit fleet~~
21 ~~electrification effectively remediates some of the impacts of retail~~
22 ~~deliveries by offsetting a portion of the increased motor vehicle emissions~~
23 ~~resulting from such deliveries.~~

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

25 (c) The enterprise provides impact remediation services when in
26 exchange for the payment of clean transit retail delivery fees by or on
27 behalf of purchasers of tangible personal property for retail delivery, it

1 acts to mitigate the impacts of residential and commercial deliveries on
2 the state's transportation infrastructure, air quality, and emissions by:

3 (e) Consistent with the determination of the Colorado supreme
4 court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo.
5 1995), that the power to impose taxes is inconsistent with enterprise status
6 under section 20 of article X of the state constitution, it is the conclusion
7 of the general assembly that the revenue collected by the enterprise is
8 generated by fees, not taxes, because the ~~clean transit retail delivery fee~~
9 ~~imposed by the enterprise as authorized by section 43-4-1203 (7) and the~~
10 ~~production fee for clean transit are~~ IS:

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

19 (g) The addition of the production fee for clean transit continues
20 to serve the enterprise's primary business purposes set forth in section
21 43-4-1203 (3)(a). If the addition of the production fee for clean transit
22 ~~combined with the clean transit retail delivery fee is estimated to result in~~
23 ~~the collection of fees and surcharges that exceed one hundred million~~
24 ~~dollars in the enterprise's first five fiscal years, the board shall adjust the~~
25 ~~fees FEE, lower the fees FEE, or stop collecting the fees FEE in order to not~~
26 ~~collect fees or surcharges that exceed one hundred million dollars in the~~
27 ~~enterprise's first five fiscal years, which five-year period, for the purpose~~

1 of section 24-77-108, ends on June 30, 2026. Therefore, the enterprise,
2 originally created in section 43-4-1203, is in compliance with section
3 24-77-108.

4 **SECTION 41.** In Colorado Revised Statutes, 43-4-1202, **repeal**
5 (11), (15), and (16) as follows:

6 **43-4-1202. Definitions.** As used in this part 12, unless the context
7 otherwise requires:

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

15 (15) ~~"Retail delivery" has the same meaning as set forth in section~~
16 ~~43-4-218 (2)(c).~~

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

19 **SECTION 42.** In Colorado Revised Statutes, 43-4-1203, **amend**
20 (3)(a)(I), (5)(a), and (6)(g); and **repeal** (3)(b)(I) and (7) as follows:

21 **43-4-1203. Clean transit enterprise - creation - board - powers**
22 **and duties - rules - fees - fund.** (3) (a) The primary business purposes
23 of the enterprise are to:

24 (I) Reduce and mitigate the adverse environmental and health
25 impacts of air pollution and greenhouse gas emissions produced by motor
26 vehicles ~~used to make retail deliveries~~ by supporting the replacement of
27 existing gasoline and diesel transit vehicles with electric motor vehicles,

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

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

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

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

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

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

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

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

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

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

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

11 **SECTION 43.** In Colorado Revised Statutes, 43-4-1301, **amend**
12 (1) introductory portion, (1)(a), (1)(c), (2)(a), (2)(c), and (2)(d) as
13 follows:

14 **43-4-1301. Legislative declaration.** (1) The general assembly
15 hereby finds and declares that:

16 (a) Rapid and continuing growth in retail deliveries made by
17 motor vehicles and in prearranged rides arranged through transportation
18 network companies has increased and will continue to increase traffic
19 congestion and air pollution from motor vehicle emissions, along with the
20 adverse environmental and health impacts that result from such pollution,
21 in nonattainment areas, including but not limited to disproportionately
22 impacted communities and communities adjacent to highways;

23 (c) Instead of reducing the impacts of retail deliveries and
24 prearranged rides arranged through transportation network companies, by
25 limiting retail delivery and prearranged ride activity through regulation,
26 it is more appropriate to continue to allow persons who receive retail
27 deliveries and benefit from the convenience afforded by unfettered retail

1 ~~deliveries and to allow~~ transportation network companies that arrange
2 prearranged rides to continue to provide that service without undue
3 restrictions and to instead impose a small fee on each ~~retail delivery and~~
4 prearranged ride and use fee revenue to fund necessary mitigation
5 activities.

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

7 (a) The enterprise provides impact remediation services when, in
8 exchange for the payment of air pollution mitigation per ride fees by
9 transportation network companies ~~and air pollution mitigation retail~~
10 ~~delivery fees by or on behalf of purchasers of tangible personal property~~
11 ~~for retail delivery~~, it acts as authorized by this section to mitigate the
12 impacts of prearranged rides arranged through transportation network
13 companies and residential and commercial deliveries on the state's
14 transportation infrastructure, air quality, and emissions;

15 (c) Consistent with the determination of the Colorado supreme
16 court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo.
17 1995), that the power to impose taxes is inconsistent with enterprise status
18 under section 20 of article X of the state constitution, it is the conclusion
19 of the general assembly that the revenue collected by the enterprise is
20 generated by fees, not taxes, because the air pollution mitigation per ride
21 fee ~~and the air pollution mitigation retail delivery fee~~ imposed by the
22 enterprise as authorized by section 43-4-1303 ~~are~~ IS:

23 (I) Imposed for the specific purpose of allowing the enterprise to
24 defray the costs of providing the remediation services specified in this
25 section, including mitigating impacts to air quality and greenhouse gas
26 emissions caused by the activities on which the ~~fees are~~ FEE IS assessed,
27 and contribute to the implementation of the comprehensive regulatory

1 scheme required for the planning, funding, development, construction,
2 maintenance, and supervision of a sustainable transportation system; and
3 (II) Collected at rates that are reasonably calculated based on the
4 impacts caused by fee payers and the cost of remediating those impacts.
5 **and**

6 (d) So long as the enterprise qualifies as an enterprise for purposes
7 of section 20 of article X of the state constitution, the revenue from the
8 ~~community access retail delivery fee~~ AIR POLLUTION MITIGATION PER RIDE
9 FEE collected by the enterprise is not state fiscal year spending, as defined
10 in section 24-77-102 (17), or state revenues, as defined in section
11 24-77-103.6 (6)(c), and does not count against either the state fiscal year
12 spending limit imposed by section 20 of article X of the state constitution
13 or the excess state revenues cap, as defined in section 24-77-103.6
14 ~~(6)(b)(I)(D)~~ (6)(b)(I)(G).

15 **SECTION 44.** In Colorado Revised Statutes, 43-4-1302, **amend**
16 (15); and **repeal** (19) and (20) as follows:

17 **43-4-1302. Definitions.** As used in this part 13, unless the context
18 otherwise requires:

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

27 (19) "Retail delivery" has the same meaning as set forth in section

1 ~~43-4-218 (2)(c).~~

2 (20) ~~"Retailer" has the same meaning as set forth in section~~
3 ~~39-26-102 (8).~~

4 **SECTION 45.** In Colorado Revised Statutes, 43-4-1303, **amend**
5 (3) introductory portion, (3)(a), (5)(a), and (6)(h); and **repeal** (8) as
6 follows:

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

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

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

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

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

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

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

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

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

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

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

23 **SECTION 46. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly; except
26 that, if a referendum petition is filed pursuant to section 1 (3) of article V
27 of the state constitution against this act or an item, section, or part of this

1 act within such period, then the act, item, section, or part will not take
2 effect unless approved by the people at the general election to be held in
3 November 2026 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.